



Department of Administration
Purchasing Division
2019 Washington Street East
Post Office Box 50130
Charleston, WV 25305-0130

State of West Virginia Master Agreement

Order Date: 05-18-2023

CORRECT ORDER NUMBER MUST
APPEAR ON ALL PACKAGES, INVOICES,
AND SHIPPING PAPERS. QUESTIONS
CONCERNING THIS ORDER SHOULD BE
DIRECTED TO THE DEPARTMENT
CONTACT.

Order Number:	CMA 0947 0947 ERP2300000003 1	Procurement Folder:	1218392
Document Name:	Kronos, Inc. - Time and Leave Management	Reason for Modification:	
Document Description:	Kronos Time and Leave Management		
Procurement Type:	Central Sole Source		
Buyer Name:			
Telephone:			
Email:			
Shipping Method:	Best Way	Effective Start Date:	2023-05-18
Free on Board:	FOB Dest, Freight Prepaid	Effective End Date:	2027-05-17

VENDOR		DEPARTMENT CONTACT	
Vendor Customer Code:	000000100787	Requestor Name:	Matthew H Ellison
KRONOS INC		Requestor Phone:	(304) 741-8565
900 CHELMSFORD ST		Requestor Email:	matt.ellison@wvoasis.gov
LOWELL	MA		
US	01851		
Vendor Contact Phone:	978-244-6378		
Extension:			
Discount Details:			
	Discount Allowed	Discount Percentage	Discount Days
#1	No	0.0000	0
#2	No		
#3	No		
#4	No		

23

FILE LOCATION _____

INVOICE TO	SHIP TO
CONTROLLER	CONTROLLER
ENTERPRISE RESOURCE PLANNING BOARD	ENTERPRISE RESOURCE PLANNING BOARD
1007 BULLITT STREET	1007 BULLITT STREET
SUITE 400	SUITE 400
CHARLESTON	CHARLESTON
WV 25301	WV 25301
US	US

5-23-23 BAY

Total Order Amount:

Open End

Purchasing Division's File Copy

ENTERED

PURCHASING DIVISION AUTHORIZATION

DATE: 05/22/23

ELECTRONIC SIGNATURE ON FILE

ATTORNEY GENERAL APPROVAL AS TO FORM

DATE:

ELECTRONIC SIGNATURE ON FILE

ENCUMBRANCE CERTIFICATION

DATE:

ELECTRONIC SIGNATURE ON FILE

Extended Description:

The Enterprise Resource Planning Board and Kronos Inc. agree to enter into this contract for Time and Leave Management Services per the Addendum to Kronos Agreement with the State of West Virginia; The WV General Terms and Conditions attached hereto as Exhibit A; The Software as a Service Addendum attached hereto as Exhibit B; the WV-96 attached hereto as Exhibit C ; Kronos documents attached hereto as Exhibit Including D including Quotation Q-146149 and the Statement of Work incorporated in and made part hereof.

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
1	43231605				0.000000
Service From		Service To		Service Contract Amount	
				1324800.00	

Commodity Line Description: Time and Leave Management Annual Maintenance - Year 1

Extended Description:

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
2	43231605				0.000000
Service From		Service To		Service Contract Amount	
				1324800.00	

Commodity Line Description: Time and Leave Management Annual Maintenance - Year 2

Extended Description:

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
3	43231605				0.000000
Service From		Service To		Service Contract Amount	
				1324800.00	

Commodity Line Description: Time and Leave Management Annual Maintenance - Year 3

Extended Description:

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
4	43231605				0.000000
Service From		Service To		Service Contract Amount	
				1324800.00	

Commodity Line Description: Time and Leave Management Annual Maintenance - Year 4

Extended Description:

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
5	80101507				0.000000
Service From		Service To		Service Contract Amount	
				0.00	

Commodity Line Description: Educational and Professional Services - Bill as You Go

Extended Description:

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
6	44103207				0.000000
	Service From	Service To	Service Contract Amount		
			0.00		

Commodity Line Description: Time Clocks

Extended Description:

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
7	44103207				0.000000
Service From		Service To		Service Contract Amount	
				0.00	

Commodity Line Description: Dimensions Analytics - OPTIONAL

Extended Description:

Line	Commodity Code	Manufacturer	Model No	Unit	Unit Price
8	80101507			HOUR	220.000000
Service From		Service To		Service Contract Amount	
				0.00	

Commodity Line Description: Post Implementation Professional Services

Extended Description:

ADDENDUM TO KRONOS AGREEMENT WITH THE STATE OF WEST VIRGINIA

Kronos Incorporated ("Kronos") and the State of West Virginia ("State") agree that this addendum amends all documents included in the agreement between Kronos and the State, identified as Agreement No. CSSD ERP2300000001 and any other documents incidental thereto.

The Parties Agree as follows:

1. **Order of Precedence:** Any references to an order of precedence are hereby deleted to the extent that they conflict with this provision. The order of precedence for documents included in this contract shall be as follows:
 - a. This Addendum - First in priority.
 - b. Purchasing Division's General Terms and Conditions attached hereto as Exhibit A – Second Priority
 - c. The Software as a Service Addendum attached hereto as Exhibit B – Third Priority
 - d. The WV-96 attached hereto as Exhibit C –Fourth Priority
 - e. UKG Dimensions Addendum attached hereto as Exhibit D –Fifth Priority.
2. **Modified Terms:** The following terms are expressly modified as stated herein.
 - a. **WV-96**
 - i. Section 9, Limitation of Liability, is replaced by

"The Agency, as a State entity, cannot agree to assume the potential liability of a Vendor. Accordingly, any provision limiting the Vendor's liability for direct damages is hereby deleted. Vendor's liability under the agreement shall not exceed three times the total value of the agreement."
 - b. **General Terms and Conditions:**
 - i. Section 20 of the General Terms and Conditions entitled "Time" is removed in its entirety.
 - ii. Section 36 of the General Terms and Conditions entitled "Indemnification" is modified by limiting Kronos indemnification obligations to IP infringement, personal injury, death, and damage to tangible personal property. Kronos agrees to indemnify and hold Customer harmless from and against all claims, suits and demands for bodily injury or tangible property damage to the extent caused by the negligence or willful misconduct of Kronos' employees in the performance of services under this Agreement, provided that Kronos is given prompt written notice of any such claim and has sole control over the investigation, preparation, defense and settlement of such claim, and further provided that Customer reasonably cooperates with Kronos in connection with the foregoing and provides Kronos with all information in Customer's possession related to such claim and further assistance as reasonably requested by Kronos. The particulars of Kronos' indemnification for IP infringement are found in Exhibit C, UKG Dimensions Software As A Service Terms and Conditions, Section 13.

- iii. Section 40 of the General Terms and Conditions entitled "Background Check" is removed in its entirety and replaced with the following:

"40. Background Check: The State reserves the right to prohibit a service provider's employees from accessing sensitive or critical information or to be present at the Capitol complex based upon results addressed from a criminal background check. Service providers should contact the West Virginia Division of Protective Services by phone at (304) 558-9911 for more information."

- iv. Section 3 of the General Terms and Conditions entitled "Contract Term, Renewal, Extension" is eliminated in its entirety. The term of this Contract will be 48 Months with the option to renew for three (3) additional one (1) year terms.

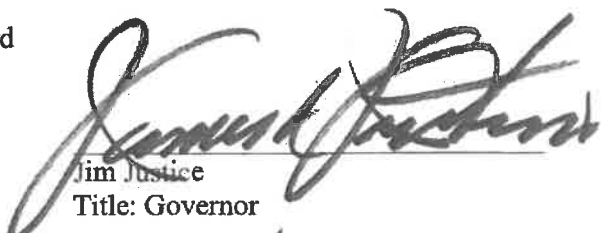
The Parties are signing this Addendum on the date stated below the signature.

Kronos Incorporated

DocuSigned by:
By: Scott Giangrande
69741407C20DA19...
Its: Scott Giangrande Sr. Order Processing Analyst
Date: 4/17/2023 | 3:28 PM EDT

State of West Virginia
By the Enterprise Resource Planning Board

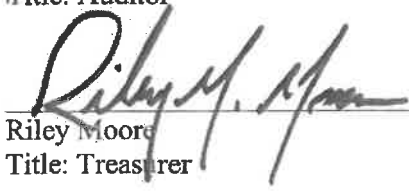
Dated: _____, 2023


Jim Justice
Title: Governor

Dated: 4/18/23, 2023


John B. McCuskey
Title: Auditor

Dated: 4/20/23, 2023


Riley Moore
Title: Treasurer

GENERAL TERMS AND CONDITIONS:

1. CONTRACTUAL AGREEMENT: Issuance of an Award Document signed by the Purchasing Division Director, or his designee, and approved as to form by the Attorney General's office constitutes acceptance by the State of this Contract made by and between the State of West Virginia and the Vendor. Vendor's signature on its bid, or on the Contract if the Contract is not the result of a bid solicitation, signifies Vendor's agreement to be bound by and accept the terms and conditions contained in this Contract.

2. DEFINITIONS: As used in this Solicitation/Contract, the following terms shall have the meanings attributed to them below. Additional definitions may be found in the specifications included with this Solicitation/Contract.

2.1. "Agency" or "Agencies" means the agency, board, commission, or other entity of the State of West Virginia that is identified on the first page of the Solicitation or any other public entity seeking to procure goods or services under this Contract.

2.2. "Bid" or "Proposal" means the vendors submitted response to this solicitation.

2.3. "Contract" means the binding agreement that is entered into between the State and the Vendor to provide the goods or services requested in the Solicitation.

2.4. "Director" means the Director of the West Virginia Department of Administration, Purchasing Division.

2.5. "Purchasing Division" means the West Virginia Department of Administration, Purchasing Division.

2.6. "Award Document" means the document signed by the Agency and the Purchasing Division, and approved as to form by the Attorney General, that identifies the Vendor as the contract holder.

2.7. "Solicitation" means the official notice of an opportunity to supply the State with goods or services that is published by the Purchasing Division.

2.8. "State" means the State of West Virginia and/or any of its agencies, commissions, boards, etc. as context requires.

2.9. "Vendor" or "Vendors" means any entity submitting a bid in response to the Solicitation, the entity that has been selected as the lowest responsible bidder, or the entity that has been awarded the Contract as context requires.

3. CONTRACT TERM; RENEWAL; EXTENSION: The term of this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below:

☒ **Term Contract**

Initial Contract Term: The Initial Contract Term will be for a period of 48 Months. The Initial Contract Term becomes effective on the effective start date listed on the first page of this Contract, identified as the State of West Virginia contract cover page containing the signatures of the Purchasing Division, Attorney General, and Encumbrance clerk (or another page identified as _____), and the Initial Contract Term ends on the effective end date also shown on the first page of this Contract.

Renewal Term: This Contract may be renewed upon the mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any request for renewal should be delivered to the Agency and then submitted to the Purchasing Division thirty (30) days prior to the expiration date of the initial contract term or appropriate renewal term. A Contract renewal shall be in accordance with the terms and conditions of the original contract. Unless otherwise specified below, renewal of this Contract is limited to Three successive one (1) year periods or multiple renewal periods of less than one year, provided that the multiple renewal periods do not exceed the total number of months available in all renewal years combined. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's office (Attorney General approval is as to form only)

☐ **Alternate Renewal Term** – This contract may be renewed for _____ successive _____ year periods or shorter periods provided that they do not exceed the total number of months contained in all available renewals. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's office (Attorney General approval is as to form only)

Delivery Order Limitations: In the event that this contract permits delivery orders, a delivery order may only be issued during the time this Contract is in effect. Any delivery order issued within one year of the expiration of this Contract shall be effective for one year from the date the delivery order is issued. No delivery order may be extended beyond one year after this Contract has expired.

☐ **Fixed Period Contract:** This Contract becomes effective upon Vendor's receipt of the notice to proceed and must be completed within _____ days.

☐ **Fixed Period Contract with Renewals:** This Contract becomes effective upon Vendor's receipt of the notice to proceed and part of the Contract more fully described in the attached specifications must be completed within _____ days. Upon completion of the work covered by the preceding sentence, the vendor agrees that:

☐ the contract will continue for _____ years;

☐ the contract may be renewed for _____ successive _____ year periods or shorter periods provided that they do not exceed the total number of months contained in all available renewals. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's Office (Attorney General approval is as to form only).

☐ **One-Time Purchase:** The term of this Contract shall run from the issuance of the Award Document until all of the goods contracted for have been delivered, but in no event will this Contract extend for more than one fiscal year.

☐ **Construction/Project Oversight:** This Contract becomes effective on the effective start date listed on the first page of this Contract, identified as the State of West Virginia contract cover page containing the signatures of the Purchasing Division, Attorney General, and Encumbrance clerk (or another page identified as _____), and continues until the project for which the vendor is providing oversight is complete.

☐ **Other:** Contract Term specified in _____

4. AUTHORITY TO PROCEED: Vendor is authorized to begin performance of this contract on the date of encumbrance listed on the front page of the Award Document unless either the box for "Fixed Period Contract" or "Fixed Period Contract with Renewals" has been checked in Section 3 above. If either "Fixed Period Contract" or "Fixed Period Contract with Renewals" has been checked, Vendor must not begin work until it receives a separate notice to proceed from the State. The notice to proceed will then be incorporated into the Contract via change order to memorialize the official date that work commenced.

5. QUANTITIES: The quantities required under this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below.

☒ **Open End Contract:** Quantities listed in this Solicitation/Award Document are approximations only, based on estimates supplied by the Agency. It is understood and agreed that the Contract shall cover the quantities actually ordered for delivery during the term of the Contract, whether more or less than the quantities shown.

☐ **Service:** The scope of the service to be provided will be more clearly defined in the specifications included herewith.

☒ **Combined Service and Goods:** The scope of the service and deliverable goods to be provided will be more clearly defined in the specifications included herewith.

☐ **One-Time Purchase:** This Contract is for the purchase of a set quantity of goods that are identified in the specifications included herewith. Once those items have been delivered, no additional goods may be procured under this Contract without an appropriate change order approved by the Vendor, Agency, Purchasing Division, and Attorney General's office.

☐ **Construction:** This Contract is for construction activity more fully defined in the specifications.

6. EMERGENCY PURCHASES: The Purchasing Division Director may authorize the Agency to purchase goods or services in the open market that Vendor would otherwise provide under this Contract if those goods or services are for immediate or expedited delivery in an emergency. Emergencies shall include, but are not limited to, delays in transportation or an unanticipated increase in the volume of work. An emergency purchase in the open market, approved by the Purchasing Division Director, shall not constitute a breach of this Contract and shall not entitle the Vendor to any form of compensation or damages. This provision does not excuse the State from fulfilling its obligations under a One-Time Purchase contract.

7. REQUIRED DOCUMENTS: All of the items checked in this section must be provided to the Purchasing Division by the Vendor as specified:

☐ **LICENSE(S) / CERTIFICATIONS / PERMITS:** In addition to anything required under the Section of the General Terms and Conditions entitled Licensing, the apparent successful Vendor shall furnish proof of the following licenses, certifications, and/or permits upon request and in a form acceptable to the State. The request may be prior to or after contract award at the State's sole discretion.

☐☐☐☐

The apparent successful Vendor shall also furnish proof of any additional licenses or certifications contained in the specifications regardless of whether or not that requirement is listed above.

8. INSURANCE: The apparent successful Vendor shall furnish proof of the insurance identified by a checkmark below prior to Contract award. The insurance coverages identified below must be maintained throughout the life of this contract. Thirty (30) days prior to the expiration of the insurance policies, Vendor shall provide the Agency with proof that the insurance mandated herein has been continued. Vendor must also provide Agency with immediate notice of any changes in its insurance policies, including but not limited to, policy cancelation, policy reduction, or change in insurers. The apparent successful Vendor shall also furnish proof of any additional insurance requirements contained in the specifications prior to Contract award regardless of whether that insurance requirement is listed in this section.

Vendor must maintain:

☒ **Commercial General Liability Insurance** in at least an amount of: \$1,000,000 per occurrence.

☐ **Automobile Liability Insurance** in at least an amount of: _____ per occurrence.

☐ **Professional/Malpractice/Errors and Omission Insurance** in at least an amount of: _____ per occurrence. Notwithstanding the forgoing, Vendor's are not required to list the State as an additional insured for this type of policy.

☐ **Commercial Crime and Third Party Fidelity Insurance** in an amount of: _____ per occurrence.

☒ **Cyber Liability Insurance** in an amount of: \$1,000,000 per occurrence.

☐ **Builders Risk Insurance** in an amount equal to 100% of the amount of the Contract.

☐ **Pollution Insurance** in an amount of: _____ per occurrence.

☐ **Aircraft Liability** in an amount of: _____ per occurrence.

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Revised 11/1/2022

9. WORKERS' COMPENSATION INSURANCE: Vendor shall comply with laws relating to workers compensation, shall maintain workers' compensation insurance when required, and shall furnish proof of workers' compensation insurance upon request.

10. VENUE: All legal actions for damages brought by Vendor against the State shall be brought in the West Virginia Claims Commission. Other causes of action must be brought in the West Virginia court authorized by statute to exercise jurisdiction over it.

11. LIQUIDATED DAMAGES: This clause shall in no way be considered exclusive and shall not limit the State or Agency's right to pursue any other available remedy. Vendor shall pay liquidated damages in the amount specified below or as described in the specifications:

☐ _____ for _____

☐ Liquidated Damages Contained in the Specifications.

☐ Liquidated Damages Are Not Included in this Contract.

12. ACCEPTANCE: Vendor's signature on its bid, or on the certification and signature page, constitutes an offer to the State that cannot be unilaterally withdrawn, signifies that the product or service proposed by vendor meets the mandatory requirements contained in the Solicitation for that product or service, unless otherwise indicated, and signifies acceptance of the terms and conditions contained in the Solicitation unless otherwise indicated.

13. PRICING: The pricing set forth herein is firm for the life of the Contract, unless specified elsewhere within this Solicitation/Contract by the State. A Vendor's inclusion of price adjustment provisions in its bid, without an express authorization from the State in the Solicitation to do so, may result in bid disqualification. Notwithstanding the foregoing, Vendor must extend any publicly advertised sale price to the State and invoice at the lower of the contract price or the publicly advertised sale price.

14. PAYMENT IN ARREARS: Payments for goods/services will be made in arrears only upon receipt of a proper invoice, detailing the goods/services provided or receipt of the goods/services, whichever is later. Notwithstanding the foregoing, payments for software maintenance, licenses, or subscriptions may be paid annually in advance.

15. PAYMENT METHODS: Vendor must accept payment by electronic funds transfer and P-Card. (The State of West Virginia's Purchasing Card program, administered under contract by a banking institution, processes payment for goods and services through state designated credit cards.)

16. TAXES: The Vendor shall pay any applicable sales, use, personal property or any other taxes arising out of this Contract and the transactions contemplated thereby. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.

17. ADDITIONAL FEES: Vendor is not permitted to charge additional fees or assess additional charges that were not either expressly provided for in the solicitation published by the State of West Virginia, included in the Contract, or included in the unit price or lump sum bid amount that Vendor is required by the solicitation to provide. Including such fees or charges as notes to the solicitation may result in rejection of vendor's bid. Requesting such fees or charges be paid after the contract has been awarded may result in cancellation of the contract.

18. FUNDING: This Contract shall continue for the term stated herein, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise made available, this Contract becomes void and of no effect beginning on July 1 of the fiscal year for which funding has not been appropriated or otherwise made available. If that occurs, the State may notify the Vendor that an alternative source of funding has been obtained and thereby avoid the automatic termination. Non-appropriation or non-funding shall not be considered an event of default.

19. CANCELLATION: The Purchasing Division Director reserves the right to cancel this Contract immediately upon written notice to the vendor if the materials or workmanship supplied do not conform to the specifications contained in the Contract. The Purchasing Division Director may also cancel any purchase or Contract upon 30 days written notice to the Vendor in accordance with West Virginia Code of State Rules § 148-1-5.2.b.

20. TIME: Time is of the essence regarding all matters of time and performance in this Contract.

21. APPLICABLE LAW: This Contract is governed by and interpreted under West Virginia law without giving effect to its choice of law principles. Any information provided in specification manuals, or any other source, verbal or written, which contradicts or violates the West Virginia Constitution, West Virginia Code, or West Virginia Code of State Rules is void and of no effect.

22. COMPLIANCE WITH LAWS: Vendor shall comply with all applicable federal, state, and local laws, regulations and ordinances. By submitting a bid, Vendor acknowledges that it has reviewed, understands, and will comply with all applicable laws, regulations, and ordinances.

SUBCONTRACTOR COMPLIANCE: Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to comply with all applicable laws, regulations, and ordinances. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.

23. ARBITRATION: Any references made to arbitration contained in this Contract, Vendor's bid, or in any American Institute of Architects documents pertaining to this Contract are hereby deleted, void, and of no effect.

24. MODIFICATIONS: This writing is the parties' final expression of intent. Notwithstanding anything contained in this Contract to the contrary no modification of this Contract shall be binding without mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any change to existing contracts that adds work or changes contract cost, and were not included in the original contract, must be approved by the Purchasing Division and the Attorney General's Office (as to form) prior to the implementation of the change or commencement of work affected by the change.

25. WAIVER: The failure of either party to insist upon a strict performance of any of the terms or provision of this Contract, or to exercise any option, right, or remedy herein contained, shall not be construed as a waiver or a relinquishment for the future of such term, provision, option, right, or remedy, but the same shall continue in full force and effect. Any waiver must be expressly stated in writing and signed by the waiving party.

26. SUBSEQUENT FORMS: The terms and conditions contained in this Contract shall supersede any and all subsequent terms and conditions which may appear on any form documents submitted by Vendor to the Agency or Purchasing Division such as price lists, order forms, invoices, sales agreements, or maintenance agreements, and includes internet websites or other electronic documents. Acceptance or use of Vendor's forms does not constitute acceptance of the terms and conditions contained thereon.

27. ASSIGNMENT: Neither this Contract nor any monies due, or to become due hereunder, may be assigned by the Vendor without the express written consent of the Agency, the Purchasing Division, the Attorney General's office (as to form only), and any other government agency or office that may be required to approve such assignments.

28. WARRANTY: The Vendor expressly warrants that the goods and/or services covered by this Contract will: (a) conform to the specifications, drawings, samples, or other description furnished or specified by the Agency; (b) be merchantable and fit for the purpose intended; and (c) be free from defect in material and workmanship.

29. STATE EMPLOYEES: State employees are not permitted to utilize this Contract for personal use and the Vendor is prohibited from permitting or facilitating the same.

30. PRIVACY, SECURITY, AND CONFIDENTIALITY: The Vendor agrees that it will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the Agency, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the Agency's policies, procedures, and rules. Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements, set forth in <http://www.state.wv.us/admin/purchase/privacy/default.html>.

31. YOUR SUBMISSION IS A PUBLIC DOCUMENT: Vendor's entire response to the Solicitation and the resulting Contract are public documents. As public documents, they will be disclosed to the public following the bid/proposal opening or award of the contract, as required by the competitive bidding laws of West Virginia Code §§ 5A-3-1 et seq., 5-22-1 et seq., and 5G-1-1 et seq. and the Freedom of Information Act West Virginia Code §§ 29B-1-1 et seq.

DO NOT SUBMIT MATERIAL YOU CONSIDER TO BE CONFIDENTIAL, A TRADE SECRET, OR OTHERWISE NOT SUBJECT TO PUBLIC DISCLOSURE.

Submission of any bid, proposal, or other document to the Purchasing Division constitutes your explicit consent to the subsequent public disclosure of the bid, proposal, or document. The Purchasing Division will disclose any document labeled "confidential," "proprietary," "trade secret," "private," or labeled with any other claim against public disclosure of the documents, to include any "trade secrets" as defined by West Virginia Code § 47-22-1 et seq. All submissions are subject to public disclosure without notice.

32. LICENSING: In accordance with West Virginia Code of State Rules § 148-1-6.1.e, Vendor must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, West Virginia Insurance Commission, or any other state agency or political subdivision. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. Upon request, the Vendor must provide all necessary releases to obtain information to enable the Purchasing Division Director or the Agency to verify that the Vendor is licensed and in good standing with the above entities.

SUBCONTRACTOR COMPLIANCE: Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to be licensed, in good standing, and up-to-date on all state and local obligations as described in this section. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.

33. ANTITRUST: In submitting a bid to, signing a contract with, or accepting a Award Document from any agency of the State of West Virginia, the Vendor agrees to convey, sell, assign, or transfer to the State of West Virginia all rights, title, and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of West Virginia for price fixing and/or unreasonable restraints of trade relating to the particular commodities or services purchased or acquired by the State of West Virginia. Such assignment shall be made and become effective at the time the purchasing agency tenders the initial payment to Vendor.

34. VENDOR NON-CONFLICT: Neither Vendor nor its representatives are permitted to have any interest, nor shall they acquire any interest, direct or indirect, which would compromise the performance of its services hereunder. Any such interests shall be promptly presented in detail to the Agency.

Revised 11/1/2022

35. VENDOR RELATIONSHIP: The relationship of the Vendor to the State shall be that of an independent contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by this Contract. The Vendor as an independent contractor is solely liable for the acts and omissions of its employees and agents. Vendor shall be responsible for selecting, supervising, and compensating any and all individuals employed pursuant to the terms of this Solicitation and resulting contract. Neither the Vendor, nor any employees or subcontractors of the Vendor, shall be deemed to be employees of the State for any purpose whatsoever. Vendor shall be exclusively responsible for payment of employees and contractors for all wages and salaries, taxes, withholding payments, penalties, fees, fringe benefits, professional liability insurance premiums, contributions to insurance and pension, or other deferred compensation plans, including but not limited to, Workers' Compensation and Social Security obligations, licensing fees, etc. and the filing of all necessary documents, forms, and returns pertinent to all of the foregoing.

Vendor shall hold harmless the State, and shall provide the State and Agency with a defense against any and all claims including, but not limited to, the foregoing payments, withholdings, contributions, taxes, Social Security taxes, and employer income tax returns.

36. INDEMNIFICATION: The Vendor agrees to indemnify, defend, and hold harmless the State and the Agency, their officers, and employees from and against: (1) Any claims or losses for services rendered by any subcontractor, person, or firm performing or supplying services, materials, or supplies in connection with the performance of the Contract; (2) Any claims or losses resulting to any person or entity injured or damaged by the Vendor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data used under the Contract in a manner not authorized by the Contract, or by Federal or State statutes or regulations; and (3) Any failure of the Vendor, its officers, employees, or subcontractors to observe State and Federal laws including, but not limited to, labor and wage and hour laws.

37. NO DEBT CERTIFICATION: In accordance with West Virginia Code §§ 5A-3-10a and 5-22-1(i), the State is prohibited from awarding a contract to any bidder that owes a debt to the State or a political subdivision of the State. By submitting a bid, or entering into a contract with the State, Vendor is affirming that (1) for construction contracts, the Vendor is not in default on any monetary obligation owed to the state or a political subdivision of the state, and (2) for all other contracts, neither the Vendor nor any related party owe a debt as defined above, and neither the Vendor nor any related party are in employer default as defined in the statute cited above unless the debt or employer default is permitted under the statute.

38. CONFLICT OF INTEREST: Vendor, its officers or members or employees, shall not presently have or acquire an interest, direct or indirect, which would conflict with or compromise the performance of its obligations hereunder. Vendor shall periodically inquire of its officers, members and employees to ensure that a conflict of interest does not arise. Any conflict of interest discovered shall be promptly presented in detail to the Agency.

39. REPORTS: Vendor shall provide the Agency and/or the Purchasing Division with the following reports identified by a checked box below:

☐ Such reports as the Agency and/or the Purchasing Division may request. Requested reports may include, but are not limited to, quantities purchased, agencies utilizing the contract, total contract expenditures by agency, etc.

☐ Quarterly reports detailing the total quantity of purchases in units and dollars, along with a listing of purchases by agency. Quarterly reports should be delivered to the Purchasing Division via email at purchasing.division@wv.gov.

40. BACKGROUND CHECK: In accordance with W. Va. Code § 15-2D-3, the State reserves the right to prohibit a service provider's employees from accessing sensitive or critical information or to be present at the Capitol complex based upon results addressed from a criminal background check. Service providers should contact the West Virginia Division of Protective Services by phone at (304) 558-9911 for more information.

41. PREFERENCE FOR USE OF DOMESTIC STEEL PRODUCTS: Except when authorized by the Director of the Purchasing Division pursuant to W. Va. Code § 5A-3-56, no contractor may use or supply steel products for a State Contract Project other than those steel products made in the United States. A contractor who uses steel products in violation of this section may be subject to civil penalties pursuant to W. Va. Code § 5A-3-56. As used in this section:

- a. "State Contract Project" means any erection or construction of, or any addition to, alteration of or other improvement to any building or structure, including, but not limited to, roads or highways, or the installation of any heating or cooling or ventilating plants or other equipment, or the supply of and materials for such projects, pursuant to a contract with the State of West Virginia for which bids were solicited on or after June 6, 2001.
- b. "Steel Products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two or more or such operations, from steel made by the open hearth, basic oxygen, electric furnace, Bessemer or other steel making process.
- c. The Purchasing Division Director may, in writing, authorize the use of foreign steel products if:
 1. The cost for each contract item used does not exceed one tenth of one percent (.1%) of the total contract cost or two thousand five hundred dollars (\$2,500.00), whichever is greater. For the purposes of this section, the cost is the value of the steel product as delivered to the project; or
 2. The Director of the Purchasing Division determines that specified steel materials are not produced in the United States in sufficient quantity or otherwise are not reasonably available to meet contract requirements.

42. PREFERENCE FOR USE OF DOMESTIC ALUMINUM, GLASS, AND STEEL: In Accordance with W. Va. Code § 5-19-1 et seq., and W. Va. CSR § 148-10-1 et seq., for every contract or subcontract, subject to the limitations contained herein, for the construction, reconstruction, alteration, repair, improvement or maintenance of public works or for the purchase of any item of machinery or equipment to be used at sites of public works, only domestic aluminum, glass or steel products shall be supplied unless the spending officer determines, in writing, after the receipt of offers or bids, (1) that the cost of domestic aluminum, glass or steel products is unreasonable or inconsistent with the public interest of the State of West Virginia, (2) that domestic aluminum, glass or steel products are not produced in sufficient quantities to meet the contract requirements, or (3) the available domestic aluminum, glass, or steel do not meet the contract specifications. This provision only applies to public works contracts awarded in an amount more than fifty thousand dollars (\$50,000) or public works contracts that require more than ten thousand pounds of steel products.

The cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than twenty percent (20%) of the bid or offered price for foreign made aluminum, glass, or steel products. If the domestic aluminum, glass or steel products to be supplied or produced in a "substantial labor surplus area", as defined by the United States Department of Labor, the cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than thirty percent (30%) of the bid or offered price for foreign made aluminum, glass, or steel products. This preference shall be applied to an item of machinery or equipment, as indicated above, when the item is a single unit of equipment or machinery manufactured primarily of aluminum, glass or steel, is part of a public works contract and has the sole purpose or of being a permanent part of a single public works project. This provision does not apply to equipment or machinery purchased by a spending unit for use by that spending unit and not as part of a single public works project.

All bids and offers including domestic aluminum, glass or steel products that exceed bid or offer prices including foreign aluminum, glass or steel products after application of the preferences provided in this provision may be reduced to a price equal to or lower than the lowest bid or offer price for foreign aluminum, glass or steel products plus the applicable preference. If the reduced bid or offer prices are made in writing and supersede the prior bid or offer prices, all bids or offers, including the reduced bid or offer prices, will be reevaluated in accordance with this rule.

43. INTERESTED PARTY SUPPLEMENTAL DISCLOSURE: W. Va. Code § 6D-1-2 requires that for contracts with an actual or estimated value of at least \$1 million, the Vendor must submit to the Agency a disclosure of interested parties prior to beginning work under this Contract. Additionally, the Vendor must submit a supplemental disclosure of interested parties reflecting any new or differing interested parties to the contract, which were not included in the original pre-work interested party disclosure, within 30 days following the completion or termination of the contract. A copy of that form is included with this solicitation or can be obtained from the WV Ethics Commission. This requirement does not apply to publicly traded companies listed on a national or international stock exchange. A more detailed definition of interested parties can be obtained from the form referenced above.

44. PROHIBITION AGAINST USED OR REFURBISHED: Unless expressly permitted in the solicitation published by the State, Vendor must provide new, unused commodities, and is prohibited from supplying used or refurbished commodities, in fulfilling its responsibilities under this Contract.

45. VOID CONTRACT CLAUSES: This Contract is subject to the provisions of West Virginia Code § 5A-3-62, which automatically voids certain contract clauses that violate State law.

46. ISRAEL BOYCOTT: Bidder understands and agrees that, pursuant to W. Va. Code § 5A-3-63, it is prohibited from engaging in a boycott of Israel during the term of this contract.

DESIGNATED CONTACT: Vendor appoints the individual identified in this Section as the Contract Administrator and the initial point of contact for matters relating to this Contract.

(Printed Name and Title) Christina Beacham - Representative Public Sector

(Address) _____

(Phone Number) / (Fax Number) 724-272-8468

(Email address) tbeacham@ukg.com

CERTIFICATION AND SIGNATURE: By signing below, or submitting documentation through wvOASIS, I certify that: I have reviewed this Solicitation/Contract in its entirety; that I understand the requirements, terms and conditions, and other information contained herein; that this bid, offer or proposal constitutes an offer to the State that cannot be unilaterally withdrawn; that the product or service proposed meets the mandatory requirements contained in the Solicitation/Contract for that product or service, unless otherwise stated herein; that the Vendor accepts the terms and conditions contained in the Solicitation, unless otherwise stated herein; that I am submitting this bid, offer or proposal for review and consideration; that this bid or offer was made without prior understanding, agreement, or connection with any entity submitting a bid or offer for the same material, supplies, equipment or services; that this bid or offer is in all respects fair and without collusion or fraud; that this Contract is accepted or entered into without any prior understanding, agreement, or connection to any other entity that could be considered a violation of law; that I am authorized by the Vendor to execute and submit this bid, offer, or proposal, or any documents related thereto on Vendor's behalf; that I am authorized to bind the vendor in a contractual relationship; and that to the best of my knowledge, the vendor has properly registered with any State agency that may require registration.

By signing below, I further certify that I understand this Contract is subject to the provisions of West Virginia Code § 5A-3-62, which automatically voids certain contract clauses that violate State law; and that pursuant to W. Va. Code 5A-3-63, the entity entering into this contract is prohibited from engaging in a boycott against Israel.

UKG

(Company) _____

(Signature of Authorized Representative) Scott Giangrande
Scott Giangrande Sr. Order Processing Analyst

3/24/2023 | 12:45 PM EDT

(Printed Name and Title of Authorized Representative) (Date)
978-947-1752

(Phone Number) (Fax Number)
scott.giangrande@ukg.com

(Email Address) _____

ADDENDUM ACKNOWLEDGEMENT FORM
SOLICITATION NO.:

Instructions: Please acknowledge receipt of all addenda issued with this solicitation by completing this addendum acknowledgment form. Check the box next to each addendum received and sign below. Failure to acknowledge addenda may result in bid disqualification.

Acknowledgment: I hereby acknowledge receipt of the following addenda and have made the necessary revisions to my proposal, plans and/or specification, etc.

Addendum Numbers Received:

(Check the box next to each addendum received)

- ☐ Addendum No. 1
- ☐ Addendum No. 2
- ☐ Addendum No. 3
- ☐ Addendum No. 4
- ☐ Addendum No. 5

- ☐ Addendum No. 6
- ☐ Addendum No. 7
- ☐ Addendum No. 8
- ☐ Addendum No. 9
- ☐ Addendum No. 10

I understand that failure to confirm the receipt of addenda may be cause for rejection of this bid. I further understand that any verbal representation made or assumed to be made during any oral discussion held between Vendor's representatives and any state personnel is not binding. Only the information issued in writing and added to the specifications by an official addendum is binding.

UKG

Company

DocuSigned by:

Scott Giangrande

Authorized Signature

3/24/2023 | 12:45 PM EDT

Date

NOTE: This addendum acknowledgement should be submitted with the bid to expedite document processing.

Exhibit B

Software as a Service Addendum

1. Definitions:

Kronos will host data in US data centers unless mutually agreed.

Authorized Persons means the service provider's employees, contractors, subcontractors or other agents who have responsibility in protecting or have access to the public jurisdiction's personal data and non-public data to enable the service provider to perform the services required.

Data Breach means the unauthorized access and acquisition of unencrypted and unredacted personal data that compromises the security or confidentiality of a public jurisdiction's personal information and that causes the service provider or public jurisdiction to reasonably believe that the data breach has caused or will cause identity theft or other fraud.

Individually Identifiable Health Information means information that is a subset of health information, including demographic information collected from an individual, and (1) is created or received by a health care provider, health plan, employer or health care clearinghouse; and (2) relates to the past, present or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (a) that identifies the individual; or (b) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

Non-Public Data means data, other than personal data, that is not subject to distribution to the public as public information. It is deemed to be sensitive and confidential by the public jurisdiction because it contains information that is exempt by statute, ordinance or administrative rule from access by the general public as public information.

Personal Data means data that includes information relating to a person that identifies the person by first name or first initial, and last name, and has any of the following personally identifiable information (PII): government-issued identification numbers (e.g., Social Security, driver's license, state identification card); financial account information, including account number, credit or debit card numbers; or protected health information (PHI).

Public Jurisdiction means any government or government agency that uses these terms and conditions. The term is a placeholder for the government or government agency.

Public Jurisdiction Data means all data created or in any way originating with the public jurisdiction, and all data that is the output of computer processing or other electronic manipulation of any data that was created by or in any way originated with the public jurisdiction, whether such data or output is stored on the public jurisdiction's hardware, the service provider's hardware or exists in any system owned, maintained or otherwise controlled by the public jurisdiction or by the service provider.

Public Jurisdiction Identified Contact means the person or persons designated in writing by the public jurisdiction to receive security incident or breach notification.

Restricted Data means personal data and non-public data.

Security Incident means the actual unauthorized access to personal data or non-public data the service provider believes could reasonably result in the use, disclosure or theft of a public jurisdiction's unencrypted personal data or non-public data within the possession or control of the service provider. A security incident may or may not turn into a Data Breach.

Service Provider means the contractor and its employees, subcontractors, agents and affiliates who are providing the services agreed to under the contract.

Software-as-a-Service (SaaS) means the capability provided to the consumer to use the provider's applications running on a cloud infrastructure. The applications are accessible from various client devices through a thin-client interface such as a Web browser (e.g., Web-based email) or a program interface. The consumer does not manage or control the underlying cloud infrastructure including network, servers, operating systems, storage or even individual application capabilities, with the possible exception of limited user-specific application configuration settings.

2. Data Ownership: The public jurisdiction will own all right, title and interest in its data that is related to the services provided by this contract. The service provider shall not access public jurisdiction user accounts or public jurisdiction data, except (1) in the course of data center operations, (2) in response to service or technical issues, (3) as required by the express terms of this contract or (4) at the public jurisdiction's written request.

3. Data Protection and Privacy: Protection of personal privacy and data shall be an integral part of the business activities of the service provider to ensure there is no inappropriate or unauthorized use of public jurisdiction information at any time. To this end, the service provider shall safeguard the confidentiality, integrity and availability of public jurisdiction information and comply with the following conditions:

- a) The service provider shall implement and maintain appropriate administrative, technical and physical security measures to safeguard against unauthorized access, disclosure or theft of personal data and non-public data. In Appendix A, the public jurisdiction shall indicate whether restricted information will be processed by the service provider. Such security measures shall be in accordance with recognized industry practice and not less stringent than the measures the service provider applies to its own personal data and non-public data of similar kind. The service provider shall ensure that all such measures, including the manner in which personal data and non-public data are collected, accessed, used, stored, processed, disposed of and disclosed, comply with applicable data protection and privacy laws, as well as the terms and conditions of this Addendum and shall survive termination of the underlying contract.
- b) The service provider represents and warrants that its collection, access, use, storage, disposal and disclosure of personal data and non-public data do and will comply with all applicable federal and state privacy and data protection laws, as well as all other applicable regulations and directives.

- c) The service provider shall support third-party multi-factor authentication via SAML 2.0 integration with public jurisdiction third-party identity provider as described in product documentation to safeguard personal data and non-public data.
- d) All data obtained by the service provider in the performance of this contract shall become and remain the property of the public jurisdiction.
- e) All personal data shall be encrypted at rest and in transit to/from the edge of Kronos Cloud data centers with controlled access. Unless otherwise stipulated, the service provider is responsible for encryption of the personal data.
- f) Unless otherwise stipulated, the service provider shall encrypt all non-public data at rest and in transit, in accordance with recognized industry practice.
- g) With delivery of the software and instructions, the service provider shall provide guidelines to the public jurisdiction detailing the public jurisdiction's specific security roles and responsibilities and best practices for implementation of security controls for the service provider's application. These guidelines shall be made a part of this contract.
- h) At no time shall any data or process – that either belong to or are intended for the use of a public jurisdiction or its officers, agents or employees — be copied, disclosed or retained by the service provider or any party related to the service provider for subsequent use in any transaction that does not include the public jurisdiction.
- i) The service provider shall not use or disclose any information collected in connection with the service issued from this proposal for any purpose other than fulfilling the service.
- j) Data Location. For non-public data and personal data, the service provider shall provide its data center services to the public jurisdiction and its end users solely from data centers in the U.S. Storage of public jurisdiction data at rest shall be located solely in data centers in the U.S. The service provider shall not allow its personnel or contractors to store public jurisdiction data on portable devices, including personal computers, except for devices that are used and kept only at its U.S. data centers. With agreement from the public jurisdiction, this term may be met by the service provider providing its services from an acceptable alternative data center location, which agreement shall be stated in Appendix A. The service provider shall permit its personnel and contractors to access public jurisdiction data remotely only as required to provide technical support.

4. Security Incident or Data Breach Notification: The service provider shall inform the public jurisdiction of any actual/confirmed security incident or data breach.

- a) Incident Response: The service provider may need to communicate with outside parties regarding a security incident, which may include contacting law enforcement, fielding media inquiries and seeking external expertise as, defined by law, contained in the contract, or at Service Provider's sole discretion. Discussing security incidents with the public jurisdiction shall be handled on an urgent as-needed basis, as part of service provider communication and mitigation processes .

- b) **Security Incident Reporting Requirements:** The service provider shall report an actual/confirmed Security Incident as soon as practicable, but no later than twenty-four (24) hours after the service provider becomes aware of it, to: (1) the department privacy officer, by email, with a read receipt, identified in Appendix A; and, (2) unless otherwise directed by the public jurisdiction in the underlying contract, the WVOT Online Computer Security and Privacy Incident Reporting System at <https://apps.wv.gov/ot/ir/Default.aspx>. The following information shall be shared with the public jurisdiction: (1) incident phase (detection and analysis; containment, eradication and recovery; or post-incident activity), (2) projected business impact, and, (3) attack source information.
- c) **Breach Reporting Requirements:** Upon the discovery of a data breach or unauthorized access to non-public data, the service provider shall immediately report to: (1) the department privacy officer, by email, with a read receipt, identified in Appendix A; and, (2) unless otherwise directed by the public jurisdiction in the underlying contract, the WVOT Online Computer Security and Privacy Incident Reporting System at <https://apps.wv.gov/ot/ir/Default.aspx>.

5. Breach Responsibilities: This section only applies when a data breach occurs with respect to personal data within the possession or control of the service provider.

- a) The service provider shall provide the public jurisdiction with the name and contact information for a team of service provider who shall serve as the public jurisdiction's primary security contact and shall be available to assist the public jurisdiction twenty-four (24) hours per day, seven (7) days per week as a contact in resolving obligations associated with a data breach. The service provider shall provide this information in Appendix A.
- b) Immediately following the service provider's notification to the public jurisdiction of a data breach, the parties shall cooperate with each other to investigate the data breach. The service provider agrees to fully cooperate with the public jurisdiction in the public jurisdiction's handling of the matter, including, without limitation, at the public jurisdiction's request, making available relevant information and reporting required to comply with applicable law and regulation.
- c) Within 72 hours of the discovery, upon request, the service provider shall notify the parties listed in 4(c) above, to the extent known: (1) date of discovery; (2) list of data elements and the number of individual records; (3) description of the unauthorized persons known or reasonably believed to have improperly used or disclosed the personal data; (4) description of where the personal data is believed to have been improperly transmitted, sent, or utilized; and, (5) description of the probable causes of the improper use or disclosure.
- d) The service provider shall (1) cooperate with the public jurisdiction as reasonably requested by the public jurisdiction to investigate and resolve the data breach, (2) promptly implement necessary remedial measures, if necessary, and prevent any further data breach at the service provider's expense in accordance with applicable privacy rights, laws and regulations and (3) document responsive actions taken related to the data breach, including any post-incident review of events and actions taken to make changes in business practices in providing the services, if necessary.

- e) If a data breach is a direct result of the service provider's breach of its contract obligation to encrypt personal data or otherwise prevent its release, the service provider shall bear the costs associated with (1) the investigation and resolution of the data breach; (2) notifications to individuals, regulators or others required by state or federal law; (3) a credit monitoring service (4) a website or a toll-free number and call center for affected individuals required by state law — all not to exceed the average per record per person cost calculated for data breaches in the United States (currently \$141 per record/person) in the most recent Cost of Data Breach Study: Global Analysis published by the Ponemon Institute at the time of the data breach; and (5) complete all corrective actions as reasonably determined by service provider based on root cause. The service provider agrees that it shall not inform any third party of any data breach without first obtaining the public jurisdiction's prior written consent, other than to inform a complainant that the matter has been forwarded to the public jurisdiction's legal counsel and/or engage a third party with appropriate expertise and confidentiality protections for any reason connected to the data breach. Except with respect to where the service provider has an independent legal obligation to report a data breach, the service provider agrees that the public jurisdiction shall have the sole right to determine: (1) whether notice of the data breach is to be provided to any individuals, regulators, law enforcement agencies, consumer reporting agencies or others, as required by law or regulation, or otherwise in the public jurisdiction's discretion; and (2) the contents of such notice, whether any type of remediation may be offered to affected persons, and the nature and extent of any such remediation. The service provider retains the right to report activity to law enforcement.

6. Notification of Legal Requests: The service provider shall contact the public jurisdiction upon receipt of any electronic discovery, litigation holds, discovery searches and expert testimonies related to the public jurisdiction's data under this contract, or which in any way might reasonably require access to the data of the public jurisdiction. The service provider shall not respond to subpoenas, service of process and other legal requests related to the public jurisdiction without first notifying the public jurisdiction, unless prohibited by law from providing such notice.

7. Termination and Suspension of Service:

- a) In the event of a termination of the contract, the service provider shall implement an orderly return of public jurisdiction data in MS SQL format at a time agreed to by the parties and the subsequent secure disposal of public jurisdiction data.
- b) During any period of service suspension, the service provider shall not take any action to intentionally erase any public jurisdiction data.
- c) Unless otherwise specified in the Contract, in the event of termination of any services or agreement in entirety, the service provider shall not take any action to intentionally erase any public jurisdiction data for a period of:

- 30 days after the effective date of termination, if the termination is for convenience

After such period, the service provider shall have no obligation to maintain or provide any public jurisdiction data and shall thereafter, unless legally prohibited, delete all public jurisdiction data in its systems or otherwise in its possession or under its control.

- d) The public jurisdiction shall be entitled to any post-termination assistance generally made available with respect to the services, unless a unique data retrieval arrangement has been established as part of the Contract.
- e) The service provider shall securely dispose of all requested data in all of its forms, such as disk, CD/ DVD, backup tape and paper, when requested by the public jurisdiction. Data shall be permanently deleted and shall not be recoverable, according to National Institute of Standards and Technology (NIST)-approved methods. Certificates of destruction shall be provided to the public jurisdiction upon request.

8. Background Checks: The service provider shall conduct criminal background checks and not utilize any staff, including subcontractors, to fulfill the obligations of the contract who have been convicted of any crime of dishonesty, including but not limited to criminal fraud, or otherwise convicted of any felony or misdemeanor offense for which incarceration for up to 1 year is an authorized penalty. The service provider shall promote and maintain an awareness of the importance of securing the public jurisdiction's information among the service provider's employees and agents.

9. Oversight of Authorized Persons: During the term of each authorized person's employment or engagement by service provider, service provider shall at all times cause such persons to abide strictly by service provider's obligations under this Agreement and service provider's standard policies and procedures. The service provider further agrees that it shall maintain a disciplinary process to address any unauthorized access, use or disclosure of personal data by any of service provider's officers, partners, principals, employees, agents or contractors.

10. Access to Security Logs and Reports: The service provider shall provide reports to the public jurisdiction through the application. Reports shall include, user access including failed log-in attempts, user access IP address, user access history and application-level security logs for all public jurisdiction files related to this contract.

11. Data Protection Self-Assessment: The service provider shall complete and upon request, submit an industry standard questionnaire, which is currently the Cloud Security Alliance "Consensus Assessments Initiative Questionnaire" to the Department privacy officer. The service provider shall first submit the questionnaire to the public jurisdiction as part of its response to the solicitation and, upon request, annually thereafter, on the anniversary of the date of contract execution.

12. Data Center Audit: The service provider shall perform an audit of its infrastructure and data centers at least annually at its expense and provide a redacted version of the

audit report upon request. The service provider may remove its proprietary information from the redacted version. A Service Organization Control (SOC) 2 and (SOC) 1 audit report or approved equivalent as detailed below sets the minimum level of a third-party audit.

13. Change Control and Advance Notice: The service provider shall give, advance notice as defined in the SLA exhibit.

14. Security:

- a) At a minimum, the service provider's safeguards for the protection of data shall include: (1) securing business facilities, data centers, paper files, servers, back-up systems and computing equipment, including, but not limited to, all mobile devices and other equipment with information storage capability; (2) implementing network, device application, database and platform security; (3) securing information transmission, storage and disposal; (4) implementing authentication and access controls within media, applications, operating systems and equipment; (5) implementing appropriate personnel security and integrity procedures and practices, including, but not limited to, conducting background checks consistent with applicable law; and (6) providing appropriate privacy and information security training to service provider's employees.
- b) The service provider shall execute well-defined recurring action steps that identify and monitor vulnerabilities, and provide remediation or corrective measures. Where the service provider's technology or the public jurisdiction's required dependence on a third-party application to interface with the technology creates a critical or high risk, the service provider shall remediate the vulnerability as soon as possible.
- c) Upon the public jurisdiction's written request, the service provider shall provide a high-level network diagram with respect to connectivity to the public jurisdiction's network that illustrates the service provider's information technology network infrastructure.

15. Non-disclosure and Separation of Duties: The service provider shall enforce separation of job duties, require commercially reasonable non-disclosure agreements, and limit staff knowledge of public jurisdiction data to that which is absolutely necessary to perform job duties.

16. Import and Export of Data: The public jurisdiction shall have the ability to securely import, export or dispose of data in standard format in piecemeal or in entirety at its discretion without interference from the service provider.

17. Responsibilities and Uptime Guarantee: The service provider shall be responsible for the acquisition and operation of all hardware, software and network support related to the services being provided. The technical and professional activities required for establishing, managing and maintaining the environments are the responsibilities of the service provider.

18. Subcontractor Disclosure: The service provider shall identify all of its strategic business partners related to services provided under this contract, including but not limited to all subcontractors or other entities or individuals who may be a party to a joint venture or similar agreement with the service provider, and who shall be involved in any custom application development and/or operations. These subcontractors shall be disclosed to the public jurisdiction as part of the service provider's response to the solicitation.

19. Right to Remove Individuals: The public jurisdiction shall have the right at any time to require that the service provider remove from interaction with public jurisdiction any service provider representative who the public jurisdiction believes is detrimental to its working relationship with the service provider. The public jurisdiction shall provide the service provider with notice of its determination, and the reasons it requests the removal. If the public jurisdiction signifies that a potential security violation exists with respect to the request, the service provider shall immediately remove such individual. The service provider shall not assign the person to any aspect of the contract or future work orders without the public jurisdiction's consent.

20. Business Continuity and Disaster Recovery: The service provider shall provide a business continuity and disaster recovery plan executive summary upon request.

21. Compliance with Accessibility Standards: The service provider shall comply with and adhere to Accessibility Standards of Section 508 Amendment to the Rehabilitation Act of 1973.

22. Web Services: The service provider shall make available Web services as defined in product documentation.

23. Encryption of Data at Rest: The service provider shall ensure hard drive encryption used NIST approved algorithms.

24. Subscription Terms: Service provider grants to a public jurisdiction a license to:

- Access and use the service for its business purposes;
- For SaaS, use underlying software as embodied or used in the service; and
- View, copy, upload, download (where applicable), and use service provider's documentation.

25. Equitable Relief: Service provider acknowledges that any breach of its covenants or obligations set forth in Addendum may cause the public jurisdiction irreparable harm for which monetary damages would not be adequate compensation and agrees that, in the event of such breach or threatened breach, the public jurisdiction is entitled to seek equitable relief, including a restraining order, injunctive relief, specific performance and any other relief that may be available from any court, in addition to any other remedy to which the public jurisdiction may be entitled at law or in equity. Such remedies shall not be deemed to be exclusive but shall be in addition to all other remedies available at law

21. Compliance with Accessibility Standards: The service provider shall comply with and adhere to Accessibility Standards of Section 508 Amendment to the Rehabilitation Act of 1973.

22. Web Services: The service provider shall make available Web services as defined in product documentation.

23. Encryption of Data at Rest: The service provider shall ensure hard drive encryption used NIST approved algorithms.

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- Access and use the service for its business purposes;
- For SaaS, use underlying software as embodied or used in the service; and
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25. Equitable Relief: Service provider acknowledges that any breach of its covenants or obligations set forth in Addendum may cause the public jurisdiction irreparable harm for which monetary damages would not be adequate compensation and agrees that, in the event of such breach or threatened breach, the public jurisdiction is entitled to seek equitable relief, including a restraining order, injunctive relief, specific performance and any other relief that may be available from any court, in addition to any other remedy to which the public jurisdiction may be entitled at law or in equity. Such remedies shall not be deemed to be exclusive but shall be in addition to all other remedies available at law or in equity, subject to any express exclusions or limitations in this Addendum to the contrary.

AGREED:

Name of Agency: SEP Name of Vendor: UKG

Signature: E. K. Hartley Signature: Scott Giangrande
DocuSigned by: 097416071-290418...

Title: Director Title: Sr. Order Processing Analyst

Date: 4.27.2023 Date: 3/24/2023 | 12:45 PM EDT

Appendix A

(To be completed by the Agency's Procurement Officer prior to the execution of the Addendum, and shall be made a part of the Addendum. Required information not identified prior to execution of the Addendum may only be added by amending Appendix A and the Addendum, via Change Order.)

Name of Service Provider/Vendor: Kronos Incorporated _____

Name of Agency: Enterprise Resource Planning Board _____

Agency/public jurisdiction's required information:

1. Will restricted information be processed by the service provider?
Yes ☐
No ☒
2. If yes to #1, does the restricted information include personal data?
Yes ☐
No ☐
3. If yes to #1, does the restricted information include non-public data?
Yes ☐
No ☐
4. If yes to #1, may the service provider store public jurisdiction data in a data center in an acceptable alternative data center location, which is a country that is not the U.S.?
Yes ☐
No ☐
5. Provide name and email address for the Department privacy officer:

Name: Vincent Smith _____

Email address: vincent.smith@wvsao.gov _____

Vendor/Service Provider's required information:

6. Provide name and contact information for vendor's employee who shall serve as the public jurisdiction's primary security contact:
Name: Brian Goodwin _____
Email address: Brian.Goodwin@ukg.com _____
Phone Number: 978-244-6328 _____

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**STATE OF WEST VIRGINIA
ADDENDUM TO VENDOR'S STANDARD CONTRACTUAL FORMS**

State Agency, Board, or Commission (the "State"): *WV Enterprise Resource Planning Board (ERP)*
Vendor: *Kronos Inc.*
Contract/Lease Number ("Contract"): *CMA ERP2300000003*
Commodity/Service: *Time and Leave management system*

The State and the Vendor are entering into the Contract identified above. The Vendor desires to incorporate one or more forms it created into the Contract. Vendor's form(s), however, include(s) one or more contractual terms and conditions that the State cannot or will not accept. In consideration for the State's incorporating Vendor's form(s) into the Contract, the Vendor enters into this Addendum which specifically eliminates or alters the legal enforceability of certain terms and conditions contained in Vendor's form(s). Therefore, on the date shown below each signature line, the parties agree to the following contractual terms and conditions in this Addendum are dominate over any competing terms made a part of the Contract:

1. **ORDER OF PRECEDENCE:** This Addendum modifies and supersedes anything contained on Vendor's form(s) whether or not they are submitted before or after the signing of this Addendum. **IN THE EVENT OF ANY CONFLICT BETWEEN VENDOR'S FORM(S) AND THIS ADDENDUM, THIS ADDENDUM SHALL CONTROL.**
2. **PAYMENT** – Payments for goods/services will be made in arrears only upon receipt of a proper invoice, detailing the goods/services provided or receipt of the goods/services, whichever is later. Notwithstanding the foregoing, payments for software licenses, subscriptions, or maintenance may be paid annually in advance.

Any language imposing any interest or charges due to late payment is deleted.

3. **FISCAL YEAR FUNDING** – Performance of this Contract is contingent upon funds being appropriated by the WV Legislature or otherwise being available for this Contract. In the event funds are not appropriated or otherwise available, the Contract becomes of no effect and is null and void after June 30 of the current fiscal year. If that occurs, the State may notify the Vendor that an alternative source of funding has been obtained and thereby avoid the automatic termination. Non-appropriation or non-funding shall not be considered an event of default.
4. **RIGHT TO TERMINATE** – The State reserves the right to terminate this Contract upon thirty (30) days written notice to the Vendor. If this right is exercised, the State agrees to pay the Vendor only for all undisputed services rendered or goods received before the termination's effective date. All provisions are deleted that seek to require the State to (1) compensate Vendor, in whole or in part, for lost profit, (2) pay a termination fee, or (3) pay liquidated damages if the Contract is terminated early.

Any language seeking to accelerate payments in the event of Contract termination, default, or non-funding is hereby deleted.

5. **DISPUTES** – Any language binding the State to any arbitration or to the decision of any arbitration board, commission, panel or other entity is deleted; as is any requirement to waive a jury trial.

Any language requiring or permitting disputes under this Contract to be resolved in the courts of any state other than the State of West Virginia is deleted. All legal actions for damages brought by Vendor against the State shall be brought in the West Virginia Claims Commission. Other causes of action must be brought in the West Virginia court authorized by statute to exercise jurisdiction over it.

Any language requiring the State to agree to, or be subject to, any form of equitable relief not authorized by the Constitution or laws of State of West Virginia is deleted.

6. **FEES OR COSTS:** Any language obligating the State to pay costs of collection, court costs, or attorney's fees, unless ordered by a court of competent jurisdiction is deleted.
7. **GOVERNING LAW** – Any language requiring the application of the law of any state other than the State of West Virginia in interpreting or enforcing the Contract is deleted. The Contract shall be governed by the laws of the State of West Virginia.
8. **RISK SHIFTING** – Any provision requiring the State to bear the costs of all or a majority of business/legal risks associated with this Contract, to indemnify the Vendor, or hold the Vendor or a third party harmless for any act or omission is hereby deleted.
9. **LIMITING LIABILITY** – Any language limiting the Vendor's liability for direct damages to person or property is deleted.
10. **TAXES** – Any provisions requiring the State to pay Federal, State or local taxes or file tax returns or reports on behalf of Vendor are deleted. The State will, upon request, provide a tax exempt certificate to confirm its tax exempt status.
11. **NO WAIVER** – Any provision requiring the State to waive any rights, claims or defenses is hereby deleted.

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1/1/2019

12. **STATUTE OF LIMITATIONS** – Any clauses limiting the time in which the State may bring suit against the Vendor or any other third party are deleted.
13. **ASSIGNMENT** – The Vendor agrees not to assign the Contract to any person or entity without the State's prior written consent, which will not be unreasonably delayed or denied. The State reserves the right to assign this Contract to another State agency, board or commission upon thirty (30) days written notice to the Vendor. These restrictions do not apply to the payments made by the State. Any assignment will not become effective and binding upon the State until the State is notified of the assignment, and the State and Vendor execute a change order to the Contract.
14. **RENEWAL** – Any language that seeks to automatically renew, modify, or extend the Contract beyond the initial term or automatically continue the Contract period from term to term is deleted. The Contract may be renewed or continued only upon mutual written agreement of the Parties.
15. **INSURANCE** – Any provision requiring the State to maintain any type of insurance for either its or the Vendor's benefit is deleted.
16. **RIGHT TO REPOSSESSION NOTICE** – Any provision for repossession of equipment without notice is hereby deleted. However, the State does recognize a right of repossession with notice.
17. **DELIVERY** – All deliveries under the Contract will be FOB destination unless the State expressly and knowingly agrees otherwise. Any contrary delivery terms are hereby deleted.
18. **CONFIDENTIALITY** – Any provisions regarding confidential treatment or non-disclosure of the terms and conditions of the Contract are hereby deleted. State contracts are public records under the West Virginia Freedom of Information Act ("FOIA") (W. Va. Code §29B-a-1, et seq.) and public procurement laws. This Contract and other public records may be disclosed without notice to the vendor at the State's sole discretion.
- Any provisions regarding confidentiality or non-disclosure related to contract performance are only effective to the extent they are consistent with FOIA and incorporated into the Contract through a separately approved and signed non-disclosure agreement.
19. **THIRD-PARTY SOFTWARE** – If this Contract contemplates or requires the use of third-party software, the vendor represents that none of the mandatory click-through, unsigned, or web-linked terms and conditions presented or required before using such third-party software conflict with any term of this Addendum or that it has the authority to modify such third-party software's terms and conditions to be subordinate to this Addendum. The Vendor shall indemnify and defend the State against all claims resulting from an assertion that such third-party terms and conditions are not in accord with, or subordinate to, this Addendum.
20. **AMENDMENTS** – The parties agree that all amendments, modifications, alterations or changes to the Contract shall be by mutual agreement, in writing, and signed by both parties. Any language to the contrary is deleted.

Notwithstanding the foregoing, this Addendum can only be amended by (1) identifying the alterations to this form by using *Italics* to identify language being added and ~~strikethrough~~ for language being deleted (do not use track-changes) and (2) having the Office of the West Virginia Attorney General's authorized representative expressly agree to and knowingly approve those alterations.

State: SRP
By: S.K. Hart
Printed Name: E.K. Hart
Title: Director
Date: 4.22.2023

Vendor: UKG
DocuSigned by:
By: Scott Giangrande
68741407C20D418...
Printed Name: Scott Giangrande
Title: Sr. Order Processing Analyst
Date: 3/24/2023 | 12:45 PM EDT

Exhibit D

UKG Dimensions™ Addendum

This UKG Dimensions™ Addendum (the “Addendum”) sets forth the supplemental terms and conditions and is made part of Agreement No. CSSD ERP2300000001 (“Agreement”) which governs the provision of UKG’s UKG Dimensions software as a service and other related offerings by Kronos Incorporated, a UKG company, (“Kronos” or “UKG”) to the State of West Virginia (“Customer” or “State”). Capitalized terms not defined within the text of the Addendum are defined in Annex E.

This Addendum consists of this execution page and the following Annexes’, which are incorporated by reference, and which form an integral part of this Addendum and the Agreement:

- Annex A: Dimensions General Terms and Conditions
 - Attachment A-1: Equipment Purchase, Rental, and Support
 - Attachment A-2: Professional and Educational Services Policies
 - Attachment A-3: Service Level Agreement
- Annex B: UKG Dimensions Cloud Guidelines:
 - <https://www.ukg.com/ukg-dimensions/Agreement/cloud-guidelines>
- Annex C: Acceptable Use Policy (AUP):
 - <https://www.ukg.com/policies/acceptable-use>
- Annex D: AtomSphere Service and Boomi Software
- Annex E: Definitions
- Annex F: Dimensions Privacy & Security Addendum

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

Annex A: Dimensions General Terms and Conditions

Article 1. Order Forms

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

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

1.2 The following Fees may appear on an Order Form:

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

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

Article 2. Billing

2.1 UKG will invoice the Fees on the Billing Frequency indicated on the Order Form. For each Order Form, the billing period of the PEPM Fees will start on the Billing Start Date and will continue for the time period indicated as the Initial Term. Customer will pay the Fees on the Payment Terms and in the currency, indicated on the Order Form. Customer will send payment to the attention of UKG 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 provided in this Addendum, Customer payments are non-refundable. Unless Customer has provided UKG with valid evidence of tax-exemption, Customer is responsible for all applicable Taxes related to the Service and other items set forth on the Order Form. Each Party is responsible to pay all costs and fees attributable to such Party pursuant to the Shipping Terms indicated on the Order Form.

2.2 For each Renewal Term, UKG may increase the PEPM Fees by no more than four percent (4%) over the previous year's PEPM Fees for the same Applications and the same licensed quantity. UKG will reflect these increased PEPM Fees in the applicable invoice for each Renewal Term. For renewals based on the Annual in Advance Billing Frequency, UKG will provide Customer with the renewal invoice prior to commencement of the Renewal Term and payment will be made by Customer in accordance with the payment terms agreed upon with Customer for the Initial Term.

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

Article 3. Additional Services

Section 3.1 Implementation and Professional Services

3.1.1 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 Addendum and other contract documents, giving precedence to each document as contained in the Addendum to Kronos Agreement with the State of West Virginia. 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.

3.1.2 While Customer may configure the Applications itself, as part of the Implementation Services as described in an SOW, UKG may also configure the Applications. UKG will configure the Applications based on Customer's instructions and direction.

3.1.3 UKG may also provide Professional Services to Customer that do not require an SOW but which will be as set forth on an Order Form. Further, after Implementation, any additional Professional Services requested by Customer shall be provided at a rate of \$220 per hour for the Initial Term. Thereafter, current rates shall apply. At the time of its request for such additional services, the Customer will confirm to UKG the amount of funds it has available to pay for such services (the "Budgeted Amount"). UKG will bill Customer monthly at the hourly rate for the actual hours worked providing these additional services up to the Budgeted Amount. Thereafter, if additional hours are needed, the parties shall mutually agree to such hours.

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

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

Section 3.2 Educational Services

3.2.1 As part of the PEPM Fees UKG will provide its live, hands-on virtual training facilitated by a knowledgeable instructor and delivered remotely via a published schedule. Training is intended for the following audiences:

- a. Core Team training to help key functional and technical users make informed solution design and configuration decisions, and to provide fundamental product knowledge.
- b. Application & System Administrator to prepare functional and technical super users to perform their most common tasks in the solution.

3.2.2 As part of the PEPM Fees UKG shall also provide self-paced product training throughout the Term of this Agreement. This training will include training content that will provide for all levels of training from beginner up to advanced.

3.2.3 UKG also offers fee-based consulting services that are not included under the terms of the Educational Services referenced above.

Section 3.3 Support Services

3.3.1 Support Services for the Services will be provided and include (i) customer phone, email and online support 24 hours a day/7 days a week and (ii) periodic enhancements and modifications to the Applications, including bug fixes to correct verifiable and reproducible errors reported to UKG.

Article 4. Service Level Agreement

UKG offers the Service Level Agreement and associated SLA Credits as described in Attachment A-3. UKG remains obligated to provide the Service as otherwise described in the Agreement and this Addendum.

Article 5. Data Security and Privacy

Section 5.1 Data

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

5.1.2 **"Aggregated Data"** is any statistical data that is derived from the operation of the Service, including without limitation, for analysis of the Service, Configurations or Customer Data, and is created by UKG 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. UKG owns the Aggregated Data. Nothing in this Addendum will prohibit UKG from utilizing the Aggregated Data for any purposes, provided that UKG's use of Aggregated Data will anonymize Customer Data, will not reveal any Customer Confidential Information, and will not reveal any Personally Identifiable Information.

Section 5.2 Security and Privacy

5.2.1 UKG will maintain the Controls throughout the Term.

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

5.2.3 UKG employees will access Customer Data from the locations from which such employees work. Customer consents to UKG's handling, collection, use, transfer, and processing of Customer Data to provide the Service. As may be required by Applicable Law, Customer will ensure that Customer Data may be provided to UKG for the purposes of providing the Service. Customer has obtained all necessary consents from individuals to enable UKG to use the Customer Data to provide the Service. As may be

contemplated by the applicable Data Protection Laws, Customer will remain the “controller” of Customer Data and UKG will be considered a “processor” of Customer Data.

5.2.4 UKG will notify Customer 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 UKG is taking in response to the breach.

5.2.5 Consent to Use Sub-processors. Customer agrees that UKG may use sub-processors to fulfill its contractual obligations under the Addendum. The list of sub-processors that are currently engaged by UKG to carry out processing activities on Customer Data on behalf of Customer can be found at: www.ukg.com/ukg-dimensions/Addendum/subprocessors

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

5.2.8 Sub-processor Obligations. When engaging any sub-processor:

- a. UKG will enter into a written Addendum with the sub-processor;
- b. UKG will endeavor to ensure that the sub-processor provides sufficient guarantees to implement appropriate technical and organizational measures to meet the requirements of applicable Data Protection Laws; and,
- c. UKG will remain responsible for the performance of the sub-processor's data protection obligations pursuant to such written Addendum and the requirements of applicable Data Protection Laws.
- d. Customer Data that is “at rest” must reside within the continental United States.

Article 6. Warranty

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

Article 7. License

Section 7.1 Technology License

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

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

7.1.3 Customer shall 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 for such connectivity.

Article 8. Authorized Users & Marketplace

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

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

Article 11. Changes

The information found in any Annex (or at any URL referenced in this Addendum) 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 UKG.

Article 12. Feedback

From time to time, Customer may provide Feedback. UKG has sole discretion to determine whether or not to undertake the development of any enhancements, new features or functionality contained in or with Feedback. Customer hereby grants UKG 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 UKG's business without any compensation to Customer or any other restriction or obligation, whether based on intellectual property right claim or otherwise. For the avoidance of doubt, no Feedback will be deemed to be Customer Confidential Information, and nothing in this Addendum limits UKG's right to independently use, develop, evaluate, or market products or services, whether incorporating Feedback or otherwise.

Exhibit A-1

Equipment Purchase, Rental and Support Policy

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

Section 1. Purchase and Sale of Equipment

When indicated on the applicable Order Form as Purchased Equipment, UKG sells to Customer, and Customer purchases from UKG, 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. UKG will invoice Customer for purchased Equipment upon shipment of the Equipment and payment will be due net 30 days from the date of delivery.

Section 2. Equipment Rentals

The following terms apply only to Equipment Customer rents from UKG 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 contemporaneously with the Term of the Service.

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

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

2.4 Ownership. All Equipment shall remain the property of UKG. 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 UKG to give full effect to the intent of terms of this paragraph (d).

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

2.6 Return of Equipment. Upon termination or expiration of the Rental Period for the Equipment or upon termination or expiration of the Agreement, for any reason, Customer shall return, within thirty (30) days of the effective date of termination and at Customer's expense, the Equipment. Equipment will be returned to UKG in the same condition as and when received, reasonable wear and tear excepted. If Customer fails to return Equipment within this time period, upon receiving an invoice from UKG, Customer shall pay UKG the then list price of the unreturned Equipment.

Section 3. Warranty

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

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

Section 4. Firmware

Customer may not download firmware updates for the UKG Equipment unless Customer is maintaining such Equipment under a support plan with UKG. If Customer is not maintaining the Equipment under a support plan with UKG, UKG shall have the right to verify Customer's UKG Equipment to determine if Customer has downloaded any firmware to which Customer is not entitled. If Customer has downloaded firmware for the UKG Equipment to which Customer is not entitled, Customer shall be responsible to pay UKG for such updated firmware in accordance with UKG's then-current support policies.

Section 5. Export

Customer acknowledges that the Equipment may be restricted by the United States Government or by the country in which the Equipment is installed from export to certain

countries and certain organizations and individuals, and agrees to comply with such laws. Customer agrees to comply with all applicable laws of all of the countries in which the Equipment may be used by Customer and shall indemnify UKG for any noncompliance which results in damages or liability to UKG. Customer's obligations hereunder shall survive the termination or expiration of this Agreement.

Section 6. Equipment Support

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

6.1 Term

Equipment Support Services have a term of one (1) year commencing upon the expiration of the applicable warranty set forth above. Equipment Support Services will be automatically extended for additional one year terms on the anniversary of its commencement date ("Renewal Date"), unless either party has given the other thirty (30) days written notification of its intent not to renew. UKG may change the annual Equipment Support Services Fees effective at the end of the initial one (1) year term or effective on the Renewal Date, by giving Customer at least thirty (30) days prior written notification, provided that UKG may increase such Fees by no more than four percent (4%) over the previous year's Fees for the same quantity of covered Equipment.

6.2 Payment

Customer agrees to pay the Equipment Support Services Fees for the initial term as set forth on the Order Form for each Product listed. Customer agrees that all Products of the same type that are owned by the Customer, including without limitation Customer's "Spare Products" (as defined below), must be covered by the Equipment Support Services. Customer agrees that if Customer purchases, during the term of the Equipment Support Services, any Products of the same type as those covered by Customer under Equipment Support Services, such additional Products must be covered by the Equipment Support Services.

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

6.4. Depot Support Service

6.4.1 Upon the failure of an installed Product, Customer shall notify UKG of such failure and UKG will provide remote support in an attempt to resolve the problem. Those

failures determined by UKG to be Product related shall be dispatched to a UKG Depot Repair Center, and Customer will be provided with a Return Material Authorization Number (RMA) for the failed Product if Customer is to return the failed Product to UKG, as reasonably determined by UKG. Customer must return the failed Product with the supplied RMA number. Return and repair procedures for failed Product shall be provided based on the Depot option - Depot Exchange or Depot Repair - selected by Customer on the applicable Order Form and as specified herein and in UKG's then-current Support Services Policies which may be accessed at: <https://www.ukg.com/support-policies-and-services> ("Support Policies").

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

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

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

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

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

6.6 UKG warrants that all service packs and firmware updates provided under this Agreement shall materially perform in accordance with the UKG 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 UKG's repair or

ADDENDUM TO KRONOS AGREEMENT WITH THE STATE OF WEST VIRGINIA

Kronos Incorporated ("Kronos") and the State of West Virginia ("State") agree that this addendum amends all documents included in the agreement between Kronos and the State, identified as Agreement No. CSSD ERP2300000001 and any other documents incidental thereto.

The Parties Agree as follows:

1. **Order of Precedence:** Any references to an order of precedence are hereby deleted to the extent that they conflict with this provision. The order of precedence for documents included in this contract shall be as follows:
 - a. This Addendum - First in priority.
 - b. Purchasing Division's General Terms and Conditions attached hereto as Exhibit A – Second Priority
 - c. The Software as a Service Addendum attached hereto as Exhibit B – Third Priority
 - d. The WV-96 attached hereto as Exhibit C –Fourth Priority
 - e. UKG Dimensions Addendum attached hereto as Exhibit D –Fifth Priority.
2. **Modified Terms:** The following terms are expressly modified as stated herein.
 - a. **WV-96**
 - i. Section 9, Limitation of Liability, is replaced by

“The Agency, as a State entity, cannot agree to assume the potential liability of a Vendor. Accordingly, any provision limiting the Vendor’s liability for direct damages is hereby deleted. Vendor’s liability under the agreement shall not exceed three times the total value of the agreement.”
 - b. **General Terms and Conditions:**
 - i. Section 20 of the General Terms and Conditions entitled “Time” is removed in its entirety.
 - ii. Section 36 of the General Terms and Conditions entitled “Indemnification” is modified by limiting Kronos indemnification obligations to IP infringement, personal injury, death, and damage to tangible personal property. Kronos agrees to indemnify and hold Customer harmless from and against all claims, suits and demands for bodily injury or tangible property damage to the extent caused by the negligence or willful misconduct of Kronos’ employees in the performance of services under this Agreement, provided that Kronos is given prompt written notice of any such claim and has sole control over the investigation, preparation, defense and settlement of such claim, and further provided that Customer reasonably cooperates with Kronos in connection with the foregoing and provides Kronos with all information in Customer’s possession related to such claim and further assistance as reasonably requested by Kronos. The particulars of Kronos’ indemnification for IP infringement are found in Exhibit C, UKG Dimensions Software As A Service Terms and Conditions, Section 13.

- iii. Section 40 of the General Terms and Conditions entitled "Background Check" is removed in its entirety and replaced with the following:

"40. Background Check: The State reserves the right to prohibit a service provider's employees from accessing sensitive or critical information or to be present at the Capitol complex based upon results addressed from a criminal background check. Service providers should contact the West Virginia Division of Protective Services by phone at (304) 558-9911 for more information."

- iv. Section 3 of the General Terms and Conditions entitled "Contract Term, Renewal, Extension" is eliminated in its entirety. The term of this Contract will be 48 Months with the option to renew for three (3) additional one (1) year terms.

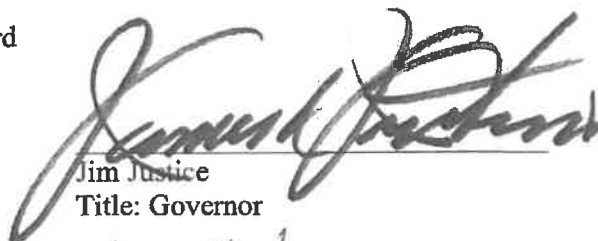
The Parties are signing this Addendum on the date stated below the signature.

Kronos Incorporated

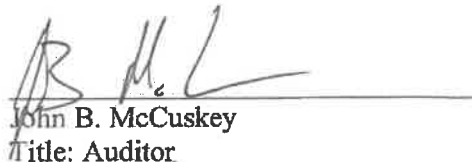
DocuSigned by:
By: Scott Giangrande
69741407C200A19...
Its: Scott Giangrande Sr. Order Processing Analyst
Date: 4/17/2023 | 3:28 PM EDT

State of West Virginia
By the Enterprise Resource Planning Board

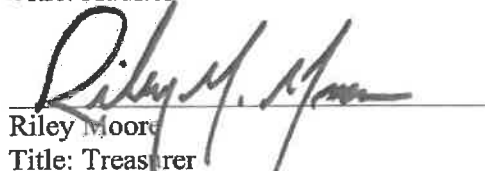
Dated: _____, 2023


Jim Justice
Title: Governor

Dated: 4/18/23, 2023


John B. McCuskey
Title: Auditor

Dated: 4/20/23, 2023


Riley Moore
Title: Treasurer

INSTRUCTIONS TO VENDORS SUBMITTING BIDS

1. REVIEW DOCUMENTS THOROUGHLY: The attached documents contain a solicitation for bids. Please read these instructions and all documents attached in their entirety. These instructions provide critical information about requirements that if overlooked could lead to disqualification of a Vendor's bid. All bids must be submitted in accordance with the provisions contained in these instructions and the Solicitation. Failure to do so may result in disqualification of Vendor's bid.

2. MANDATORY TERMS: The Solicitation may contain mandatory provisions identified by the use of the words "must," "will," and "shall." Failure to comply with a mandatory term in the Solicitation will result in bid disqualification.

3. PREBID MEETING: The item identified below shall apply to this Solicitation.

☒ A pre-bid meeting will not be held prior to bid opening

☐ A **MANDATORY PRE-BID** meeting will be held at the following place and time:

All Vendors submitting a bid must attend the mandatory pre-bid meeting. Failure to attend the mandatory pre-bid meeting shall result in disqualification of the Vendor's bid. No one individual is permitted to represent more than one vendor at the pre-bid meeting. Any individual that does attempt to represent two or more vendors will be required to select one vendor to which the individual's attendance will be attributed. The vendors not selected will be deemed to have not attended the pre-bid meeting unless another individual attended on their behalf.

An attendance sheet provided at the pre-bid meeting shall serve as the official document verifying attendance. Any person attending the pre-bid meeting on behalf of a Vendor must list on the attendance sheet his or her name and the name of the Vendor he or she is representing.

Additionally, the person attending the pre-bid meeting should include the Vendor's E-Mail address, phone number, and Fax number on the attendance sheet. It is the Vendor's responsibility to locate the attendance sheet and provide the required information. Failure to complete the attendance sheet as required may result in disqualification of Vendor's bid.

All Vendors should arrive prior to the starting time for the pre-bid. Vendors who arrive after the starting time but prior to the end of the pre-bid will be permitted to sign in but are charged with knowing all matters discussed at the pre-bid.

Questions submitted at least five business days prior to a scheduled pre-bid will be discussed at the pre-bid meeting if possible. Any discussions or answers to questions at the pre-bid meeting are preliminary in nature and are non-binding. Official and binding answers to questions will be published in a written addendum to the Solicitation prior to bid opening.

4. VENDOR QUESTION DEADLINE: Vendors may submit questions relating to this Solicitation to the Purchasing Division. Questions must be submitted in writing. All questions must be submitted on or before the date listed below and to the address listed below to be considered. A written response will be published in a Solicitation addendum if a response is possible and appropriate. Non-written discussions, conversations, or questions and answers regarding this Solicitation are preliminary in nature and are nonbinding.

Submitted emails should have the solicitation number in the subject line.

Question Submission Deadline:

Submit Questions to:
2019 Washington Street, East
Charleston, WV 25305
Fax: (304) 558-3970
Email:

5. VERBAL COMMUNICATION: Any verbal communication between the Vendor and any State personnel is not binding, including verbal communication at the mandatory pre-bid conference. Only information issued in writing and added to the Solicitation by an official written addendum by the Purchasing Division is binding.

6. BID SUBMISSION: All bids must be submitted on or before the date and time of the bid opening listed in section 7 below. Vendors can submit bids electronically through wvOASIS, in paper form delivered to the Purchasing Division at the address listed below either in person or by courier, or in facsimile form by faxing to the Purchasing Division at the number listed below. Notwithstanding the foregoing, the Purchasing Division may prohibit the submission of bids electronically through wvOASIS at its sole discretion. Such a prohibition will be contained and communicated in the wvOASIS system resulting in the Vendor's inability to submit bids through wvOASIS. The Purchasing Division will not accept bids, modification of bids, or addendum acknowledgment forms via email. Bids submitted in paper or facsimile form must contain a signature. Bids submitted in wvOASIS are deemed to be electronically signed.

Any bid received by the Purchasing Division staff is considered to be in the possession of the Purchasing Division and will not be returned for any reason.

For Request for Proposal ("RFP") Responses Only: Submission of a response to a Request for Proposal is not permitted in wvOASIS. In the event that Vendor is responding to a request for proposal, the Vendor shall submit one original technical and one original cost proposal prior to the bid opening date and time identified in Section 7 below, plus _____ convenience copies of each to the Purchasing Division at the address shown below. Additionally, the Vendor should clearly identify and segregate the cost proposal from the technical proposal in a separately sealed envelope.

Bid Delivery Address and Fax Number:

Department of Administration, Purchasing Division
2019 Washington Street East
Charleston, WV 25305-0130
Fax: 304-558-3970

A bid submitted in paper or facsimile form should contain the information listed below on the face of the submission envelope or fax cover sheet. Otherwise, the bid may be rejected by the Purchasing Division.

VENDOR NAME:

BUYER:

SOLICITATION NO.:

BID OPENING DATE:

BID OPENING TIME:

FAX NUMBER:

7. BID OPENING: Bids submitted in response to this Solicitation will be opened at the location identified below on the date and time listed below. Delivery of a bid after the bid opening date and time will result in bid disqualification. For purposes of this Solicitation, a bid is considered delivered when confirmation of delivery is provided by wvOASIS (in the case of electronic submission) or when the bid is time stamped by the official Purchasing Division time clock (in the case of hand delivery).

Bid Opening Date and Time:

Bid Opening Location: Department of Administration, Purchasing Division
2019 Washington Street East
Charleston, WV 25305-0130

8. ADDENDUM ACKNOWLEDGEMENT: Changes or revisions to this Solicitation will be made by an official written addendum issued by the Purchasing Division. Vendor should acknowledge receipt of all addenda issued with this Solicitation by completing an Addendum Acknowledgment Form, a copy of which is included herewith. Failure to acknowledge addenda may result in bid disqualification. The addendum acknowledgement should be submitted with the bid to expedite document processing.

9. BID FORMATTING: Vendor should type or electronically enter the information onto its bid to prevent errors in the evaluation. Failure to type or electronically enter the information may result in bid disqualification.

10. ALTERNATE MODEL OR BRAND: Unless the box below is checked, any model, brand, or specification listed in this Solicitation establishes the acceptable level of quality only and is not intended to reflect a preference for, or in any way favor, a particular brand or vendor. Vendors may bid alternates to a listed model or brand provided that the alternate is at least equal to the model or brand and complies with the required specifications. The equality of any alternate being bid shall be determined by the State at its sole discretion. Any Vendor bidding an alternate model or brand should clearly identify the alternate items in its bid and should include manufacturer's specifications, industry literature, and/or any other relevant documentation demonstrating the equality of the alternate items. Failure to provide information for alternate items may be grounds for rejection of a Vendor's bid.

☐ This Solicitation is based upon a standardized commodity established under W. Va. Code § 5A-3-61. Vendors are expected to bid the standardized commodity identified. Failure to bid the standardized commodity will result in your firm's bid being rejected.

11. EXCEPTIONS AND CLARIFICATIONS: The Solicitation contains the specifications that shall form the basis of a contractual agreement. Vendor shall clearly mark any exceptions, clarifications, or other proposed modifications in its bid. Exceptions to, clarifications of, or modifications of a requirement or term and condition of the Solicitation may result in bid disqualification.

12. COMMUNICATION LIMITATIONS: In accordance with West Virginia Code of State Rules §148-1-6.6, communication with the State of West Virginia or any of its employees regarding this Solicitation during the solicitation, bid, evaluation or award periods, except through the Purchasing Division, is strictly prohibited without prior Purchasing Division approval. Purchasing Division approval for such communication is implied for all agency delegated and exempt purchases.

13. REGISTRATION: Prior to Contract award, the apparent successful Vendor must be properly registered with the West Virginia Purchasing Division and must have paid the \$125 fee, if applicable.

14. UNIT PRICE: Unit prices shall prevail in cases of a discrepancy in the Vendor's bid.

15. PREFERENCE: Vendor Preference may be requested in purchases of motor vehicles or construction and maintenance equipment and machinery used in highway and other infrastructure projects. Any request for preference must be submitted in writing with the bid, must specifically identify the preference requested with reference to the applicable subsection of West Virginia Code § 5A-3-37, and must include with the bid any information necessary to evaluate and confirm the applicability of the requested preference. A request form to help facilitate the request can be found at: www.state.wv.us/admin/purchase/vrc/Venpref.pdf.

15A. RECIPROCAL PREFERENCE: The State of West Virginia applies a reciprocal preference to all solicitations for commodities and printing in accordance with W. Va. Code § 5A-3-37(b). In effect, non-resident vendors receiving a preference in their home states, will see that same preference granted to West Virginia resident vendors bidding against them in West Virginia. Any request for reciprocal preference must include with the bid any information necessary to evaluate and confirm the applicability of the preference. A request form to help facilitate the request can be found at: www.state.wv.us/admin/purchase/vrc/Venpref.pdf.

16. SMALL, WOMEN-OWNED, OR MINORITY-OWNED BUSINESSES: For any solicitations publicly advertised for bid, in accordance with West Virginia Code § 5A-3-37 and W. Va. CSR § 148-22-9, any non-resident vendor certified as a small, women-owned, or minority-owned business under W. Va. CSR § 148-22-9 shall be provided the same preference made available to any resident vendor. Any non-resident small, women-owned, or minority-owned business must identify itself as such in writing, must submit that writing to the Purchasing Division with its bid, and must be properly certified under W. Va. CSR § 148-22-9 prior to contract award to receive the preferences made available to resident vendors. Preference for a non-resident small, women-owned, or minority owned business shall be applied in accordance with W. Va. CSR § 148-22-9.

17. WAIVER OF MINOR IRREGULARITIES: The Director reserves the right to waive minor irregularities in bids or specifications in accordance with West Virginia Code of State Rules § 148-1-4.6.

18. ELECTRONIC FILE ACCESS RESTRICTIONS: Vendor must ensure that its submission in wvOASIS can be accessed and viewed by the Purchasing Division staff immediately upon bid opening. The Purchasing Division will consider any file that cannot be immediately accessed and viewed at the time of the bid opening (such as, encrypted files, password protected files, or incompatible files) to be blank or incomplete as context requires and are therefore unacceptable. A vendor will not be permitted to unencrypt files, remove password protections, or resubmit documents after bid opening to make a file viewable if those documents are required with the bid. A Vendor may be required to provide document passwords or remove access restrictions to allow the Purchasing Division to print or electronically save documents provided that those documents are viewable by the Purchasing Division prior to obtaining the password or removing the access restriction.

19. NON-RESPONSIBLE: The Purchasing Division Director reserves the right to reject the bid of any vendor as Non-Responsible in accordance with W. Va. Code of State Rules § 148-1-5.3, when the Director determines that the vendor submitting the bid does not have the capability to fully perform or lacks the integrity and reliability to assure good-faith performance.”

20. ACCEPTANCE/REJECTION: The State may accept or reject any bid in whole, or in part in accordance with W. Va. Code of State Rules § 148-1-4.5. and § 148-1-6.4.b.”

21. YOUR SUBMISSION IS A PUBLIC DOCUMENT: Vendor's entire response to the Solicitation and the resulting Contract are public documents. As public documents, they will be disclosed to the public following the bid/proposal opening or award of the contract, as required by the competitive bidding laws of West Virginia Code §§ 5A-3-1 et seq., 5-22-1 et seq., and 5G-1-1 et seq. and the Freedom of Information Act West Virginia Code §§ 29B-1-1 et seq.

DO NOT SUBMIT MATERIAL YOU CONSIDER TO BE CONFIDENTIAL, A TRADE SECRET, OR OTHERWISE NOT SUBJECT TO PUBLIC DISCLOSURE.

Submission of any bid, proposal, or other document to the Purchasing Division constitutes your explicit consent to the subsequent public disclosure of the bid, proposal, or document. The Purchasing Division will disclose any document labeled "confidential," "proprietary," "trade secret," "private," or labeled with any other claim against public disclosure of the documents, to include any "trade secrets" as defined by West Virginia Code § 47-22-1 et seq. All submissions are subject to public disclosure without notice.

22. WITH THE BID REQUIREMENTS: In instances where these specifications require documentation or other information with the bid, and a vendor fails to provide it with the bid, the Director of the Purchasing Division reserves the right to request those items after bid opening and prior to contract award pursuant to the authority to waive minor irregularities in bids or specifications under W. Va. CSR § 148-1-4.6. This authority does not apply to instances where state law mandates receipt with the bid.

23. EMAIL NOTIFICATION OF AWARD: The Purchasing Division will attempt to provide bidders with e-mail notification of contract award when a solicitation that the bidder participated in has been awarded. For notification purposes, bidders must provide the Purchasing Division with a valid email address in the bid response. Bidders may also monitor wvOASIS or the Purchasing Division's website to determine when a contract has been awarded.

24. ISRAEL BOYCOTT CERTIFICATION: Vendor's act of submitting a bid in response to this solicitation shall be deemed a certification from bidder to the State that bidder is not currently engaged in, and will not for the duration of the contract, engage in a boycott of Israel. This certification is required by W. Va. Code § 5A-3-63.

GENERAL TERMS AND CONDITIONS:

1. CONTRACTUAL AGREEMENT: Issuance of an Award Document signed by the Purchasing Division Director, or his designee, and approved as to form by the Attorney General's office constitutes acceptance by the State of this Contract made by and between the State of West Virginia and the Vendor. Vendor's signature on its bid, or on the Contract if the Contract is not the result of a bid solicitation, signifies Vendor's agreement to be bound by and accept the terms and conditions contained in this Contract.

2. DEFINITIONS: As used in this Solicitation/Contract, the following terms shall have the meanings attributed to them below. Additional definitions may be found in the specifications included with this Solicitation/Contract.

2.1. "Agency" or "Agencies" means the agency, board, commission, or other entity of the State of West Virginia that is identified on the first page of the Solicitation or any other public entity seeking to procure goods or services under this Contract.

2.2. "Bid" or "Proposal" means the vendors submitted response to this solicitation.

2.3. "Contract" means the binding agreement that is entered into between the State and the Vendor to provide the goods or services requested in the Solicitation.

2.4. "Director" means the Director of the West Virginia Department of Administration, Purchasing Division.

2.5. "Purchasing Division" means the West Virginia Department of Administration, Purchasing Division.

2.6. "Award Document" means the document signed by the Agency and the Purchasing Division, and approved as to form by the Attorney General, that identifies the Vendor as the contract holder.

2.7. "Solicitation" means the official notice of an opportunity to supply the State with goods or services that is published by the Purchasing Division.

2.8. "State" means the State of West Virginia and/or any of its agencies, commissions, boards, etc. as context requires.

2.9. "Vendor" or "Vendors" means any entity submitting a bid in response to the Solicitation, the entity that has been selected as the lowest responsible bidder, or the entity that has been awarded the Contract as context requires.

3. CONTRACT TERM; RENEWAL; EXTENSION: The term of this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below:

☒ **Term Contract**

Initial Contract Term: The Initial Contract Term will be for a period of 48 Months. The Initial Contract Term becomes effective on the effective start date listed on the first page of this Contract, identified as the State of West Virginia contract cover page containing the signatures of the Purchasing Division, Attorney General, and Encumbrance clerk (or another page identified as _____), and the Initial Contract Term ends on the effective end date also shown on the first page of this Contract.

Renewal Term: This Contract may be renewed upon the mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any request for renewal should be delivered to the Agency and then submitted to the Purchasing Division thirty (30) days prior to the expiration date of the initial contract term or appropriate renewal term. A Contract renewal shall be in accordance with the terms and conditions of the original contract. Unless otherwise specified below, renewal of this Contract is limited to Three successive one (1) year periods or multiple renewal periods of less than one year, provided that the multiple renewal periods do not exceed the total number of months available in all renewal years combined. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's office (Attorney General approval is as to form only)

☐ **Alternate Renewal Term** – This contract may be renewed for _____ successive _____ year periods or shorter periods provided that they do not exceed the total number of months contained in all available renewals. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's office (Attorney General approval is as to form only)

Delivery Order Limitations: In the event that this contract permits delivery orders, a delivery order may only be issued during the time this Contract is in effect. Any delivery order issued within one year of the expiration of this Contract shall be effective for one year from the date the delivery order is issued. No delivery order may be extended beyond one year after this Contract has expired.

☐ **Fixed Period Contract:** This Contract becomes effective upon Vendor's receipt of the notice to proceed and must be completed within _____ days.

☐ **Fixed Period Contract with Renewals:** This Contract becomes effective upon Vendor's receipt of the notice to proceed and part of the Contract more fully described in the attached specifications must be completed within _____ days. Upon completion of the work covered by the preceding sentence, the vendor agrees that:

☐ the contract will continue for _____ years;

☐ the contract may be renewed for _____ successive _____ year periods or shorter periods provided that they do not exceed the total number of months contained in all available renewals. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's Office (Attorney General approval is as to form only).

☐ **One-Time Purchase:** The term of this Contract shall run from the issuance of the Award Document until all of the goods contracted for have been delivered, but in no event will this Contract extend for more than one fiscal year.

☐ **Construction/Project Oversight:** This Contract becomes effective on the effective start date listed on the first page of this Contract, identified as the State of West Virginia contract cover page containing the signatures of the Purchasing Division, Attorney General, and Encumbrance clerk (or another page identified as _____), and continues until the project for which the vendor is providing oversight is complete.

☐ **Other:** Contract Term specified in _____

4. AUTHORITY TO PROCEED: Vendor is authorized to begin performance of this contract on the date of encumbrance listed on the front page of the Award Document unless either the box for "Fixed Period Contract" or "Fixed Period Contract with Renewals" has been checked in Section 3 above. If either "Fixed Period Contract" or "Fixed Period Contract with Renewals" has been checked, Vendor must not begin work until it receives a separate notice to proceed from the State. The notice to proceed will then be incorporated into the Contract via change order to memorialize the official date that work commenced.

5. QUANTITIES: The quantities required under this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below.

☒ **Open End Contract:** Quantities listed in this Solicitation/Award Document are approximations only, based on estimates supplied by the Agency. It is understood and agreed that the Contract shall cover the quantities actually ordered for delivery during the term of the Contract, whether more or less than the quantities shown.

☐ **Service:** The scope of the service to be provided will be more clearly defined in the specifications included herewith.

☒ **Combined Service and Goods:** The scope of the service and deliverable goods to be provided will be more clearly defined in the specifications included herewith.

☐ **One-Time Purchase:** This Contract is for the purchase of a set quantity of goods that are identified in the specifications included herewith. Once those items have been delivered, no additional goods may be procured under this Contract without an appropriate change order approved by the Vendor, Agency, Purchasing Division, and Attorney General's office.

☐ **Construction:** This Contract is for construction activity more fully defined in the specifications.

6. EMERGENCY PURCHASES: The Purchasing Division Director may authorize the Agency to purchase goods or services in the open market that Vendor would otherwise provide under this Contract if those goods or services are for immediate or expedited delivery in an emergency. Emergencies shall include, but are not limited to, delays in transportation or an unanticipated increase in the volume of work. An emergency purchase in the open market, approved by the Purchasing Division Director, shall not constitute a breach of this Contract and shall not entitle the Vendor to any form of compensation or damages. This provision does not excuse the State from fulfilling its obligations under a One-Time Purchase contract.

7. REQUIRED DOCUMENTS: All of the items checked in this section must be provided to the Purchasing Division by the Vendor as specified:

☐ **LICENSE(S) / CERTIFICATIONS / PERMITS:** In addition to anything required under the Section of the General Terms and Conditions entitled Licensing, the apparent successful Vendor shall furnish proof of the following licenses, certifications, and/or permits upon request and in a form acceptable to the State. The request may be prior to or after contract award at the State's sole discretion.

☐☐☐☐

The apparent successful Vendor shall also furnish proof of any additional licenses or certifications contained in the specifications regardless of whether or not that requirement is listed above.

8. INSURANCE: The apparent successful Vendor shall furnish proof of the insurance identified by a checkmark below prior to Contract award. The insurance coverages identified below must be maintained throughout the life of this contract. Thirty (30) days prior to the expiration of the insurance policies, Vendor shall provide the Agency with proof that the insurance mandated herein has been continued. Vendor must also provide Agency with immediate notice of any changes in its insurance policies, including but not limited to, policy cancelation, policy reduction, or change in insurers. The apparent successful Vendor shall also furnish proof of any additional insurance requirements contained in the specifications prior to Contract award regardless of whether that insurance requirement is listed in this section.

Vendor must maintain:

☒ **Commercial General Liability Insurance** in at least an amount of: \$1,000,000 per occurrence.

☐ **Automobile Liability Insurance** in at least an amount of: _____ per occurrence.

☐ **Professional/Malpractice/Errors and Omission Insurance** in at least an amount of: _____ per occurrence. Notwithstanding the forgoing, Vendor's are not required to list the State as an additional insured for this type of policy.

☐ **Commercial Crime and Third Party Fidelity Insurance** in an amount of: _____ per occurrence.

☒ **Cyber Liability Insurance** in an amount of: \$1,000,000 per occurrence.

☐ **Builders Risk Insurance** in an amount equal to 100% of the amount of the Contract.

☐ **Pollution Insurance** in an amount of: _____ per occurrence.

☐ **Aircraft Liability** in an amount of: _____ per occurrence.

☐

☐

☐

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9. WORKERS' COMPENSATION INSURANCE: Vendor shall comply with laws relating to workers compensation, shall maintain workers' compensation insurance when required, and shall furnish proof of workers' compensation insurance upon request.

10. VENUE: All legal actions for damages brought by Vendor against the State shall be brought in the West Virginia Claims Commission. Other causes of action must be brought in the West Virginia court authorized by statute to exercise jurisdiction over it.

11. LIQUIDATED DAMAGES: This clause shall in no way be considered exclusive and shall not limit the State or Agency's right to pursue any other available remedy. Vendor shall pay liquidated damages in the amount specified below or as described in the specifications:

☐ _____ for _____.

☐ Liquidated Damages Contained in the Specifications.

☐ Liquidated Damages Are Not Included in this Contract.

12. ACCEPTANCE: Vendor's signature on its bid, or on the certification and signature page, constitutes an offer to the State that cannot be unilaterally withdrawn, signifies that the product or service proposed by vendor meets the mandatory requirements contained in the Solicitation for that product or service, unless otherwise indicated, and signifies acceptance of the terms and conditions contained in the Solicitation unless otherwise indicated.

13. PRICING: The pricing set forth herein is firm for the life of the Contract, unless specified elsewhere within this Solicitation/Contract by the State. A Vendor's inclusion of price adjustment provisions in its bid, without an express authorization from the State in the Solicitation to do so, may result in bid disqualification. Notwithstanding the foregoing, Vendor must extend any publicly advertised sale price to the State and invoice at the lower of the contract price or the publicly advertised sale price.

14. PAYMENT IN ARREARS: Payments for goods/services will be made in arrears only upon receipt of a proper invoice, detailing the goods/services provided or receipt of the goods/services, whichever is later. Notwithstanding the foregoing, payments for software maintenance, licenses, or subscriptions may be paid annually in advance.

15. PAYMENT METHODS: Vendor must accept payment by electronic funds transfer and P-Card. (The State of West Virginia's Purchasing Card program, administered under contract by a banking institution, processes payment for goods and services through state designated credit cards.)

16. TAXES: The Vendor shall pay any applicable sales, use, personal property or any other taxes arising out of this Contract and the transactions contemplated thereby. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.

17. ADDITIONAL FEES: Vendor is not permitted to charge additional fees or assess additional charges that were not either expressly provided for in the solicitation published by the State of West Virginia, included in the Contract, or included in the unit price or lump sum bid amount that Vendor is required by the solicitation to provide. Including such fees or charges as notes to the solicitation may result in rejection of vendor's bid. Requesting such fees or charges be paid after the contract has been awarded may result in cancellation of the contract.

18. FUNDING: This Contract shall continue for the term stated herein, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise made available, this Contract becomes void and of no effect beginning on July 1 of the fiscal year for which funding has not been appropriated or otherwise made available. If that occurs, the State may notify the Vendor that an alternative source of funding has been obtained and thereby avoid the automatic termination. Non-appropriation or non-funding shall not be considered an event of default.

19. CANCELLATION: The Purchasing Division Director reserves the right to cancel this Contract immediately upon written notice to the vendor if the materials or workmanship supplied do not conform to the specifications contained in the Contract. The Purchasing Division Director may also cancel any purchase or Contract upon 30 days written notice to the Vendor in accordance with West Virginia Code of State Rules § 148-1-5.2.b.

20. TIME: Time is of the essence regarding all matters of time and performance in this Contract.

21. APPLICABLE LAW: This Contract is governed by and interpreted under West Virginia law without giving effect to its choice of law principles. Any information provided in specification manuals, or any other source, verbal or written, which contradicts or violates the West Virginia Constitution, West Virginia Code, or West Virginia Code of State Rules is void and of no effect.

22. COMPLIANCE WITH LAWS: Vendor shall comply with all applicable federal, state, and local laws, regulations and ordinances. By submitting a bid, Vendor acknowledges that it has reviewed, understands, and will comply with all applicable laws, regulations, and ordinances.

SUBCONTRACTOR COMPLIANCE: Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to comply with all applicable laws, regulations, and ordinances. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.

23. ARBITRATION: Any references made to arbitration contained in this Contract, Vendor's bid, or in any American Institute of Architects documents pertaining to this Contract are hereby deleted, void, and of no effect.

24. MODIFICATIONS: This writing is the parties' final expression of intent. Notwithstanding anything contained in this Contract to the contrary no modification of this Contract shall be binding without mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any change to existing contracts that adds work or changes contract cost, and were not included in the original contract, must be approved by the Purchasing Division and the Attorney General's Office (as to form) prior to the implementation of the change or commencement of work affected by the change.

25. WAIVER: The failure of either party to insist upon a strict performance of any of the terms or provision of this Contract, or to exercise any option, right, or remedy herein contained, shall not be construed as a waiver or a relinquishment for the future of such term, provision, option, right, or remedy, but the same shall continue in full force and effect. Any waiver must be expressly stated in writing and signed by the waiving party.

26. SUBSEQUENT FORMS: The terms and conditions contained in this Contract shall supersede any and all subsequent terms and conditions which may appear on any form documents submitted by Vendor to the Agency or Purchasing Division such as price lists, order forms, invoices, sales agreements, or maintenance agreements, and includes internet websites or other electronic documents. Acceptance or use of Vendor's forms does not constitute acceptance of the terms and conditions contained thereon.

27. ASSIGNMENT: Neither this Contract nor any monies due, or to become due hereunder, may be assigned by the Vendor without the express written consent of the Agency, the Purchasing Division, the Attorney General's office (as to form only), and any other government agency or office that may be required to approve such assignments.

28. WARRANTY: The Vendor expressly warrants that the goods and/or services covered by this Contract will: (a) conform to the specifications, drawings, samples, or other description furnished or specified by the Agency; (b) be merchantable and fit for the purpose intended; and (c) be free from defect in material and workmanship.

29. STATE EMPLOYEES: State employees are not permitted to utilize this Contract for personal use and the Vendor is prohibited from permitting or facilitating the same.

30. PRIVACY, SECURITY, AND CONFIDENTIALITY: The Vendor agrees that it will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the Agency, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the Agency's policies, procedures, and rules. Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements, set forth in <http://www.state.wv.us/admin/purchase/privacy/default.html>.

31. YOUR SUBMISSION IS A PUBLIC DOCUMENT: Vendor's entire response to the Solicitation and the resulting Contract are public documents. As public documents, they will be disclosed to the public following the bid/proposal opening or award of the contract, as required by the competitive bidding laws of West Virginia Code §§ 5A-3-1 et seq., 5-22-1 et seq., and 5G-1-1 et seq. and the Freedom of Information Act West Virginia Code §§ 29B-1-1 et seq.

DO NOT SUBMIT MATERIAL YOU CONSIDER TO BE CONFIDENTIAL, A TRADE SECRET, OR OTHERWISE NOT SUBJECT TO PUBLIC DISCLOSURE.

Submission of any bid, proposal, or other document to the Purchasing Division constitutes your explicit consent to the subsequent public disclosure of the bid, proposal, or document. The Purchasing Division will disclose any document labeled "confidential," "proprietary," "trade secret," "private," or labeled with any other claim against public disclosure of the documents, to include any "trade secrets" as defined by West Virginia Code § 47-22-1 et seq. All submissions are subject to public disclosure without notice.

32. LICENSING: In accordance with West Virginia Code of State Rules § 148-1-6.1.e, Vendor must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, West Virginia Insurance Commission, or any other state agency or political subdivision. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. Upon request, the Vendor must provide all necessary releases to obtain information to enable the Purchasing Division Director or the Agency to verify that the Vendor is licensed and in good standing with the above entities.

SUBCONTRACTOR COMPLIANCE: Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to be licensed, in good standing, and up-to-date on all state and local obligations as described in this section. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.

33. ANTITRUST: In submitting a bid to, signing a contract with, or accepting a Award Document from any agency of the State of West Virginia, the Vendor agrees to convey, sell, assign, or transfer to the State of West Virginia all rights, title, and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of West Virginia for price fixing and/or unreasonable restraints of trade relating to the particular commodities or services purchased or acquired by the State of West Virginia. Such assignment shall be made and become effective at the time the purchasing agency tenders the initial payment to Vendor.

34. VENDOR NON-CONFLICT: Neither Vendor nor its representatives are permitted to have any interest, nor shall they acquire any interest, direct or indirect, which would compromise the performance of its services hereunder. Any such interests shall be promptly presented in detail to the Agency.

Revised 11/1/2022

35. VENDOR RELATIONSHIP: The relationship of the Vendor to the State shall be that of an independent contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by this Contract. The Vendor as an independent contractor is solely liable for the acts and omissions of its employees and agents. Vendor shall be responsible for selecting, supervising, and compensating any and all individuals employed pursuant to the terms of this Solicitation and resulting contract. Neither the Vendor, nor any employees or subcontractors of the Vendor, shall be deemed to be employees of the State for any purpose whatsoever. Vendor shall be exclusively responsible for payment of employees and contractors for all wages and salaries, taxes, withholding payments, penalties, fees, fringe benefits, professional liability insurance premiums, contributions to insurance and pension, or other deferred compensation plans, including but not limited to, Workers' Compensation and Social Security obligations, licensing fees, etc. and the filing of all necessary documents, forms, and returns pertinent to all of the foregoing.

Vendor shall hold harmless the State, and shall provide the State and Agency with a defense against any and all claims including, but not limited to, the foregoing payments, withholdings, contributions, taxes, Social Security taxes, and employer income tax returns.

36. INDEMNIFICATION: The Vendor agrees to indemnify, defend, and hold harmless the State and the Agency, their officers, and employees from and against: (1) Any claims or losses for services rendered by any subcontractor, person, or firm performing or supplying services, materials, or supplies in connection with the performance of the Contract; (2) Any claims or losses resulting to any person or entity injured or damaged by the Vendor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data used under the Contract in a manner not authorized by the Contract, or by Federal or State statutes or regulations; and (3) Any failure of the Vendor, its officers, employees, or subcontractors to observe State and Federal laws including, but not limited to, labor and wage and hour laws.

37. NO DEBT CERTIFICATION: In accordance with West Virginia Code §§ 5A-3-10a and 5-22-1(i), the State is prohibited from awarding a contract to any bidder that owes a debt to the State or a political subdivision of the State. By submitting a bid, or entering into a contract with the State, Vendor is affirming that (1) for construction contracts, the Vendor is not in default on any monetary obligation owed to the state or a political subdivision of the state, and (2) for all other contracts, neither the Vendor nor any related party owe a debt as defined above, and neither the Vendor nor any related party are in employer default as defined in the statute cited above unless the debt or employer default is permitted under the statute.

38. CONFLICT OF INTEREST: Vendor, its officers or members or employees, shall not presently have or acquire an interest, direct or indirect, which would conflict with or compromise the performance of its obligations hereunder. Vendor shall periodically inquire of its officers, members and employees to ensure that a conflict of interest does not arise. Any conflict of interest discovered shall be promptly presented in detail to the Agency.

39. REPORTS: Vendor shall provide the Agency and/or the Purchasing Division with the following reports identified by a checked box below:

☐ Such reports as the Agency and/or the Purchasing Division may request. Requested reports may include, but are not limited to, quantities purchased, agencies utilizing the contract, total contract expenditures by agency, etc.

☐ Quarterly reports detailing the total quantity of purchases in units and dollars, along with a listing of purchases by agency. Quarterly reports should be delivered to the Purchasing Division via email at purchasing.division@wv.gov.

40. BACKGROUND CHECK: In accordance with W. Va. Code § 15-2D-3, the State reserves the right to prohibit a service provider's employees from accessing sensitive or critical information or to be present at the Capitol complex based upon results addressed from a criminal background check. Service providers should contact the West Virginia Division of Protective Services by phone at (304) 558-9911 for more information.

41. PREFERENCE FOR USE OF DOMESTIC STEEL PRODUCTS: Except when authorized by the Director of the Purchasing Division pursuant to W. Va. Code § 5A-3-56, no contractor may use or supply steel products for a State Contract Project other than those steel products made in the United States. A contractor who uses steel products in violation of this section may be subject to civil penalties pursuant to W. Va. Code § 5A-3-56. As used in this section:

- a. "State Contract Project" means any erection or construction of, or any addition to, alteration of or other improvement to any building or structure, including, but not limited to, roads or highways, or the installation of any heating or cooling or ventilating plants or other equipment, or the supply of and materials for such projects, pursuant to a contract with the State of West Virginia for which bids were solicited on or after June 6, 2001.
- b. "Steel Products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two or more or such operations, from steel made by the open hearth, basic oxygen, electric furnace, Bessemer or other steel making process.
- c. The Purchasing Division Director may, in writing, authorize the use of foreign steel products if:
 1. The cost for each contract item used does not exceed one tenth of one percent (.1%) of the total contract cost or two thousand five hundred dollars (\$2,500.00), whichever is greater. For the purposes of this section, the cost is the value of the steel product as delivered to the project; or
 2. The Director of the Purchasing Division determines that specified steel materials are not produced in the United States in sufficient quantity or otherwise are not reasonably available to meet contract requirements.

42. PREFERENCE FOR USE OF DOMESTIC ALUMINUM, GLASS, AND STEEL: In Accordance with W. Va. Code § 5-19-1 et seq., and W. Va. CSR § 148-10-1 et seq., for every contract or subcontract, subject to the limitations contained herein, for the construction, reconstruction, alteration, repair, improvement or maintenance of public works or for the purchase of any item of machinery or equipment to be used at sites of public works, only domestic aluminum, glass or steel products shall be supplied unless the spending officer determines, in writing, after the receipt of offers or bids, (1) that the cost of domestic aluminum, glass or steel products is unreasonable or inconsistent with the public interest of the State of West Virginia, (2) that domestic aluminum, glass or steel products are not produced in sufficient quantities to meet the contract requirements, or (3) the available domestic aluminum, glass, or steel do not meet the contract specifications. This provision only applies to public works contracts awarded in an amount more than fifty thousand dollars (\$50,000) or public works contracts that require more than ten thousand pounds of steel products.

The cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than twenty percent (20%) of the bid or offered price for foreign made aluminum, glass, or steel products. If the domestic aluminum, glass or steel products to be supplied or produced in a "substantial labor surplus area", as defined by the United States Department of Labor, the cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than thirty percent (30%) of the bid or offered price for foreign made aluminum, glass, or steel products. This preference shall be applied to an item of machinery or equipment, as indicated above, when the item is a single unit of equipment or machinery manufactured primarily of aluminum, glass or steel, is part of a public works contract and has the sole purpose or of being a permanent part of a single public works project. This provision does not apply to equipment or machinery purchased by a spending unit for use by that spending unit and not as part of a single public works project.

All bids and offers including domestic aluminum, glass or steel products that exceed bid or offer prices including foreign aluminum, glass or steel products after application of the preferences provided in this provision may be reduced to a price equal to or lower than the lowest bid or offer price for foreign aluminum, glass or steel products plus the applicable preference. If the reduced bid or offer prices are made in writing and supersede the prior bid or offer prices, all bids or offers, including the reduced bid or offer prices, will be reevaluated in accordance with this rule.

43. INTERESTED PARTY SUPPLEMENTAL DISCLOSURE: W. Va. Code § 6D-1-2 requires that for contracts with an actual or estimated value of at least \$1 million, the Vendor must submit to the Agency a disclosure of interested parties prior to beginning work under this Contract. Additionally, the Vendor must submit a supplemental disclosure of interested parties reflecting any new or differing interested parties to the contract, which were not included in the original pre-work interested party disclosure, within 30 days following the completion or termination of the contract. A copy of that form is included with this solicitation or can be obtained from the WV Ethics Commission. This requirement does not apply to publicly traded companies listed on a national or international stock exchange. A more detailed definition of interested parties can be obtained from the form referenced above.

44. PROHIBITION AGAINST USED OR REFURBISHED: Unless expressly permitted in the solicitation published by the State, Vendor must provide new, unused commodities, and is prohibited from supplying used or refurbished commodities, in fulfilling its responsibilities under this Contract.

45. VOID CONTRACT CLAUSES: This Contract is subject to the provisions of West Virginia Code § 5A-3-62, which automatically voids certain contract clauses that violate State law.

46. ISRAEL BOYCOTT: Bidder understands and agrees that, pursuant to W. Va. Code § 5A-3-63, it is prohibited from engaging in a boycott of Israel during the term of this contract.

DESIGNATED CONTACT: Vendor appoints the individual identified in this Section as the Contract Administrator and the initial point of contact for matters relating to this Contract.

(Printed Name and Title) Christina Beacham - Representative Public Sector

(Address) _____

(Phone Number) / (Fax Number) 724-272-8468

(Email address) tbeacham@ukg.com

CERTIFICATION AND SIGNATURE: By signing below, or submitting documentation through wvOASIS, I certify that: I have reviewed this Solicitation/Contract in its entirety; that I understand the requirements, terms and conditions, and other information contained herein; that this bid, offer or proposal constitutes an offer to the State that cannot be unilaterally withdrawn; that the product or service proposed meets the mandatory requirements contained in the Solicitation/Contract for that product or service, unless otherwise stated herein; that the Vendor accepts the terms and conditions contained in the Solicitation, unless otherwise stated herein; that I am submitting this bid, offer or proposal for review and consideration; that this bid or offer was made without prior understanding, agreement, or connection with any entity submitting a bid or offer for the same material, supplies, equipment or services; that this bid or offer is in all respects fair and without collusion or fraud; that this Contract is accepted or entered into without any prior understanding, agreement, or connection to any other entity that could be considered a violation of law; that I am authorized by the Vendor to execute and submit this bid, offer, or proposal, or any documents related thereto on Vendor's behalf; that I am authorized to bind the vendor in a contractual relationship; and that to the best of my knowledge, the vendor has properly registered with any State agency that may require registration.

By signing below, I further certify that I understand this Contract is subject to the provisions of West Virginia Code § 5A-3-62, which automatically voids certain contract clauses that violate State law; and that pursuant to W. Va. Code 5A-3-63, the entity entering into this contract is prohibited from engaging in a boycott against Israel.

UKG

(Company)

DocuSigned by:

Scott Giangrande

(Signature of Authorized Representative)

Scott Giangrande

Sr. Order Processing Analyst

3/24/2023 | 12:45 PM EDT

(Printed Name and Title of Authorized Representative) (Date)

978-947-1752

(Phone Number) (Fax Number)

scott.giangrande@ukg.com

(Email Address)

ADDENDUM ACKNOWLEDGEMENT FORM
SOLICITATION NO.:

Instructions: Please acknowledge receipt of all addenda issued with this solicitation by completing this addendum acknowledgment form. Check the box next to each addendum received and sign below. Failure to acknowledge addenda may result in bid disqualification.

Acknowledgment: I hereby acknowledge receipt of the following addenda and have made the necessary revisions to my proposal, plans and/or specification, etc.

Addendum Numbers Received:

(Check the box next to each addendum received)

- ☐ Addendum No. 1
- ☐ Addendum No. 2
- ☐ Addendum No. 3
- ☐ Addendum No. 4
- ☐ Addendum No. 5

- ☐ Addendum No. 6
- ☐ Addendum No. 7
- ☐ Addendum No. 8
- ☐ Addendum No. 9
- ☐ Addendum No. 10

I understand that failure to confirm the receipt of addenda may be cause for rejection of this bid. I further understand that any verbal representation made or assumed to be made during any oral discussion held between Vendor's representatives and any state personnel is not binding. Only the information issued in writing and added to the specifications by an official addendum is binding.

UKG

Company

DocuSigned by:

Scott Giangrande

Authorized Signature

3/24/2023 | 12:45 PM EDT

Date

NOTE: This addendum acknowledgment should be submitted with the bid to expedite document processing.

Exhibit B

Software as a Service Addendum

1. Definitions:

Kronos will host data in US data centers unless mutually agreed.

Authorized Persons means the service provider's employees, contractors, subcontractors or other agents who have responsibility in protecting or have access to the public jurisdiction's personal data and non-public data to enable the service provider to perform the services required.

Data Breach means the unauthorized access and acquisition of unencrypted and unredacted personal data that compromises the security or confidentiality of a public jurisdiction's personal information and that causes the service provider or public jurisdiction to reasonably believe that the data breach has caused or will cause identity theft or other fraud.

Individually Identifiable Health Information means information that is a subset of health information, including demographic information collected from an individual, and (1) is created or received by a health care provider, health plan, employer or health care clearinghouse; and (2) relates to the past, present or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (a) that identifies the individual; or (b) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

Non-Public Data means data, other than personal data, that is not subject to distribution to the public as public information. It is deemed to be sensitive and confidential by the public jurisdiction because it contains information that is exempt by statute, ordinance or administrative rule from access by the general public as public information.

Personal Data means data that includes information relating to a person that identifies the person by first name or first initial, and last name, and has any of the following personally identifiable information (PII): government-issued identification numbers (e.g., Social Security, driver's license, state identification card); financial account information, including account number, credit or debit card numbers; or protected health information (PHI).

Public Jurisdiction means any government or government agency that uses these terms and conditions. The term is a placeholder for the government or government agency.

Public Jurisdiction Data means all data created or in any way originating with the public jurisdiction, and all data that is the output of computer processing or other electronic manipulation of any data that was created by or in any way originated with the public jurisdiction, whether such data or output is stored on the public jurisdiction's hardware, the service provider's hardware or exists in any system owned, maintained or otherwise controlled by the public jurisdiction or by the service provider.

Public Jurisdiction Identified Contact means the person or persons designated in writing by the public jurisdiction to receive security incident or breach notification.

Restricted Data means personal data and non-public data.

Security Incident means the actual unauthorized access to personal data or non-public data the service provider believes could reasonably result in the use, disclosure or theft of a public jurisdiction's unencrypted personal data or non-public data within the possession or control of the service provider. A security incident may or may not turn into a Data Breach.

Service Provider means the contractor and its employees, subcontractors, agents and affiliates who are providing the services agreed to under the contract.

Software-as-a-Service (SaaS) means the capability provided to the consumer to use the provider's applications running on a cloud infrastructure. The applications are accessible from various client devices through a thin-client interface such as a Web browser (e.g., Web-based email) or a program interface. The consumer does not manage or control the underlying cloud infrastructure including network, servers, operating systems, storage or even individual application capabilities, with the possible exception of limited user-specific application configuration settings.

2. Data Ownership: The public jurisdiction will own all right, title and interest in its data that is related to the services provided by this contract. The service provider shall not access public jurisdiction user accounts or public jurisdiction data, except (1) in the course of data center operations, (2) in response to service or technical issues, (3) as required by the express terms of this contract or (4) at the public jurisdiction's written request.

3. Data Protection and Privacy: Protection of personal privacy and data shall be an integral part of the business activities of the service provider to ensure there is no inappropriate or unauthorized use of public jurisdiction information at any time. To this end, the service provider shall safeguard the confidentiality, integrity and availability of public jurisdiction information and comply with the following conditions:

- a) The service provider shall implement and maintain appropriate administrative, technical and physical security measures to safeguard against unauthorized access, disclosure or theft of personal data and non-public data. In Appendix A, the public jurisdiction shall indicate whether restricted information will be processed by the service provider. Such security measures shall be in accordance with recognized industry practice and not less stringent than the measures the service provider applies to its own personal data and non-public data of similar kind. The service provider shall ensure that all such measures, including the manner in which personal data and non-public data are collected, accessed, used, stored, processed, disposed of and disclosed, comply with applicable data protection and privacy laws, as well as the terms and conditions of this Addendum and shall survive termination of the underlying contract.
- b) The service provider represents and warrants that its collection, access, use, storage, disposal and disclosure of personal data and non-public data do and will comply with all applicable federal and state privacy and data protection laws, as well as all other applicable regulations and directives.

- c) The service provider shall support third-party multi-factor authentication via SAML 2.0 integration with public jurisdiction third-party identity provider as described in product documentation to safeguard personal data and non-public data.
- d) All data obtained by the service provider in the performance of this contract shall become and remain the property of the public jurisdiction.
- e) All personal data shall be encrypted at rest and in transit to/from the edge of Kronos Cloud data centers with controlled access. Unless otherwise stipulated, the service provider is responsible for encryption of the personal data.
- f) Unless otherwise stipulated, the service provider shall encrypt all non-public data at rest and in transit, in accordance with recognized industry practice.
- g) With delivery of the software and instructions, the service provider shall provide guidelines to the public jurisdiction detailing the public jurisdiction's specific security roles and responsibilities and best practices for implementation of security controls for the service provider's application. These guidelines shall be made a part of this contract.
- h) At no time shall any data or process – that either belong to or are intended for the use of a public jurisdiction or its officers, agents or employees — be copied, disclosed or retained by the service provider or any party related to the service provider for subsequent use in any transaction that does not include the public jurisdiction.
- i) The service provider shall not use or disclose any information collected in connection with the service issued from this proposal for any purpose other than fulfilling the service.
- j) Data Location. For non-public data and personal data, the service provider shall provide its data center services to the public jurisdiction and its end users solely from data centers in the U.S. Storage of public jurisdiction data at rest shall be located solely in data centers in the U.S. The service provider shall not allow its personnel or contractors to store public jurisdiction data on portable devices, including personal computers, except for devices that are used and kept only at its U.S. data centers. With agreement from the public jurisdiction, this term may be met by the service provider providing its services from an acceptable alternative data center location, which agreement shall be stated in Appendix A. The service provider shall permit its personnel and contractors to access public jurisdiction data remotely only as required to provide technical support.

4. Security Incident or Data Breach Notification: The service provider shall inform the public jurisdiction of any actual/confirmed security incident or data breach.

- a) Incident Response: The service provider may need to communicate with outside parties regarding a security incident, which may include contacting law enforcement, fielding media inquiries and seeking external expertise as, defined by law, contained in the contract, or at Service Provider's sole discretion. Discussing security incidents with the public jurisdiction shall be handled on an urgent as-needed basis, as part of service provider communication and mitigation processes .

- b) **Security Incident Reporting Requirements:** The service provider shall report an actual/confirmed Security Incident as soon as practicable, but no later than twenty-four (24) hours after the service provider becomes aware of it, to: (1) the department privacy officer, by email, with a read receipt, identified in Appendix A; and, (2) unless otherwise directed by the public jurisdiction in the underlying contract, the WVOT Online Computer Security and Privacy Incident Reporting System at <https://apps.wv.gov/ot/ir/Default.aspx>. The following information shall be shared with the public jurisdiction: (1) incident phase (detection and analysis; containment, eradication and recovery; or post-incident activity), (2) projected business impact, and, (3) attack source information.
- c) **Breach Reporting Requirements:** Upon the discovery of a data breach or unauthorized access to non-public data, the service provider shall immediately report to: (1) the department privacy officer, by email, with a read receipt, identified in Appendix A; and, (2) unless otherwise directed by the public jurisdiction in the underlying contract, the WVOT Online Computer Security and Privacy Incident Reporting System at <https://apps.wv.gov/ot/ir/Default.aspx>.

5. Breach Responsibilities: This section only applies when a data breach occurs with respect to personal data within the possession or control of the service provider.

- a) The service provider shall provide the public jurisdiction with the name and contact information for a team of service provider who shall serve as the public jurisdiction's primary security contact and shall be available to assist the public jurisdiction twenty-four (24) hours per day, seven (7) days per week as a contact in resolving obligations associated with a data breach. The service provider shall provide this information in Appendix A.
- b) Immediately following the service provider's notification to the public jurisdiction of a data breach, the parties shall cooperate with each other to investigate the data breach. The service provider agrees to fully cooperate with the public jurisdiction in the public jurisdiction's handling of the matter, including, without limitation, at the public jurisdiction's request, making available relevant information and reporting required to comply with applicable law and regulation.
- c) Within 72 hours of the discovery, upon request, the service provider shall notify the parties listed in 4(c) above, to the extent known: (1) date of discovery; (2) list of data elements and the number of individual records; (3) description of the unauthorized persons known or reasonably believed to have improperly used or disclosed the personal data; (4) description of where the personal data is believed to have been improperly transmitted, sent, or utilized; and, (5) description of the probable causes of the improper use or disclosure.
- d) The service provider shall (1) cooperate with the public jurisdiction as reasonably requested by the public jurisdiction to investigate and resolve the data breach, (2) promptly implement necessary remedial measures, if necessary, and prevent any further data breach at the service provider's expense in accordance with applicable privacy rights, laws and regulations and (3) document responsive actions taken related to the data breach, including any post-incident review of events and actions taken to make changes in business practices in providing the services, if necessary.

- e) If a data breach is a direct result of the service provider's breach of its contract obligation to encrypt personal data or otherwise prevent its release, the service provider shall bear the costs associated with (1) the investigation and resolution of the data breach; (2) notifications to individuals, regulators or others required by state or federal law; (3) a credit monitoring service (4) a website or a toll-free number and call center for affected individuals required by state law — all not to exceed the average per record per person cost calculated for data breaches in the United States (currently \$141 per record/person) in the most recent Cost of Data Breach Study: Global Analysis published by the Ponemon Institute at the time of the data breach; and (5) complete all corrective actions as reasonably determined by service provider based on root cause. The service provider agrees that it shall not inform any third party of any data breach without first obtaining the public jurisdiction's prior written consent, other than to inform a complainant that the matter has been forwarded to the public jurisdiction's legal counsel and/or engage a third party with appropriate expertise and confidentiality protections for any reason connected to the data breach. Except with respect to where the service provider has an independent legal obligation to report a data breach, the service provider agrees that the public jurisdiction shall have the sole right to determine: (1) whether notice of the data breach is to be provided to any individuals, regulators, law enforcement agencies, consumer reporting agencies or others, as required by law or regulation, or otherwise in the public jurisdiction's discretion; and (2) the contents of such notice, whether any type of remediation may be offered to affected persons, and the nature and extent of any such remediation. The service provider retains the right to report activity to law enforcement.

6. Notification of Legal Requests: The service provider shall contact the public jurisdiction upon receipt of any electronic discovery, litigation holds, discovery searches and expert testimonies related to the public jurisdiction's data under this contract, or which in any way might reasonably require access to the data of the public jurisdiction. The service provider shall not respond to subpoenas, service of process and other legal requests related to the public jurisdiction without first notifying the public jurisdiction, unless prohibited by law from providing such notice.

7. Termination and Suspension of Service:

- a) In the event of a termination of the contract, the service provider shall implement an orderly return of public jurisdiction data in MS SQL format at a time agreed to by the parties and the subsequent secure disposal of public jurisdiction data.
- b) During any period of service suspension, the service provider shall not take any action to intentionally erase any public jurisdiction data.
- c) Unless otherwise specified in the Contract, in the event of termination of any services or agreement in entirety, the service provider shall not take any action to intentionally erase any public jurisdiction data for a period of:

- 30 days after the effective date of termination, if the termination is for convenience

After such period, the service provider shall have no obligation to maintain or provide any public jurisdiction data and shall thereafter, unless legally prohibited, delete all public jurisdiction data in its systems or otherwise in its possession or under its control.

- d) The public jurisdiction shall be entitled to any post-termination assistance generally made available with respect to the services, unless a unique data retrieval arrangement has been established as part of the Contract.
- e) The service provider shall securely dispose of all requested data in all of its forms, such as disk, CD/ DVD, backup tape and paper, when requested by the public jurisdiction. Data shall be permanently deleted and shall not be recoverable, according to National Institute of Standards and Technology (NIST)-approved methods. Certificates of destruction shall be provided to the public jurisdiction upon request.

8. Background Checks: The service provider shall conduct criminal background checks and not utilize any staff, including subcontractors, to fulfill the obligations of the contract who have been convicted of any crime of dishonesty, including but not limited to criminal fraud, or otherwise convicted of any felony or misdemeanor offense for which incarceration for up to 1 year is an authorized penalty. The service provider shall promote and maintain an awareness of the importance of securing the public jurisdiction's information among the service provider's employees and agents.

9. Oversight of Authorized Persons: During the term of each authorized person's employment or engagement by service provider, service provider shall at all times cause such persons to abide strictly by service provider's obligations under this Agreement and service provider's standard policies and procedures. The service provider further agrees that it shall maintain a disciplinary process to address any unauthorized access, use or disclosure of personal data by any of service provider's officers, partners, principals, employees, agents or contractors.

10. Access to Security Logs and Reports: The service provider shall provide reports to the public jurisdiction through the application. Reports shall include, user access including failed log-in attempts, user access IP address, user access history and application-level security logs for all public jurisdiction files related to this contract.

11. Data Protection Self-Assessment: The service provider shall complete and upon request, submit an industry standard questionnaire, which is currently the Cloud Security Alliance "Consensus Assessments Initiative Questionnaire" to the Department privacy officer. The service provider shall first submit the questionnaire to the public jurisdiction as part of its response to the solicitation and, upon request, annually thereafter, on the anniversary of the date of contract execution.

12. Data Center Audit: The service provider shall perform an audit of its infrastructure and data centers at least annually at its expense and provide a redacted version of the

audit report upon request. The service provider may remove its proprietary information from the redacted version. A Service Organization Control (SOC) 2 and (SOC) 1 audit report or approved equivalent as detailed below sets the minimum level of a third-party audit.

13. Change Control and Advance Notice: The service provider shall give, advance notice as defined in the SLA exhibit.

14. Security:

- a) At a minimum, the service provider's safeguards for the protection of data shall include: (1) securing business facilities, data centers, paper files, servers, back-up systems and computing equipment, including, but not limited to, all mobile devices and other equipment with information storage capability; (2) implementing network, device application, database and platform security; (3) securing information transmission, storage and disposal; (4) implementing authentication and access controls within media, applications, operating systems and equipment; (5) implementing appropriate personnel security and integrity procedures and practices, including, but not limited to, conducting background checks consistent with applicable law; and (6) providing appropriate privacy and information security training to service provider's employees.
- b) The service provider shall execute well-defined recurring action steps that identify and monitor vulnerabilities, and provide remediation or corrective measures. Where the service provider's technology or the public jurisdiction's required dependence on a third-party application to interface with the technology creates a critical or high risk, the service provider shall remediate the vulnerability as soon as possible.
- c) Upon the public jurisdiction's written request, the service provider shall provide a high-level network diagram with respect to connectivity to the public jurisdiction's network that illustrates the service provider's information technology network infrastructure.

15. Non-disclosure and Separation of Duties: The service provider shall enforce separation of job duties, require commercially reasonable non-disclosure agreements, and limit staff knowledge of public jurisdiction data to that which is absolutely necessary to perform job duties.

16. Import and Export of Data: The public jurisdiction shall have the ability to securely import, export or dispose of data in standard format in piecemeal or in entirety at its discretion without interference from the service provider.

17. Responsibilities and Uptime Guarantee: The service provider shall be responsible for the acquisition and operation of all hardware, software and network support related to the services being provided. The technical and professional activities required for establishing, managing and maintaining the environments are the responsibilities of the service provider.

18. Subcontractor Disclosure: The service provider shall identify all of its strategic business partners related to services provided under this contract, including but not limited to all subcontractors or other entities or individuals who may be a party to a joint venture or similar agreement with the service provider, and who shall be involved in any custom application development and/or operations. These subcontractors shall be disclosed to the public jurisdiction as part of the service provider's response to the solicitation.

19. Right to Remove Individuals: The public jurisdiction shall have the right at any time to require that the service provider remove from interaction with public jurisdiction any service provider representative who the public jurisdiction believes is detrimental to its working relationship with the service provider. The public jurisdiction shall provide the service provider with notice of its determination, and the reasons it requests the removal. If the public jurisdiction signifies that a potential security violation exists with respect to the request, the service provider shall immediately remove such individual. The service provider shall not assign the person to any aspect of the contract or future work orders without the public jurisdiction's consent.

20. Business Continuity and Disaster Recovery: The service provider shall provide a business continuity and disaster recovery plan executive summary upon request.

21. Compliance with Accessibility Standards: The service provider shall comply with and adhere to Accessibility Standards of Section 508 Amendment to the Rehabilitation Act of 1973.

22. Web Services: The service provider shall make available Web services as defined in product documentation.

23. Encryption of Data at Rest: The service provider shall ensure hard drive encryption used NIST approved algorithms.

24. Subscription Terms: Service provider grants to a public jurisdiction a license to:

- Access and use the service for its business purposes;
- For SaaS, use underlying software as embodied or used in the service; and
- View, copy, upload, download (where applicable), and use service provider's documentation.

25. Equitable Relief: Service provider acknowledges that any breach of its covenants or obligations set forth in Addendum may cause the public jurisdiction irreparable harm for which monetary damages would not be adequate compensation and agrees that, in the event of such breach or threatened breach, the public jurisdiction is entitled to seek equitable relief, including a restraining order, injunctive relief, specific performance and any other relief that may be available from any court, in addition to any other remedy to which the public jurisdiction may be entitled at law or in equity. Such remedies shall not be deemed to be exclusive but shall be in addition to all other remedies available at law

21. Compliance with Accessibility Standards: The service provider shall comply with and adhere to Accessibility Standards of Section 508 Amendment to the Rehabilitation Act of 1973.

22. Web Services: The service provider shall make available Web services as defined in product documentation.

23. Encryption of Data at Rest: The service provider shall ensure hard drive encryption used NIST approved algorithms.

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25. Equitable Relief: Service provider acknowledges that any breach of its covenants or obligations set forth in Addendum may cause the public jurisdiction irreparable harm for which monetary damages would not be adequate compensation and agrees that, in the event of such breach or threatened breach, the public jurisdiction is entitled to seek equitable relief, including a restraining order, injunctive relief, specific performance and any other relief that may be available from any court, in addition to any other remedy to which the public jurisdiction may be entitled at law or in equity. Such remedies shall not be deemed to be exclusive but shall be in addition to all other remedies available at law or in equity, subject to any express exclusions or limitations in this Addendum to the contrary.

AGREED:

Name of Agency: SEP Name of Vendor: UKG

Signature: E. K. Hartley Signature: Scott Giangrande
DocuSigned by: 69747407C20D519...

Title: Director Title: Sr. Order Processing Analyst

Date: 4.27.2023 Date: 3/24/2023 | 12:45 PM EDT

Appendix A

(To be completed by the Agency's Procurement Officer prior to the execution of the Addendum, and shall be made a part of the Addendum. Required information not identified prior to execution of the Addendum may only be added by amending Appendix A and the Addendum, via Change Order.)

Name of Service Provider/Vendor: Kronos Incorporated _____

Name of Agency: Enterprise Resource Planning Board _____

Agency/public jurisdiction's required information:

1. Will restricted information be processed by the service provider?
Yes ☐
No ☒
2. If yes to #1, does the restricted information include personal data?
Yes ☐
No ☐
3. If yes to #1, does the restricted information include non-public data?
Yes ☐
No ☐
4. If yes to #1, may the service provider store public jurisdiction data in a data center in an acceptable alternative data center location, which is a country that is not the U.S.?
Yes ☐
No ☐

5. Provide name and email address for the Department privacy officer:

Name: Vincent Smith _____

Email address: vincent.smith@wvsao.gov _____

Vendor/Service Provider's required information:

6. Provide name and contact information for vendor's employee who shall serve as the public jurisdiction's primary security contact:

Name: Brian Goodwin _____

Email address: Brian.Goodwin@ukg.com _____

Phone Number: 978-244-6328 _____

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1/1/2019

**STATE OF WEST VIRGINIA
ADDENDUM TO VENDOR'S STANDARD CONTRACTUAL FORMS**

State Agency, Board, or Commission (the "State"):

Vendor:

Contract/Lease Number ("Contract"):

Commodity/Service:

The State and the Vendor are entering into the Contract identified above. The Vendor desires to incorporate one or more forms it created into the Contract. Vendor's form(s), however, include(s) one or more contractual terms and conditions that the State cannot or will not accept. In consideration for the State's incorporating Vendor's form(s) into the Contract, the Vendor enters into this Addendum which specifically eliminates or alters the legal enforceability of certain terms and conditions contained in Vendor's form(s). Therefore, on the date shown below each signature line, the parties agree to the following contractual terms and conditions in this Addendum are dominate over any competing terms made a part of the Contract:

1. **ORDER OF PRECEDENCE:** This Addendum modifies and supersedes anything contained on Vendor's form(s) whether or not they are submitted before or after the signing of this Addendum. IN THE EVENT OF ANY CONFLICT BETWEEN VENDOR'S FORM(S) AND THIS ADDENDUM, THIS ADDENDUM SHALL CONTROL.

2. **PAYMENT** – Payments for goods/services will be made in arrears only upon receipt of a proper invoice, detailing the goods/services provided or receipt of the goods/services, whichever is later. Notwithstanding the foregoing, payments for software licenses, subscriptions, or maintenance may be paid annually in advance.

Any language imposing any interest or charges due to late payment is deleted.

3. **FISCAL YEAR FUNDING** – Performance of this Contract is contingent upon funds being appropriated by the WV Legislature or otherwise being available for this Contract. In the event funds are not appropriated or otherwise available, the Contract becomes of no effect and is null and void after June 30 of the current fiscal year. If that occurs, the State may notify the Vendor that an alternative source of funding has been obtained and thereby avoid the automatic termination. Non-appropriation or non-funding shall not be considered an event of default.

4. **RIGHT TO TERMINATE** – The State reserves the right to terminate this Contract upon thirty (30) days written notice to the Vendor. If this right is exercised, the State agrees to pay the Vendor only for all undisputed services rendered or goods received before the termination's effective date. All provisions are deleted that seek to require the State to (1) compensate Vendor, in whole or in part, for lost profit, (2) pay a termination fee, or (3) pay liquidated damages if the Contract is terminated early.

Any language seeking to accelerate payments in the event of Contract termination, default, or non-funding is hereby deleted.

5. **DISPUTES** – Any language binding the State to any arbitration or to the decision of any arbitration board, commission, panel or other entity is deleted; as is any requirement to waive a jury trial.

Any language requiring or permitting disputes under this Contract to be resolved in the courts of any state other than the State of West Virginia is deleted. All legal actions for damages brought by Vendor against the State shall be brought in the West Virginia Claims Commission. Other causes of action must be brought in the West Virginia court authorized by statute to exercise jurisdiction over it.

Any language requiring the State to agree to, or be subject to, any form of equitable relief not authorized by the Constitution or laws of State of West Virginia is deleted.

6. **FEES OR COSTS:** Any language obligating the State to pay costs of collection, court costs, or attorney's fees, unless ordered by a court of competent jurisdiction is deleted.
7. **GOVERNING LAW** – Any language requiring the application of the law of any state other than the State of West Virginia in interpreting or enforcing the Contract is deleted. The Contract shall be governed by the laws of the State of West Virginia.
8. **RISK SHIFTING** – Any provision requiring the State to bear the costs of all or a majority of business/legal risks associated with this Contract, to indemnify the Vendor, or hold the Vendor or a third party harmless for any act or omission is hereby deleted.
9. **LIMITING LIABILITY** – Any language limiting the Vendor's liability for direct damages to person or property is deleted.
10. **TAXES** – Any provisions requiring the State to pay Federal, State or local taxes or file tax returns or reports on behalf of Vendor are deleted. The State will, upon request, provide a tax exempt certificate to confirm its tax exempt status.
11. **NO WAIVER** – Any provision requiring the State to waive any rights, claims or defenses is hereby deleted.

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1/1/2019

12. **STATUTE OF LIMITATIONS** – Any clauses limiting the time in which the State may bring suit against the Vendor or any other third party are deleted.
13. **ASSIGNMENT** – The Vendor agrees not to assign the Contract to any person or entity without the State's prior written consent, which will not be unreasonably delayed or denied. The State reserves the right to assign this Contract to another State agency, board or commission upon thirty (30) days written notice to the Vendor. These restrictions do not apply to the payments made by the State. Any assignment will not become effective and binding upon the State until the State is notified of the assignment, and the State and Vendor execute a change order to the Contract.
14. **RENEWAL** – Any language that seeks to automatically renew, modify, or extend the Contract beyond the initial term or automatically continue the Contract period from term to term is deleted. The Contract may be renewed or continued only upon mutual written agreement of the Parties.
15. **INSURANCE** – Any provision requiring the State to maintain any type of insurance for either its or the Vendor's benefit is deleted.
16. **RIGHT TO REPOSSESSION NOTICE** – Any provision for repossession of equipment without notice is hereby deleted. However, the State does recognize a right of repossession with notice.
17. **DELIVERY** – All deliveries under the Contract will be FOB destination unless the State expressly and knowingly agrees otherwise. Any contrary delivery terms are hereby deleted.
18. **CONFIDENTIALITY** – Any provisions regarding confidential treatment or non-disclosure of the terms and conditions of the Contract are hereby deleted. State contracts are public records under the West Virginia Freedom of Information Act ("FOIA") (W. Va. Code §29B-a-1, et seq.) and public procurement laws. This Contract and other public records may be disclosed without notice to the vendor at the State's sole discretion.
- Any provisions regarding confidentiality or non-disclosure related to contract performance are only effective to the extent they are consistent with FOIA and incorporated into the Contract through a separately approved and signed non-disclosure agreement.
19. **THIRD-PARTY SOFTWARE** – If this Contract contemplates or requires the use of third-party software, the vendor represents that none of the mandatory click-through, unsigned, or web-linked terms and conditions presented or required before using such third-party software conflict with any term of this Addendum or that it has the authority to modify such third-party software's terms and conditions to be subordinate to this Addendum. The Vendor shall indemnify and defend the State against all claims resulting from an assertion that such third-party terms and conditions are not in accord with, or subordinate to, this Addendum.
20. **AMENDMENTS** – The parties agree that all amendments, modifications, alterations or changes to the Contract shall be by mutual agreement, in writing, and signed by both parties. Any language to the contrary is deleted.

Notwithstanding the foregoing, this Addendum can only be amended by (1) identifying the alterations to this form by using *Italics* to identify language being added and ~~strikethrough~~ for language being deleted (do not use track-changes) and (2) having the Office of the West Virginia Attorney General's authorized representative expressly agree to and knowingly approve those alterations.

State: SRP
By: S.K. Hartsoy
Printed Name: E.K. Hartsoy
Title: Director
Date: 4.27.2023

Vendor: UKG
By: Scott Giangrande
Printed Name: Scott Giangrande
Title: Sr. Order Processing Analyst
Date: 3/24/2023 | 12:45 PM EDT

Exhibit D

UKG Dimensions™ Addendum

This UKG Dimensions™ Addendum (the “Addendum”) sets forth the supplemental terms and conditions and is made part of Agreement No. CSSD ERP2300000001 (“Agreement”) which governs the provision of UKG’s UKG Dimensions software as a service and other related offerings by Kronos Incorporated, a UKG company, (“Kronos” or “UKG”) to the State of West Virginia (“Customer” or “State”). Capitalized terms not defined within the text of the Addendum are defined in Annex E.

This Addendum consists of this execution page and the following Annexes’, which are incorporated by reference, and which form an integral part of this Addendum and the Agreement:

- Annex A: Dimensions General Terms and Conditions
 - Attachment A-1: Equipment Purchase, Rental, and Support
 - Attachment A-2: Professional and Educational Services Policies
 - Attachment A-3: Service Level Agreement
- Annex B: UKG Dimensions Cloud Guidelines:
 - <https://www.ukg.com/ukg-dimensions/Agreement/cloud-guidelines>
- Annex C: Acceptable Use Policy (AUP):
 - <https://www.ukg.com/policies/acceptable-use>
- Annex D: AtomSphere Service and Boomi Software
- Annex E: Definitions
- Annex F: Dimensions Privacy & Security Addendum

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

Annex A: Dimensions General Terms and Conditions

Article 1. Order Forms

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

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

1.2 The following Fees may appear on an Order Form:

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

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

Article 2. Billing

2.1 UKG will invoice the Fees on the Billing Frequency indicated on the Order Form. For each Order Form, the billing period of the PEPM Fees will start on the Billing Start Date and will continue for the time period indicated as the Initial Term. Customer will pay the Fees on the Payment Terms and in the currency, indicated on the Order Form. Customer will send payment to the attention of UKG 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 provided in this Addendum, Customer payments are non-refundable. Unless Customer has provided UKG with valid evidence of tax-exemption, Customer is responsible for all applicable Taxes related to the Service and other items set forth on the Order Form. Each Party is responsible to pay all costs and fees attributable to such Party pursuant to the Shipping Terms indicated on the Order Form.

2.2 For each Renewal Term, UKG may increase the PEPM Fees by no more than four percent (4%) over the previous year's PEPM Fees for the same Applications and the same licensed quantity. UKG will reflect these increased PEPM Fees in the applicable invoice for each Renewal Term. For renewals based on the Annual in Advance Billing Frequency, UKG will provide Customer with the renewal invoice prior to commencement of the Renewal Term and payment will be made by Customer in accordance with the payment terms agreed upon with Customer for the Initial Term.

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

Article 3. Additional Services

Section 3.1 Implementation and Professional Services

3.1.1 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 Addendum and other contract documents, giving precedence to each document as contained in the Addendum to Kronos Agreement with the State of West Virginia. 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.

3.1.2 While Customer may configure the Applications itself, as part of the Implementation Services as described in an SOW, UKG may also configure the Applications. UKG will configure the Applications based on Customer's instructions and direction.

3.1.3 UKG may also provide Professional Services to Customer that do not require an SOW but which will be as set forth on an Order Form. Further, after Implementation, any additional Professional Services requested by Customer shall be provided at a rate of \$220 per hour for the Initial Term. Thereafter, current rates shall apply. At the time of its request for such additional services, the Customer will confirm to UKG the amount of funds it has available to pay for such services (the "Budgeted Amount"). UKG will bill Customer monthly at the hourly rate for the actual hours worked providing these additional services up to the Budgeted Amount. Thereafter, if additional hours are needed, the parties shall mutually agree to such hours.

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

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

Section 3.2 Educational Services

3.2.1 As part of the PEPM Fees UKG will provide its live, hands-on virtual training facilitated by a knowledgeable instructor and delivered remotely via a published schedule. Training is intended for the following audiences:

- a. Core Team training to help key functional and technical users make informed solution design and configuration decisions, and to provide fundamental product knowledge.
- b. Application & System Administrator to prepare functional and technical super users to perform their most common tasks in the solution.

3.2.2 As part of the PEPF Fees UKG shall also provide self-paced product training throughout the Term of this Agreement. This training will include training content that will provide for all levels of training from beginner up to advanced.

3.2.3 UKG also offers fee-based consulting services that are not included under the terms of the Educational Services referenced above.

Section 3.3 Support Services

3.3.1 Support Services for the Services will be provided and include (i) customer phone, email and online support 24 hours a day/7 days a week and (ii) periodic enhancements and modifications to the Applications, including bug fixes to correct verifiable and reproducible errors reported to UKG.

Article 4. Service Level Agreement

UKG offers the Service Level Agreement and associated SLA Credits as described in Attachment A-3. UKG remains obligated to provide the Service as otherwise described in the Agreement and this Addendum.

Article 5. Data Security and Privacy

Section 5.1 Data

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

5.1.2 **“Aggregated Data”** is any statistical data that is derived from the operation of the Service, including without limitation, for analysis of the Service, Configurations or Customer Data, and is created by UKG 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. UKG owns the Aggregated Data. Nothing in this Addendum will prohibit UKG from utilizing the Aggregated Data for any purposes, provided that UKG’s use of Aggregated Data will anonymize Customer Data, will not reveal any Customer Confidential Information, and will not reveal any Personally Identifiable Information.

Section 5.2 Security and Privacy

5.2.1 UKG will maintain the Controls throughout the Term.

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

5.2.3 UKG employees will access Customer Data from the locations from which such employees work. Customer consents to UKG’s handling, collection, use, transfer, and processing of Customer Data to provide the Service. As may be required by Applicable Law, Customer will ensure that Customer Data may be provided to UKG for the purposes of providing the Service. Customer has obtained all necessary consents from individuals to enable UKG to use the Customer Data to provide the Service. As may be

contemplated by the applicable Data Protection Laws, Customer will remain the “controller” of Customer Data and UKG will be considered a “processor” of Customer Data.

5.2.4 UKG will notify Customer 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 UKG is taking in response to the breach.

5.2.5 Consent to Use Sub-processors. Customer agrees that UKG may use sub-processors to fulfill its contractual obligations under the Addendum. The list of sub-processors that are currently engaged by UKG to carry out processing activities on Customer Data on behalf of Customer can be found at: www.ukg.com/ukg-dimensions/Addendum/subprocessors

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

5.2.8 Sub-processor Obligations. When engaging any sub-processor:

- a. UKG will enter into a written Addendum with the sub-processor;
- b. UKG will endeavor to ensure that the sub-processor provides sufficient guarantees to implement appropriate technical and organizational measures to meet the requirements of applicable Data Protection Laws; and,
- c. UKG will remain responsible for the performance of the sub-processor's data protection obligations pursuant to such written Addendum and the requirements of applicable Data Protection Laws.
- d. Customer Data that is “at rest” must reside within the continental United States.

Article 6. Warranty

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

Article 7. License

Section 7.1 Technology License

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

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

7.1.3 Customer shall 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 for such connectivity.

Article 8. Authorized Users & Marketplace

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

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

Article 11. Changes

The information found in any Annex (or at any URL referenced in this Addendum) 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 UKG.

Article 12. Feedback

From time to time, Customer may provide Feedback. UKG has sole discretion to determine whether or not to undertake the development of any enhancements, new features or functionality contained in or with Feedback. Customer hereby grants UKG 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 UKG's business without any compensation to Customer or any other restriction or obligation, whether based on intellectual property right claim or otherwise. For the avoidance of doubt, no Feedback will be deemed to be Customer Confidential Information, and nothing in this Addendum limits UKG's right to independently use, develop, evaluate, or market products or services, whether incorporating Feedback or otherwise.

Exhibit A-1

Equipment Purchase, Rental and Support Policy

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

Section 1. Purchase and Sale of Equipment

When indicated on the applicable Order Form as Purchased Equipment, UKG sells to Customer, and Customer purchases from UKG, 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. UKG will invoice Customer for purchased Equipment upon shipment of the Equipment and payment will be due net 30 days from the date of delivery.

Section 2. Equipment Rentals

The following terms apply only to Equipment Customer rents from UKG 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 conterminously with the Term of the Service.

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

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

2.4 Ownership. All Equipment shall remain the property of UKG. 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 UKG to give full effect to the intent of terms of this paragraph (d).

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

2.6 Return of Equipment. Upon termination or expiration of the Rental Period for the Equipment or upon termination or expiration of the Agreement, for any reason, Customer shall return, within thirty (30) days of the effective date of termination and at Customer's expense, the Equipment. Equipment will be returned to UKG in the same condition as and when received, reasonable wear and tear excepted. If Customer fails to return Equipment within this time period, upon receiving an invoice from UKG, Customer shall pay UKG the then list price of the unreturned Equipment.

Section 3. Warranty

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

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

Section 4. Firmware

Customer may not download firmware updates for the UKG Equipment unless Customer is maintaining such Equipment under a support plan with UKG. If Customer is not maintaining the Equipment under a support plan with UKG, UKG shall have the right to verify Customer's UKG Equipment to determine if Customer has downloaded any firmware to which Customer is not entitled. If Customer has downloaded firmware for the UKG Equipment to which Customer is not entitled, Customer shall be responsible to pay UKG for such updated firmware in accordance with UKG's then-current support policies.

Section 5. Export

Customer acknowledges that the Equipment may be restricted by the United States Government or by the country in which the Equipment is installed from export to certain

countries and certain organizations and individuals, and agrees to comply with such laws. Customer agrees to comply with all applicable laws of all of the countries in which the Equipment may be used by Customer and shall indemnify UKG for any noncompliance which results in damages or liability to UKG. Customer's obligations hereunder shall survive the termination or expiration of this Agreement.

Section 6. Equipment Support

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

6.1 Term

Equipment Support Services have a term of one (1) year commencing upon the expiration of the applicable warranty set forth above. Equipment Support Services will be automatically extended for additional one year terms on the anniversary of its commencement date ("Renewal Date"), unless either party has given the other thirty (30) days written notification of its intent not to renew. UKG may change the annual Equipment Support Services Fees effective at the end of the initial one (1) year term or effective on the Renewal Date, by giving Customer at least thirty (30) days prior written notification, provided that UKG may increase such Fees by no more than four percent (4%) over the previous year's Fees for the same quantity of covered Equipment.

6.2 Payment

Customer agrees to pay the Equipment Support Services Fees for the initial term as set forth on the Order Form for each Product listed. Customer agrees that all Products of the same type that are owned by the Customer, including without limitation Customer's "Spare Products" (as defined below), must be covered by the Equipment Support Services. Customer agrees that if Customer purchases, during the term of the Equipment Support Services, any Products of the same type as those covered by Customer under Equipment Support Services, such additional Products must be covered by the Equipment Support Services.

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

6.4. Depot Support Service

6.4.1 Upon the failure of an installed Product, Customer shall notify UKG of such failure and UKG will provide remote support in an attempt to resolve the problem. Those

failures determined by UKG to be Product related shall be dispatched to a UKG Depot Repair Center, and Customer will be provided with a Return Material Authorization Number (RMA) for the failed Product if Customer is to return the failed Product to UKG, as reasonably determined by UKG. Customer must return the failed Product with the supplied RMA number. Return and repair procedures for failed Product shall be provided based on the Depot option - Depot Exchange or Depot Repair - selected by Customer on the applicable Order Form and as specified herein and in UKG's then-current Support Services Policies which may be accessed at: <https://www.ukg.com/support-policies-and-services> ("Support Policies").

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

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

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

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

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

6.6 UKG warrants that all service packs and firmware updates provided under this Agreement shall materially perform in accordance with the UKG 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 UKG's repair or

replacement of the deficient service pack(s) or firmware update(s), at UKG's option, provided that Customer's use, installation and maintenance thereof have conformed to the specifications.

6.7 Responsibilities of Customer

Customer agrees that it shall return failed Products promptly as the failures occur and that it shall not hold failed Products and send failed Product to UKG 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 UKG's published specifications for such Products;
- b. De-install all failed Products and install all replacement Products in accordance with UKG's published installation guidelines;
- c. Ensure that the Product(s) are returned to UKG properly packaged; and
- d. Obtain an RMA before returning any Product to UKG and place the RMA clearly and conspicuously on the outside of the shipping package. Customer may only return the specific Product authorized by UKG when issuing the RMA.

6.8 Support Exclusions

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

- a. Any cause external to the Products including, but not limited to, electrical work, fire, flood, water, wind, lightning, transportation, or any act of God;
- b. Customer's failure to continually provide a suitable installation environment (as indicated in UKG's 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 UKG's 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 UKG;
- e. Government imposed sanctions, rules, regulations or laws preventing the shipment of the Products; or
- f. Customer's repair, attempted repair or modification of the Products.

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

6.9 Delivery

All domestic shipments are FOB Destination to/from Customer and UKG with the shipping party bearing all costs and risks of loss, and with title passing upon delivery to the identified destination. All international shipments are DDU (Deliver Duties Unpaid) to the Customer, with Customer responsible for all duties and V.A.T. when sending Product to UKG (DDP). Customer agrees to pay or reimburse UKG for any substantial increase in fuel surcharges which may occur.

6.10 Warranty

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

6.11 Default, Suspension, and Termination

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

6.11.2 Customer may terminate Equipment Support Services if UKG is in default under the Agreement, and such default is not corrected within thirty (30) days after written notice. UKG may terminate Equipment Support Services if Customer defaults under this or any other agreement with UKG, and such default is not corrected within thirty (30) days after written notice. In addition, this Agreement will terminate and all charges due hereunder will become immediately due and payable in the event that Customer ceases to do business as a going concern or has its assets assigned by law.

Section 7. Finger Scan and Facial Recognition

7.1 For Customer's use of Equipment containing finger scan sensor and/or facial recognition technology ("FS/FR Equipment"), Customer warrants that it is compliant and will maintain compliance with all applicable biometric privacy laws with respect to its use of FS/FR Equipment. If required by law, Customer further warrants that prior to using FS/FR Equipment it shall: (i) obtain signed releases from employees consenting to the use of the applicable FS/FR Equipment for employee timekeeping purposes; (ii) issue policies to their employees and the public regarding its retention and destruction of the finger scan or facial recognition data, and (iii) ensure that any releases, consents, or policies required by applicable law shall expressly apply to UKG and its authorized subcontractors.

7.2 Customer agrees to defend, hold harmless and indemnify UKG, its employees, directors, parent, subsidiaries and authorized partners and subcontractors (collectively, "UKG Indemnitees") for any claims, damages, penalties or fines asserted or awarded against a UKG Indemnitee arising out of or relating to Customer's breach of any of the warranties in section 7.1 above with respect to FS/FR Equipment. Upon receipt of notice of such a claim, Customer shall assume sole control of the defense and settlement of such claim; provided that: (i) UKG shall be entitled to participate in the defense of such claim and to employ counsel at its own expense to assist in the handling of such claim, on a monitoring and a non-controlling basis; (ii) Customer shall not settle any claim on any terms or in any manner that adversely affects the rights of UKG without its prior written consent; and (iii) UKG shall provide reasonable cooperation and assistance at Customer's sole cost and expense.

Exhibit A-2

Implementation, Professional and Educational Services Engagement Policies

1. UKG will provide the Customer with a Statement of Work (also known as the SOW) that outlines the project deliverables and provides an estimate for the project scope and cost required to complete the engagement, based upon preliminary information provided by the Customer. This Statement of Work is an estimate; the Collaborate Phase of the engagement will be used to determine whether modifications to the project scope or project budget are required.
2. The Statement of Work is valid for one year from the date of signature.
3. Any changes to the project scope and/or project duration will be reflected through the generation of a UKG Change Order, which is initiated by the UKG Project Manager and approved and signed by the Customer.
 - a. These changes could be due to an increase or change in project scope or deliverables, insufficient customer resources or time commitment, changes to customer project schedule, or technical limitations.
4. Unless otherwise addressed within these policies, the hourly rate(s) quoted within a Change Order for work to be performed within normal business hours will be consistent with that contained within the original Statement of Work. In instances where specialized resources are requested, but not contained within the original Statement of Work, the quoted rate will be established as UKG' current rate for such requested services.
5. UKG personnel working at the Customer site shall have access to necessary infrastructure (servers, network, etc.).
6. In instances where UKG personnel are working remotely access will be granted through the use of industry standard tools (VPN, DTS, GoToMyPC, PCAnywhere, etc.).
7. Customer agrees to not hire any UKG employee who has performed services under the Agreement for a period of one-year after the completion of such services
8. If not hosted by UKG Cloud Services, all required system administration, maintenance, backups, tuning, etc., is the responsibility of the Customer
9. Customer Data: To perform the implementation and to provide support after completion, UKG may need to access and retain information regarding your employees and business organization. UKG will take all reasonable steps to limit and safeguard the security of this information.
10. Scheduled Work Policies:
 - a. Professional Services
 - i. Professional Services work will be conducted during normal business hours, 8:00AM – 5:00PM, Monday through Friday.
 - ii. All Professional Services work scheduled to start outside of normal business hours will be billed in full at a premium rate described below. For work to be performed after hours, on holidays, or on weekends, an approved Change Order will be required prior to scheduling (see Change Order Process below). Customers will be charged as follows:

1. All Professional Services will be scheduled and billed for actual hours worked with a minimum of 1 hour. A level of effort must be submitted to and approved by Customer before any work may commence.
 - a. After Hours
 - i. All scheduled work will be billed at 1.5 times the contract rate by role
 - ii. After Hours is considered 5:00PM-8:00AM, Monday through Friday
 - b. Weekends
 - i. All scheduled work will be billed at 2.0 times the contract rate by role
 - ii. Weekends are considered 5:00PM Friday through 8:00AM Monday
 - c. Holiday
 - i. All scheduled work will be billed at 2.0 times the contract rate by role
 - ii. Holidays are any UKG recognized Holidays, which include for example in the USA: New Year's Day, President's Day, Memorial Day, Independence Day, Thanksgiving Day, the day after Thanksgiving, Christmas Day. UKG recognized Holidays will vary by country.
- b. Education Services
 - i. All Education services (Training delivery and User Adoption Consulting) scheduled to start outside of normal business hours will be billed in full at a premium rate described below. Customers will be charged as follows:
 1. After Hours
 - a. There will be a 1.5 times premium per student for public courses or per class for private day rates
 - b. After Hours is considered 5:00PM-8:00AM, Monday through Friday
 2. Weekends
 - a. There will be a 2.0 times premium per student for public courses or per class for private day rates
 - b. Weekends are considered 5:00PM Friday through 8:00AM Monday
 3. Holidays
 - a. There will be a 2.0 times premium per student for public courses or per class for private day rates
 - b. Holidays are any UKG recognized Holidays, which include but not limited to: New Year's Day, President's Day, Memorial Day, Independence Day, Thanksgiving Day, the day after Thanksgiving, Christmas Day.

11. Travel Policies

- a. Customer is responsible for airfare, lodging and related travel expenses for onsite consultants.
- b. Customer is responsible for travel costs for employees attending training at a UKG location.
- c. Customer is responsible for travel and related costs for a UKG trainer/User Adoption consultant providing instruction at the Customer location.
- d. If a UKG employee is required on-site per the customer request, a minimum of 8 hours will be billed per day.
- e. All travel time (portal to portal) will be billed at the current contract rate by role. Travel time above two hours in any one direction will be billed at the current contract rate by role.

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

- a. Professional Services:
 - i. 2 business days prior to scheduled work – 50% of planned charges are invoiced for schedule work
 - ii. 1 business day prior to scheduled work – 100% of planned charges are invoiced for scheduled work
 - iii. Business days are: Monday, Tuesday, Wednesday, Thursday, and Friday, excluding Holidays
- b. User Adoption Services Cancellation Policy
 - i. 2 business days prior to scheduled work – 50% of planned charges are invoiced for schedule work
 - ii. 1 business day prior to scheduled work – 100% of planned charges are invoiced for scheduled work
 - iii. Business days are: Monday, Tuesday, Wednesday, Thursday, and Friday, excluding Holidays
- c. Cancellation Policy Example:
 - i. Work is schedule for Wednesday, 1p-5p (4 hours)
 - ii. If customer cancels on:
 1. Friday – no penalty
 2. Monday – 50% of planned charges are invoiced (2 hours)
 3. Tuesday – 100% of planned charged are invoiced (4 hours)
 - iii. Cancellation Policy Example with a Holiday:
 1. Work is schedule for Wednesday, 1p-5p (4 hours)
 2. If customer cancels on:
 - a. Thursday – no penalty
 - b. Friday – 50% of planned charges are invoiced (2 hours)
 - c. Monday – holiday, doesn't count as "business day
 - d. Tuesday – 100% of planned charged are invoiced (4 hours)

d. Education Services:

- i. For any PUBLIC course held in KnowledgeMap Live, attendees must cancel at least five business days before the class start date to avoid future registration restrictions.
- ii. UKG reserves the right to cancel classes up to two business days before the scheduled start date for public courses held in KnowledgeMap Live due to lack of enrollment or any other unforeseen circumstances.
- iii. For any PRIVATE course held at a customer site or in KnowledgeMap Live; the private class must be cancelled at least ten business days before the private class start date to avoid cancellation fees (equal to the cost of the course). Student substitutions can be made at any time as long as prerequisites have been met.

13. Additional Education Services Policies

a. KnowledgeMap Live Course Updates Policy

Courses are updated on a regular basis; the schedule for course updates is dependent on the nature of the update. Content errors or technical issues are resolved as soon as possible after they are reported. Other changes to course content and flow typically align with the software product release cycle or updates to UKG's software implementation methodology. These timelines vary, but for UKG Dimensions this is approximately every three months. Content is reviewed by subject matter experts during these update cycles to verify continued currency and accuracy of content.

14. Not all product lines offer all service options described in this policy.



PROJECT CHANGE ORDER FORM

Customer <CUSTOMER NAME>
Name

Solution
ID <SOLUTION ID>

Bill to

Ship to

Payment
Terms Net <XX> Days

Customer
Purchase
Order

UKG
Practice

Sales
Person

Project#

Operating
Unit/
Currency

New task
required

New
project
required

Project Budget Impact

Billing Role	Item	UOM	Contract Type	Previous Order#	Qty in Hours	Rate	Ext Amt
Solution Consultant	9990002-ENT	HR	Estimate				
Integration Consultant	9990002-ENT	HR	Estimate				
Totals							

Amounts exclude tax

Authorization Signatures

(I authorize the change to the UKG Project Budget, as described above, and I authorize UKG to invoice for the amount applicable.)

Authorized Customer Contact Name and Title/Role	* Signature	Date

Comments

Except as specifically amended by this Change Order, all other provisions of the relevant Service Work Order or Statement of Work (as applicable) remains un-amended and in full force and effect.

This Change Order is to top up the budget with a total of <XX> hours. These hours are offered on a Time and Materials basis.

<Scope Description>

Order Management Internal Use Only

If Change Order processed please select box		Date	
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Exhibit A-3

UKG Dimensions Service Level Agreement

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

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

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

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

"Excluded Event" means any event that causes unavailability to the Service due to (a) the acts or omissions of Customer, its employees, customers, contractors or agents; (b) the failure or malfunction of equipment, applications or systems not owned or controlled by UKG or its third party suppliers providing the Service; (c) failures or malfunctions resulting from circuits provided by Customer; (d) any inconsistencies or changes in Customer's source environment, including either intentional or accidental connections or disconnections to the environment; (e) Customer Data; (f) Force Majeure events; (g) expected downtime during the Maintenance Periods described below; (h) any suspension of the Service in accordance with the terms of the Agreement; (i) the unavailability of required Customer personnel, including as a result of failure to provide UKG 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 UKG to maintain and update the Services, when downtime may be necessary. Customer chooses maintenance window based on location of data center selected on Order Form.

The Maintenance Period is used for purposes of the Service Credit Calculation; UKG continuously supports the production environment on a 24x7 basis to reduce disruptions.

The current weekly Maintenance Period for each of the data center locations are:

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

Service Credit Calculation: An Outage will be deemed to commence when the Service is unavailable to Customer and ends when UKG 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

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

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

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

Exhibit B

UKG DIMENSIONS Cloud Guidelines

The Hosting Services for UKG Dimensions Software as a Service is further described as follows:
The following guidelines and services apply to UKG Dimensions applications that are deployed in the Google Cloud:

SOLUTION DEFINITION

Tenants included	One standard production tenant One partial copy non-production tenant limited to 36 months of data
Additional tenants	Additional partial copy tenants available for purchase on an annual basis

Connectivity to

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

SFTP Accounts

SFTP accounts	The UKG cloud SFTP service provides a generic endpoint for customers to push and pull files — including people import, payroll, accruals, schedules, punches, drivers, and more — to and from the UKG cloud in support of UKG® integrations.
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The service includes two SFTP managed service accounts that customers may use to automate their integrations with the UKG 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.

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. UKG will assist in provisioning of the link.
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Server-initiated device (optional)	Supported per Documentation (includes two VPN connections)
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USAGE

Secure file transfer	Integration with UKG Dimensions using the UKG Cloud SFTP service is subject to the following limits: limits - 20 active concurrent sessions per SFTP account - File size transferred per SFTP session not to exceed 100MB - Storage quota of 10GB per SFTP account
Key performance indicators (KPIs)	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 UKG Dimensions applications will be limited to 400 per customer.
Server-initiated device (optional)	Supported per Documentation (includes two VPN connections)

POLICIES

Data refresh	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.
UKG application updates	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.
Customer termination	Upon customer termination, UKG will provide access to the service for an additional 30 days so the customer may extract data. Further, customer may extract data at any time during the Term.
Security compliance	A SOC 1 Type 2 report and a SOC 2 Type 2 report is published. Complementary user entity controls are available within the SOC reports. In addition, UKG Dimensions maintains ISO27001 and 27018 compliance, and upon written request details are available which describes the covered components. Customer agrees not to upload payment card information, as the service is not certified for PCI DSS. Customer agrees not to upload health information that falls under the United States HIPAA law.
Disaster recovery	Recovery time objective: 24 hours Recovery point objective: 4 hours
Encryption	Data encryption in transit and at rest is included.

- Third parties** The customer may contract with a third party to configure and/or implement UKG 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 UKG personnel or contractors employed by UKG.
- Legal Hold** UKG 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 UKG' control, UKG 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 UKG for the costs that UKG incurs to provide such assistance, such as professional services fees, copying, delivery, and other handling expenses. Subject to the above, UKG will produce the relevant data or documents. Except at its sole discretion or if legally required to do so, UKG will not entertain requests to store or host legacy or archived customer data or documents for these purposes. UKG periodically reviews all matters subject to legal hold, including data that is being retained.

Exhibit C

Acceptable Use Policy

This Acceptable Use Policy (this “Policy”) describes prohibited uses of the Services. The examples described in this Policy are not exhaustive. UKG may modify this Policy at any time upon written notice to Customer of a revised version. Per Article 11. “Changes” of the Dimensions Addendum, the modified version of this Policy will only become effective at the start of the next Renewal Term if the Customer, the West Virginia Purchasing Division, and the West Virginia Attorney General’s Office chooses to renew. If Customer violates the Policy or authorizes or helps others to do so, UKG may suspend use of the Services until the violation is corrected, or terminate the Agreement for cause in accordance with the terms of the Agreement.

(a) No Illegal, Harmful, or Offensive Use or Content

Customer may not use, or encourage, promote, facilitate or instruct others to use, the Services 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, UKG’s 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.

(b) No Security Violations

Customer may not use the Services to violate the security or integrity of any network, computer or communications system, software application, or network or computing device (each, a “System”).

Prohibited activities include:

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

(c) No Network Abuse

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

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

(d) No E-Mail or Other Message Abuse

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

(e) Monitoring and Enforcement

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

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

UKG may report any activity that it suspects violates any law or regulation to appropriate law enforcement officials, regulators, or other appropriate third parties. UKG's reporting may include disclosing appropriate customer information. UKG 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.

(f) Reporting of Violations of this Policy

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

Exhibit D

AtomSphere Service and Boomi Software

As part of the Service, Customer has the right to access and use the Boomi AtomSphere Service provided by Boomi, LP. ("Boomi") and a non-exclusive, non-transferable and non-sublicensable license to use the associated Boomi Software as part of the Boomi AtomSphere Service. Customer may use the Boomi AtomSphere Service and the Boomi Software only to create integrations to and from the Service. If the Agreement terminates, Customer's rights to access the Boomi AtomSphere Service and the Boomi Software also terminates.

Customer understands and agrees that the AtomSphere Service and the Boomi Software may work in conjunction with third party products and Customer agrees to be responsible for ensuring that it is properly licensed to use such third party products. Customer further understands and agrees that (i) the AtomSphere Service and the Boomi Software are protected by copyright and other intellectual property laws and treaties, (ii) Boomi, its Affiliates and/or its suppliers own the copyright, and other intellectual property rights in the AtomSphere Service and Boomi Software, (iii) the Boomi Software is licensed, and not sold, (iv) this Agreement does not grant Customer any rights to Boomi's trademarks or service marks, and (v) with respect to the AtomSphere Service and Boomi Software, Boomi reserves any and all rights, implied or otherwise, which are not expressly granted to Customer in this Agreement.

Customer may, at its discretion, store other data on the systems to which it is provided access in connection with its use of the AtomSphere Service (the "Hosted Environment"). Customer is solely responsible for collecting, inputting and updating all Customer data stored in the Hosted Environment, and for ensuring that Customer complies with the Acceptable Use Policy with respect to the AtomSphere Service and Boomi Software. Customer agrees that such data may be accessed and used by Boomi and its representatives worldwide as may be needed to support Boomi's standard business operations with respect to the AtomSphere Service and Boomi Software. Customer agrees that data consisting of Customer contact information (e.g., email addresses, names) provided as part of Maintenance AtomSphere Services may be sent to Boomi's third party service providers as part of Boomi's services improvement processes.

In connection with the use of the Hosted Environment and the AtomSphere Service, Customer may not (i) attempt to use or gain unauthorized access to Boomi's or to any third-party's networks or equipment; (ii) permit other individuals or entities to copy the Boomi Software; nor (iii) provide unauthorized access to or use of any Boomi Software or the associated access credentials. Customer shall cooperate with Boomi's reasonable investigation of Hosted Environment outages, security issues, and any suspected breach of this Section.

Annex E: Definitions

“Acceptable Use Policy” and **“AUP”** are interchangeable terms referring to the UKG policy describing prohibited uses of the Service as further described in Annex C.

“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 Customer uses to access the Service.

“Application(s)” means those UKG Dimensions software application programs set forth on an Order Form which are made accessible for Customer to use under the terms of this Addendum.

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

“Boomi Software” means the third-party proprietary software associated with the Boomi AtomSphere Service as further described in Annex D.

“Claim(s)” means any and all notices, charges, claims, proceedings, actions, causes of action and suits, brought by a third party.

“Confidential Information” is any non-public information relating to each of Customer’s and UKG’s businesses and those of UKG’s Technology suppliers that is disclosed pursuant to this Addendum and which reasonably should have been understood by the recipient of such information to be confidential because of (i) legends or other markings, (ii) the circumstances of the disclosure, or (iii) the nature of the information itself. Information will not be considered “Confidential Information” if the information was (i) in the public domain without any breach of this Addendum; (ii) disclosed to the Receiving Party on a non-confidential basis from a source which is lawfully in possession of such Confidential Information and, to the knowledge of the Receiving Party, is not prohibited from disclosing such Confidential Information to Receiving Party; or (iii) released in writing from confidential treatment by Delivering Party; or (iv) required to be disclosed pursuant to a subpoena, order, civil investigative demand or similar process with which the Receiving Party is legally obligated to comply, and of which the Receiving Party notifies Delivering Party.

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

“Controls” means the administrative, physical, and technical safeguards for the protection of the security, confidentiality and integrity of Customer Data, designed and implemented by UKG 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 Customer, or its Authorized Users, posts or otherwise inputs into the Service, including but not limited to information, data (such as payroll data, vacation time, hours worked or other data elements associated with an Authorized User), text, multimedia images (e.g. graphics, audio and video files), or compilations.

“Customer Indemnified Party(ies)” means Customer and Customer’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 the services described in Section 3.2 (Educational Services), including but not limited to (i) UKG KnowledgeMap Learning Portal; (ii) UKG KnowledgeMap Live; and (iii) ala carte educational consulting services.

“Equipment” means UKG 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 UKG’s support of Equipment as further described in Attachment A-1.

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

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

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

“UKG KnowledgeMap™” means the online educational portal providing access to learning resources.

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

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

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

“Participating Entity(ies)” means those UKG or Customer entities that (i) directly or indirectly control, are controlled by, or are under common control with UKG or Customer, respectively and (ii) sign an Order

Form for the Service. **"Control"** (in this context) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and operating policies of the entity in respect of which the determination is being made through the ownership of the majority of its voting or equity securities, contract, voting trust or otherwise.

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

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

"Personally Identifiable Information" means information concerning individually identifiable employees of Customer that is protected against disclosure under Applicable Data Protection Law.

"Professional Services" means the professional, consulting, or training services provided by UKG 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 Addendum.

"Service" means the UKG supply of the commercially available version of the UKG Dimensions SaaS Applications in UKG's hosted environment and the services described in the Addendum related thereto.

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

"Taxes" means all applicable taxes relating to the goods and services provided by UKG hereunder, including all duties and country, federal, state, provincial or local taxes (including GST or VAT if applicable) but excluding taxes on UKG's income or business privilege.

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

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

ANNEX F
UKG DIMENSIONS PRIVACY AND SECURITY ADDENDUM

- 1. ISAE3402 / SSAE 18 (SOC 2) Audit:** UKG shall ensure compliance with ISAE3402/SSAE 18 AICPA Trust Principles for Security, Confidentiality, Privacy, Processing Integrity, and Availability (SOC 1 and SOC 2), and will undergo an audit each year for the purposes of examining the relevant controls with respect to the Applications. Such audits shall be carried out by an independent, certified third party and the resulting reports shall be provided to Customer by December 15th of each year. UKG shall ensure the data center carries out its own SOC 2 audits and provide such reports to Customer by December 15 of each year. Should this date need to be modified due to UKG audit cycles, UKG will provide notice of such.
- 2. ISO 27001/27018 Audits:** UKG shall ensure compliance with ISO 27001, 27017, and 27018 for the Application. UKG shall also ensure the datacenter used to provide the Application will continue to have its IT security management certified according to ISO 27001 or comparable industry standard security framework. The audits shall be carried out by an independent, certified third party, and, UKG shall provide the certificates to Customer by December 15th of each year.
- 3. Audit by Customer:** Customer shall have the right to receive assurances of the measures agreed upon to maintain data security and adequate data protection. Customer may exercise this audit right granted to it either personally or appoint a third party that is bound by appropriate obligations of confidentiality. Customer may exercise such audit right on an annual basis with reasonable notice and at a mutually agreed upon date and time. Any such audits shall be limited to a robust customer due diligence package consisting of details on UKG' information security/risk practices, examination of the results of the annual AICPA SSAE 18 SOC 1 and SOC 2 Type II audits conducted by an independent third party, executive summaries of the annual penetration test results as described in this addendum, and reasonable access to knowledgeable personnel to discuss the controls in place, including a meeting at UKG' corporate headquarters. In no event shall Customer or its designees be permitted to access UKG systems, network servers, scan summaries or activities logs.
- 4. Entity Controls:** Consistent with UKG' obligation to maintain its compliance with ISAE3402/SSAE 18 (SOC 1 and SOC 2) for the Applications, UKG shall continuously carry out the following security measures:
 - a. **Security Policy:** UKG shall maintain an information security policy that is reviewed annually by UKG and published and communicated to all UKG employees. UKG shall maintain a dedicated security and compliance function to maintain and monitor security controls in support of the Application.
 - b. **Employee Onboarding:** All personnel shall be subject to a background check upon hire and accept UKG' Code of Conduct.
 - c. **Employee Termination:** UKG shall terminate all credentials and access to the Applications of a UKG employee in the event of termination of his or her

employment within a timely manner, but in no event longer than three (3) business days.

- d. **Access Controls by UKG Personnel:** Access to all UKG owned or licensed network components, servers, databases, computers, and software programs by UKG personnel shall be protected by an authentication procedure that requires giving at least a unique username and complex password. UKG shall implement technical controls to enforce a password policy consisting of a minimum number of characters and complexity, including requirements of alpha, numeric, upper case, lower case and/or special characters. Lockout periods shall be in effect for inactivity and unsuccessful password attempts. Passwords must be changed after 90 days, at the latest.
- e. **Security Awareness Training:** UKG employees shall participate in security awareness and privacy training, upon hire and annually thereafter.
- f. **Security Documentations and Measures:** UKG shall maintain an organizational unit that is responsible for security and compliance issues. This unit shall develop, maintain, and operate to ensure that there is a trusted platform which meets an industry standard framework such as the SOC 2 criteria for Security, Availability, Processing Integrity, Privacy, and Confidentiality or the ISO 27001 framework.
- g. **Change Management:** UKG shall employ a change management process based on industry accepted standards for change management in configurations, software, and hardware with respect to the Application.

5. Application and Network Controls:

- a. **Privileged Access by UKG Personnel:** Privileged access to UKG owned or licensed network components, servers, databases, computers, and software programs by UKG personnel that are used in the provision of the Application shall be secured by means of a two-factor authentication and shall be defined by UKG in such a manner as to ensure that the access authorizations are granted only to the extent necessary to perform the assigned role. Any access to UKG's systems used in the provision of the Application shall be monitored.
- b. **Infrastructure of the Data Center:** UKG and/or its sub-processor(s) shall monitor the infrastructure in order to identify any security vulnerabilities.
- c. **Anti-Virus and Malware Scanning:** UKG uses commercially available malicious code detection software, including virus detection and malware detectors, on systems underlying the Application. Anti-virus definition files shall be updated regularly, on a scheduled basis, following the availability of such updates by the software provider.
- d. **Secure Coding Practices:** UKG developers shall be trained on secure development. Applications should be written in a secure manner to implement industry practices, such as input validation, session management, SQL injection, and cross site scripting mitigation. These practices shall be tested as part of the annual penetration testing described below.
- e. **Patch Management:** UKG shall review all patches, updates, and upgrades of operating systems, middleware, or applications to all relevant components of the

ADDENDUM TO KRONOS AGREEMENT WITH THE STATE OF WEST VIRGINIA

Kronos Incorporated ("Kronos") and the State of West Virginia ("State") agree that this addendum amends all documents included in the agreement between Kronos and the State, identified as Agreement No. CSSD ERP2300000001 and any other documents incidental thereto.

The Parties Agree as follows:

1. **Order of Precedence:** Any references to an order of precedence are hereby deleted to the extent that they conflict with this provision. The order of precedence for documents included in this contract shall be as follows:
 - a. This Addendum - First in priority.
 - b. Purchasing Division's General Terms and Conditions attached hereto as Exhibit A – Second Priority
 - c. The Software as a Service Addendum attached hereto as Exhibit B – Third Priority
 - d. The WV-96 attached hereto as Exhibit C –Fourth Priority
 - e. UKG Dimensions Addendum attached hereto as Exhibit D –Fifth Priority.
2. **Modified Terms:** The following terms are expressly modified as stated herein.
 - a. **WV-96**
 - i. Section 9, Limitation of Liability, is replaced by

“The Agency, as a State entity, cannot agree to assume the potential liability of a Vendor. Accordingly, any provision limiting the Vendor’s liability for direct damages is hereby deleted. Vendor’s liability under the agreement shall not exceed three times the total value of the agreement.”
 - b. **General Terms and Conditions:**
 - i. Section 20 of the General Terms and Conditions entitled “Time” is removed in its entirety.
 - ii. Section 36 of the General Terms and Conditions entitled “Indemnification” is modified by limiting Kronos indemnification obligations to IP infringement, personal injury, death, and damage to tangible personal property. Kronos agrees to indemnify and hold Customer harmless from and against all claims, suits and demands for bodily injury or tangible property damage to the extent caused by the negligence or willful misconduct of Kronos’ employees in the performance of services under this Agreement, provided that Kronos is given prompt written notice of any such claim and has sole control over the investigation, preparation, defense and settlement of such claim, and further provided that Customer reasonably cooperates with Kronos in connection with the foregoing and provides Kronos with all information in Customer’s possession related to such claim and further assistance as reasonably requested by Kronos. The particulars of Kronos’ indemnification for IP infringement are found in Exhibit C, UKG Dimensions Software As A Service Terms and Conditions, Section 13.

- iii. Section 40 of the General Terms and Conditions entitled "Background Check" is removed in its entirety and replaced with the following:

"40. Background Check: The State reserves the right to prohibit a service provider's employees from accessing sensitive or critical information or to be present at the Capitol complex based upon results addressed from a criminal background check. Service providers should contact the West Virginia Division of Protective Services by phone at (304) 558-9911 for more information."

- iv. Section 3 of the General Terms and Conditions entitled "Contract Term, Renewal, Extension" is eliminated in its entirety. The term of this Contract will be 48 Months with the option to renew for three (3) additional one (1) year terms.

The Parties are signing this Addendum on the date stated below the signature.

Kronos Incorporated

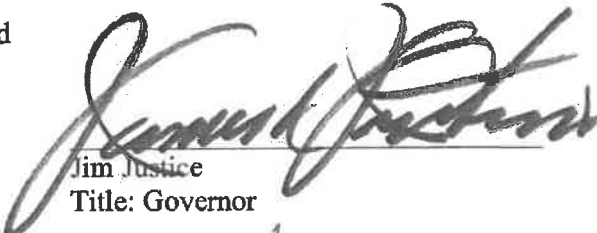
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By: Scott Giangrande
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Its: Scott Giangrande Sr. Order Processing Analyst
Date: 4/17/2023 | 3:28 PM EDT

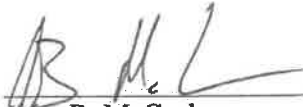
State of West Virginia
By the Enterprise Resource Planning Board

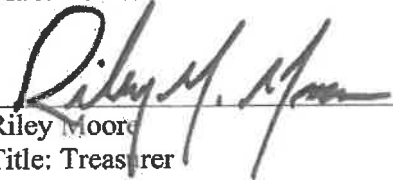
Dated: _____, 2023

Dated: 4/18/23, 2023

Dated: 4/20/23, 2023


Jim Justice
Title: Governor


John B. McCuskey
Title: Auditor


Riley Moore
Title: Treasurer

INSTRUCTIONS TO VENDORS SUBMITTING BIDS

1. REVIEW DOCUMENTS THOROUGHLY: The attached documents contain a solicitation for bids. Please read these instructions and all documents attached in their entirety. These instructions provide critical information about requirements that if overlooked could lead to disqualification of a Vendor's bid. All bids must be submitted in accordance with the provisions contained in these instructions and the Solicitation. Failure to do so may result in disqualification of Vendor's bid.

2. MANDATORY TERMS: The Solicitation may contain mandatory provisions identified by the use of the words "must," "will," and "shall." Failure to comply with a mandatory term in the Solicitation will result in bid disqualification.

3. PREBID MEETING: The item identified below shall apply to this Solicitation.

☒ A pre-bid meeting will not be held prior to bid opening

☐ A **MANDATORY PRE-BID** meeting will be held at the following place and time:

All Vendors submitting a bid must attend the mandatory pre-bid meeting. Failure to attend the mandatory pre-bid meeting shall result in disqualification of the Vendor's bid. No one individual is permitted to represent more than one vendor at the pre-bid meeting. Any individual that does attempt to represent two or more vendors will be required to select one vendor to which the individual's attendance will be attributed. The vendors not selected will be deemed to have not attended the pre-bid meeting unless another individual attended on their behalf.

An attendance sheet provided at the pre-bid meeting shall serve as the official document verifying attendance. Any person attending the pre-bid meeting on behalf of a Vendor must list on the attendance sheet his or her name and the name of the Vendor he or she is representing.

Additionally, the person attending the pre-bid meeting should include the Vendor's E-Mail address, phone number, and Fax number on the attendance sheet. It is the Vendor's responsibility to locate the attendance sheet and provide the required information. Failure to complete the attendance sheet as required may result in disqualification of Vendor's bid.

All Vendors should arrive prior to the starting time for the pre-bid. Vendors who arrive after the starting time but prior to the end of the pre-bid will be permitted to sign in but are charged with knowing all matters discussed at the pre-bid.

Questions submitted at least five business days prior to a scheduled pre-bid will be discussed at the pre-bid meeting if possible. Any discussions or answers to questions at the pre-bid meeting are preliminary in nature and are non-binding. Official and binding answers to questions will be published in a written addendum to the Solicitation prior to bid opening.

4. VENDOR QUESTION DEADLINE: Vendors may submit questions relating to this Solicitation to the Purchasing Division. Questions must be submitted in writing. All questions must be submitted on or before the date listed below and to the address listed below to be considered. A written response will be published in a Solicitation addendum if a response is possible and appropriate. Non-written discussions, conversations, or questions and answers regarding this Solicitation are preliminary in nature and are nonbinding.

Submitted emails should have the solicitation number in the subject line.

Question Submission Deadline:

Submit Questions to:
2019 Washington Street, East
Charleston, WV 25305
Fax: (304) 558-3970
Email:

5. VERBAL COMMUNICATION: Any verbal communication between the Vendor and any State personnel is not binding, including verbal communication at the mandatory pre-bid conference. Only information issued in writing and added to the Solicitation by an official written addendum by the Purchasing Division is binding.

6. BID SUBMISSION: All bids must be submitted on or before the date and time of the bid opening listed in section 7 below. Vendors can submit bids electronically through wvOASIS, in paper form delivered to the Purchasing Division at the address listed below either in person or by courier, or in facsimile form by faxing to the Purchasing Division at the number listed below. Notwithstanding the foregoing, the Purchasing Division may prohibit the submission of bids electronically through wvOASIS at its sole discretion. Such a prohibition will be contained and communicated in the wvOASIS system resulting in the Vendor's inability to submit bids through wvOASIS. The Purchasing Division will not accept bids, modification of bids, or addendum acknowledgment forms via email. Bids submitted in paper or facsimile form must contain a signature. Bids submitted in wvOASIS are deemed to be electronically signed.

Any bid received by the Purchasing Division staff is considered to be in the possession of the Purchasing Division and will not be returned for any reason.

For Request for Proposal ("RFP") Responses Only: Submission of a response to a Request for Proposal is not permitted in wvOASIS. In the event that Vendor is responding to a request for proposal, the Vendor shall submit one original technical and one original cost proposal prior to the bid opening date and time identified in Section 7 below, plus _____ convenience copies of each to the Purchasing Division at the address shown below. Additionally, the Vendor should clearly identify and segregate the cost proposal from the technical proposal in a separately sealed envelope.

Revised 11/1/2022

Bid Delivery Address and Fax Number:

Department of Administration, Purchasing Division
2019 Washington Street East
Charleston, WV 25305-0130
Fax: 304-558-3970

A bid submitted in paper or facsimile form should contain the information listed below on the face of the submission envelope or fax cover sheet. Otherwise, the bid may be rejected by the Purchasing Division.

VENDOR NAME:
BUYER:
SOLICITATION NO.:
BID OPENING DATE:
BID OPENING TIME:
FAX NUMBER:

7. BID OPENING: Bids submitted in response to this Solicitation will be opened at the location identified below on the date and time listed below. Delivery of a bid after the bid opening date and time will result in bid disqualification. For purposes of this Solicitation, a bid is considered delivered when confirmation of delivery is provided by wvOASIS (in the case of electronic submission) or when the bid is time stamped by the official Purchasing Division time clock (in the case of hand delivery).

Bid Opening Date and Time:

Bid Opening Location: Department of Administration, Purchasing Division
2019 Washington Street East
Charleston, WV 25305-0130

8. ADDENDUM ACKNOWLEDGEMENT: Changes or revisions to this Solicitation will be made by an official written addendum issued by the Purchasing Division. Vendor should acknowledge receipt of all addenda issued with this Solicitation by completing an Addendum Acknowledgment Form, a copy of which is included herewith. Failure to acknowledge addenda may result in bid disqualification. The addendum acknowledgement should be submitted with the bid to expedite document processing.

9. BID FORMATTING: Vendor should type or electronically enter the information onto its bid to prevent errors in the evaluation. Failure to type or electronically enter the information may result in bid disqualification.

10. ALTERNATE MODEL OR BRAND: Unless the box below is checked, any model, brand, or specification listed in this Solicitation establishes the acceptable level of quality only and is not intended to reflect a preference for, or in any way favor, a particular brand or vendor. Vendors may bid alternates to a listed model or brand provided that the alternate is at least equal to the model or brand and complies with the required specifications. The equality of any alternate being bid shall be determined by the State at its sole discretion. Any Vendor bidding an alternate model or brand should clearly identify the alternate items in its bid and should include manufacturer's specifications, industry literature, and/or any other relevant documentation demonstrating the equality of the alternate items. Failure to provide information for alternate items may be grounds for rejection of a Vendor's bid.

☐ This Solicitation is based upon a standardized commodity established under W. Va. Code § 5A-3-61. Vendors are expected to bid the standardized commodity identified. Failure to bid the standardized commodity will result in your firm's bid being rejected.

11. EXCEPTIONS AND CLARIFICATIONS: The Solicitation contains the specifications that shall form the basis of a contractual agreement. Vendor shall clearly mark any exceptions, clarifications, or other proposed modifications in its bid. Exceptions to, clarifications of, or modifications of a requirement or term and condition of the Solicitation may result in bid disqualification.

12. COMMUNICATION LIMITATIONS: In accordance with West Virginia Code of State Rules §148-1-6.6, communication with the State of West Virginia or any of its employees regarding this Solicitation during the solicitation, bid, evaluation or award periods, except through the Purchasing Division, is strictly prohibited without prior Purchasing Division approval. Purchasing Division approval for such communication is implied for all agency delegated and exempt purchases.

13. REGISTRATION: Prior to Contract award, the apparent successful Vendor must be properly registered with the West Virginia Purchasing Division and must have paid the \$125 fee, if applicable.

14. UNIT PRICE: Unit prices shall prevail in cases of a discrepancy in the Vendor's bid.

15. PREFERENCE: Vendor Preference may be requested in purchases of motor vehicles or construction and maintenance equipment and machinery used in highway and other infrastructure projects. Any request for preference must be submitted in writing with the bid, must specifically identify the preference requested with reference to the applicable subsection of West Virginia Code § 5A-3-37, and must include with the bid any information necessary to evaluate and confirm the applicability of the requested preference. A request form to help facilitate the request can be found at:
www.state.wv.us/admin/purchase/vrc/Venpref.pdf.

15A. RECIPROCAL PREFERENCE: The State of West Virginia applies a reciprocal preference to all solicitations for commodities and printing in accordance with W. Va. Code § 5A-3-37(b). In effect, non-resident vendors receiving a preference in their home states, will see that same preference granted to West Virginia resident vendors bidding against them in West Virginia. Any request for reciprocal preference must include with the bid any information necessary to evaluate and confirm the applicability of the preference. A request form to help facilitate the request can be found at: www.state.wv.us/admin/purchase/vrc/Venpref.pdf.

16. SMALL, WOMEN-OWNED, OR MINORITY-OWNED BUSINESSES: For any solicitations publicly advertised for bid, in accordance with West Virginia Code § 5A-3-37 and W. Va. CSR § 148-22-9, any non-resident vendor certified as a small, women-owned, or minority-owned business under W. Va. CSR § 148-22-9 shall be provided the same preference made available to any resident vendor. Any non-resident small, women-owned, or minority-owned business must identify itself as such in writing, must submit that writing to the Purchasing Division with its bid, and must be properly certified under W. Va. CSR § 148-22-9 prior to contract award to receive the preferences made available to resident vendors. Preference for a non-resident small, women-owned, or minority owned business shall be applied in accordance with W. Va. CSR § 148-22-9.

17. WAIVER OF MINOR IRREGULARITIES: The Director reserves the right to waive minor irregularities in bids or specifications in accordance with West Virginia Code of State Rules § 148-1-4.6.

18. ELECTRONIC FILE ACCESS RESTRICTIONS: Vendor must ensure that its submission in wvOASIS can be accessed and viewed by the Purchasing Division staff immediately upon bid opening. The Purchasing Division will consider any file that cannot be immediately accessed and viewed at the time of the bid opening (such as, encrypted files, password protected files, or incompatible files) to be blank or incomplete as context requires and are therefore unacceptable. A vendor will not be permitted to unencrypt files, remove password protections, or resubmit documents after bid opening to make a file viewable if those documents are required with the bid. A Vendor may be required to provide document passwords or remove access restrictions to allow the Purchasing Division to print or electronically save documents provided that those documents are viewable by the Purchasing Division prior to obtaining the password or removing the access restriction.

19. NON-RESPONSIBLE: The Purchasing Division Director reserves the right to reject the bid of any vendor as Non-Responsible in accordance with W. Va. Code of State Rules § 148-1-5.3, when the Director determines that the vendor submitting the bid does not have the capability to fully perform or lacks the integrity and reliability to assure good-faith performance."

20. ACCEPTANCE/REJECTION: The State may accept or reject any bid in whole, or in part in accordance with W. Va. Code of State Rules § 148-1-4.5. and § 148-1-6.4.b."

21. YOUR SUBMISSION IS A PUBLIC DOCUMENT: Vendor's entire response to the Solicitation and the resulting Contract are public documents. As public documents, they will be disclosed to the public following the bid/proposal opening or award of the contract, as required by the competitive bidding laws of West Virginia Code §§ 5A-3-1 et seq., 5-22-1 et seq., and 5G-1-1 et seq. and the Freedom of Information Act West Virginia Code §§ 29B-1-1 et seq.

DO NOT SUBMIT MATERIAL YOU CONSIDER TO BE CONFIDENTIAL, A TRADE SECRET, OR OTHERWISE NOT SUBJECT TO PUBLIC DISCLOSURE.

Submission of any bid, proposal, or other document to the Purchasing Division constitutes your explicit consent to the subsequent public disclosure of the bid, proposal, or document. The Purchasing Division will disclose any document labeled "confidential," "proprietary," "trade secret," "private," or labeled with any other claim against public disclosure of the documents, to include any "trade secrets" as defined by West Virginia Code § 47-22-1 et seq. All submissions are subject to public disclosure without notice.

22. WITH THE BID REQUIREMENTS: In instances where these specifications require documentation or other information with the bid, and a vendor fails to provide it with the bid, the Director of the Purchasing Division reserves the right to request those items after bid opening and prior to contract award pursuant to the authority to waive minor irregularities in bids or specifications under W. Va. CSR § 148-1-4.6. This authority does not apply to instances where state law mandates receipt with the bid.

23. EMAIL NOTIFICATION OF AWARD: The Purchasing Division will attempt to provide bidders with e-mail notification of contract award when a solicitation that the bidder participated in has been awarded. For notification purposes, bidders must provide the Purchasing Division with a valid email address in the bid response. Bidders may also monitor wvOASIS or the Purchasing Division's website to determine when a contract has been awarded.

24. ISRAEL BOYCOTT CERTIFICATION: Vendor's act of submitting a bid in response to this solicitation shall be deemed a certification from bidder to the State that bidder is not currently engaged in, and will not for the duration of the contract, engage in a boycott of Israel. This certification is required by W. Va. Code § 5A-3-63.

GENERAL TERMS AND CONDITIONS:

1. CONTRACTUAL AGREEMENT: Issuance of an Award Document signed by the Purchasing Division Director, or his designee, and approved as to form by the Attorney General's office constitutes acceptance by the State of this Contract made by and between the State of West Virginia and the Vendor. Vendor's signature on its bid, or on the Contract if the Contract is not the result of a bid solicitation, signifies Vendor's agreement to be bound by and accept the terms and conditions contained in this Contract.

2. DEFINITIONS: As used in this Solicitation/Contract, the following terms shall have the meanings attributed to them below. Additional definitions may be found in the specifications included with this Solicitation/Contract.

2.1. "Agency" or "Agencies" means the agency, board, commission, or other entity of the State of West Virginia that is identified on the first page of the Solicitation or any other public entity seeking to procure goods or services under this Contract.

2.2. "Bid" or "Proposal" means the vendors submitted response to this solicitation.

2.3. "Contract" means the binding agreement that is entered into between the State and the Vendor to provide the goods or services requested in the Solicitation.

2.4. "Director" means the Director of the West Virginia Department of Administration, Purchasing Division.

2.5. "Purchasing Division" means the West Virginia Department of Administration, Purchasing Division.

2.6. "Award Document" means the document signed by the Agency and the Purchasing Division, and approved as to form by the Attorney General, that identifies the Vendor as the contract holder.

2.7. "Solicitation" means the official notice of an opportunity to supply the State with goods or services that is published by the Purchasing Division.

2.8. "State" means the State of West Virginia and/or any of its agencies, commissions, boards, etc. as context requires.

2.9. "Vendor" or "Vendors" means any entity submitting a bid in response to the Solicitation, the entity that has been selected as the lowest responsible bidder, or the entity that has been awarded the Contract as context requires.

3. CONTRACT TERM; RENEWAL; EXTENSION: The term of this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below:

☒ **Term Contract**

Initial Contract Term: The Initial Contract Term will be for a period of 48 Months. The Initial Contract Term becomes effective on the effective start date listed on the first page of this Contract, identified as the State of West Virginia contract cover page containing the signatures of the Purchasing Division, Attorney General, and Encumbrance clerk (or another page identified as _____), and the Initial Contract Term ends on the effective end date also shown on the first page of this Contract.

Renewal Term: This Contract may be renewed upon the mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any request for renewal should be delivered to the Agency and then submitted to the Purchasing Division thirty (30) days prior to the expiration date of the initial contract term or appropriate renewal term. A Contract renewal shall be in accordance with the terms and conditions of the original contract. Unless otherwise specified below, renewal of this Contract is limited to Three successive one (1) year periods or multiple renewal periods of less than one year, provided that the multiple renewal periods do not exceed the total number of months available in all renewal years combined. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's office (Attorney General approval is as to form only)

☐ **Alternate Renewal Term** – This contract may be renewed for _____ successive _____ year periods or shorter periods provided that they do not exceed the total number of months contained in all available renewals. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's office (Attorney General approval is as to form only)

Delivery Order Limitations: In the event that this contract permits delivery orders, a delivery order may only be issued during the time this Contract is in effect. Any delivery order issued within one year of the expiration of this Contract shall be effective for one year from the date the delivery order is issued. No delivery order may be extended beyond one year after this Contract has expired.

☐ **Fixed Period Contract:** This Contract becomes effective upon Vendor's receipt of the notice to proceed and must be completed within _____ days.

☐ **Fixed Period Contract with Renewals:** This Contract becomes effective upon Vendor's receipt of the notice to proceed and part of the Contract more fully described in the attached specifications must be completed within _____ days. Upon completion of the work covered by the preceding sentence, the vendor agrees that:

☐ the contract will continue for _____ years;

☐ the contract may be renewed for _____ successive _____ year periods or shorter periods provided that they do not exceed the total number of months contained in all available renewals. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's Office (Attorney General approval is as to form only).

☐ **One-Time Purchase:** The term of this Contract shall run from the issuance of the Award Document until all of the goods contracted for have been delivered, but in no event will this Contract extend for more than one fiscal year.

☐ **Construction/Project Oversight:** This Contract becomes effective on the effective start date listed on the first page of this Contract, identified as the State of West Virginia contract cover page containing the signatures of the Purchasing Division, Attorney General, and Encumbrance clerk (or another page identified as _____), and continues until the project for which the vendor is providing oversight is complete.

☐ **Other:** Contract Term specified in _____

4. AUTHORITY TO PROCEED: Vendor is authorized to begin performance of this contract on the date of encumbrance listed on the front page of the Award Document unless either the box for "Fixed Period Contract" or "Fixed Period Contract with Renewals" has been checked in Section 3 above. If either "Fixed Period Contract" or "Fixed Period Contract with Renewals" has been checked, Vendor must not begin work until it receives a separate notice to proceed from the State. The notice to proceed will then be incorporated into the Contract via change order to memorialize the official date that work commenced.

5. QUANTITIES: The quantities required under this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below.

☒ **Open End Contract:** Quantities listed in this Solicitation/Award Document are approximations only, based on estimates supplied by the Agency. It is understood and agreed that the Contract shall cover the quantities actually ordered for delivery during the term of the Contract, whether more or less than the quantities shown.

☐ **Service:** The scope of the service to be provided will be more clearly defined in the specifications included herewith.

☒ **Combined Service and Goods:** The scope of the service and deliverable goods to be provided will be more clearly defined in the specifications included herewith.

☐ **One-Time Purchase:** This Contract is for the purchase of a set quantity of goods that are identified in the specifications included herewith. Once those items have been delivered, no additional goods may be procured under this Contract without an appropriate change order approved by the Vendor, Agency, Purchasing Division, and Attorney General's office.

☐ **Construction:** This Contract is for construction activity more fully defined in the specifications.

6. EMERGENCY PURCHASES: The Purchasing Division Director may authorize the Agency to purchase goods or services in the open market that Vendor would otherwise provide under this Contract if those goods or services are for immediate or expedited delivery in an emergency. Emergencies shall include, but are not limited to, delays in transportation or an unanticipated increase in the volume of work. An emergency purchase in the open market, approved by the Purchasing Division Director, shall not constitute of breach of this Contract and shall not entitle the Vendor to any form of compensation or damages. This provision does not excuse the State from fulfilling its obligations under a One-Time Purchase contract.

7. REQUIRED DOCUMENTS: All of the items checked in this section must be provided to the Purchasing Division by the Vendor as specified:

☐ **LICENSE(S) / CERTIFICATIONS / PERMITS:** In addition to anything required under the Section of the General Terms and Conditions entitled Licensing, the apparent successful Vendor shall furnish proof of the following licenses, certifications, and/or permits upon request and in a form acceptable to the State. The request may be prior to or after contract award at the State's sole discretion.

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The apparent successful Vendor shall also furnish proof of any additional licenses or certifications contained in the specifications regardless of whether or not that requirement is listed above.

8. INSURANCE: The apparent successful Vendor shall furnish proof of the insurance identified by a checkmark below prior to Contract award. The insurance coverages identified below must be maintained throughout the life of this contract. Thirty (30) days prior to the expiration of the insurance policies, Vendor shall provide the Agency with proof that the insurance mandated herein has been continued. Vendor must also provide Agency with immediate notice of any changes in its insurance policies, including but not limited to, policy cancelation, policy reduction, or change in insurers. The apparent successful Vendor shall also furnish proof of any additional insurance requirements contained in the specifications prior to Contract award regardless of whether that insurance requirement is listed in this section.

Vendor must maintain:

☒ **Commercial General Liability Insurance** in at least an amount of: \$1,000,000 per occurrence.

☐ **Automobile Liability Insurance** in at least an amount of: _____ per occurrence.

☐ **Professional/Malpractice/Errors and Omission Insurance** in at least an amount of: _____ per occurrence. Notwithstanding the forgoing, Vendor's are not required to list the State as an additional insured for this type of policy.

☐ **Commercial Crime and Third Party Fidelity Insurance** in an amount of: _____ per occurrence.

☒ **Cyber Liability Insurance** in an amount of: \$1,000,000 per occurrence.

☐ **Builders Risk Insurance** in an amount equal to 100% of the amount of the Contract.

☐ **Pollution Insurance** in an amount of: _____ per occurrence.

☐ **Aircraft Liability** in an amount of: _____ per occurrence.

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9. WORKERS' COMPENSATION INSURANCE: Vendor shall comply with laws relating to workers compensation, shall maintain workers' compensation insurance when required, and shall furnish proof of workers' compensation insurance upon request.

10. VENUE: All legal actions for damages brought by Vendor against the State shall be brought in the West Virginia Claims Commission. Other causes of action must be brought in the West Virginia court authorized by statute to exercise jurisdiction over it.

11. LIQUIDATED DAMAGES: This clause shall in no way be considered exclusive and shall not limit the State or Agency's right to pursue any other available remedy. Vendor shall pay liquidated damages in the amount specified below or as described in the specifications:

☐ _____ for _____

☐ Liquidated Damages Contained in the Specifications.

☐ Liquidated Damages Are Not Included in this Contract.

12. ACCEPTANCE: Vendor's signature on its bid, or on the certification and signature page, constitutes an offer to the State that cannot be unilaterally withdrawn, signifies that the product or service proposed by vendor meets the mandatory requirements contained in the Solicitation for that product or service, unless otherwise indicated, and signifies acceptance of the terms and conditions contained in the Solicitation unless otherwise indicated.

13. PRICING: The pricing set forth herein is firm for the life of the Contract, unless specified elsewhere within this Solicitation/Contract by the State. A Vendor's inclusion of price adjustment provisions in its bid, without an express authorization from the State in the Solicitation to do so, may result in bid disqualification. Notwithstanding the foregoing, Vendor must extend any publicly advertised sale price to the State and invoice at the lower of the contract price or the publicly advertised sale price.

14. PAYMENT IN ARREARS: Payments for goods/services will be made in arrears only upon receipt of a proper invoice, detailing the goods/services provided or receipt of the goods/services, whichever is later. Notwithstanding the foregoing, payments for software maintenance, licenses, or subscriptions may be paid annually in advance.

15. PAYMENT METHODS: Vendor must accept payment by electronic funds transfer and P-Card. (The State of West Virginia's Purchasing Card program, administered under contract by a banking institution, processes payment for goods and services through state designated credit cards.)

16. TAXES: The Vendor shall pay any applicable sales, use, personal property or any other taxes arising out of this Contract and the transactions contemplated thereby. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.

17. ADDITIONAL FEES: Vendor is not permitted to charge additional fees or assess additional charges that were not either expressly provided for in the solicitation published by the State of West Virginia, included in the Contract, or included in the unit price or lump sum bid amount that Vendor is required by the solicitation to provide. Including such fees or charges as notes to the solicitation may result in rejection of vendor's bid. Requesting such fees or charges be paid after the contract has been awarded may result in cancellation of the contract.

18. FUNDING: This Contract shall continue for the term stated herein, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise made available, this Contract becomes void and of no effect beginning on July 1 of the fiscal year for which funding has not been appropriated or otherwise made available. If that occurs, the State may notify the Vendor that an alternative source of funding has been obtained and thereby avoid the automatic termination. Non-appropriation or non-funding shall not be considered an event of default.

19. CANCELLATION: The Purchasing Division Director reserves the right to cancel this Contract immediately upon written notice to the vendor if the materials or workmanship supplied do not conform to the specifications contained in the Contract. The Purchasing Division Director may also cancel any purchase or Contract upon 30 days written notice to the Vendor in accordance with West Virginia Code of State Rules § 148-1-5.2.b.

20. TIME: Time is of the essence regarding all matters of time and performance in this Contract.

21. APPLICABLE LAW: This Contract is governed by and interpreted under West Virginia law without giving effect to its choice of law principles. Any information provided in specification manuals, or any other source, verbal or written, which contradicts or violates the West Virginia Constitution, West Virginia Code, or West Virginia Code of State Rules is void and of no effect.

22. COMPLIANCE WITH LAWS: Vendor shall comply with all applicable federal, state, and local laws, regulations and ordinances. By submitting a bid, Vendor acknowledges that it has reviewed, understands, and will comply with all applicable laws, regulations, and ordinances.

SUBCONTRACTOR COMPLIANCE: Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to comply with all applicable laws, regulations, and ordinances. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.

23. ARBITRATION: Any references made to arbitration contained in this Contract, Vendor's bid, or in any American Institute of Architects documents pertaining to this Contract are hereby deleted, void, and of no effect.

24. MODIFICATIONS: This writing is the parties' final expression of intent. Notwithstanding anything contained in this Contract to the contrary no modification of this Contract shall be binding without mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any change to existing contracts that adds work or changes contract cost, and were not included in the original contract, must be approved by the Purchasing Division and the Attorney General's Office (as to form) prior to the implementation of the change or commencement of work affected by the change.

25. WAIVER: The failure of either party to insist upon a strict performance of any of the terms or provision of this Contract, or to exercise any option, right, or remedy herein contained, shall not be construed as a waiver or a relinquishment for the future of such term, provision, option, right, or remedy, but the same shall continue in full force and effect. Any waiver must be expressly stated in writing and signed by the waiving party.

26. SUBSEQUENT FORMS: The terms and conditions contained in this Contract shall supersede any and all subsequent terms and conditions which may appear on any form documents submitted by Vendor to the Agency or Purchasing Division such as price lists, order forms, invoices, sales agreements, or maintenance agreements, and includes internet websites or other electronic documents. Acceptance or use of Vendor's forms does not constitute acceptance of the terms and conditions contained thereon.

27. ASSIGNMENT: Neither this Contract nor any monies due, or to become due hereunder, may be assigned by the Vendor without the express written consent of the Agency, the Purchasing Division, the Attorney General's office (as to form only), and any other government agency or office that may be required to approve such assignments.

28. WARRANTY: The Vendor expressly warrants that the goods and/or services covered by this Contract will: (a) conform to the specifications, drawings, samples, or other description furnished or specified by the Agency; (b) be merchantable and fit for the purpose intended; and (c) be free from defect in material and workmanship.

29. STATE EMPLOYEES: State employees are not permitted to utilize this Contract for personal use and the Vendor is prohibited from permitting or facilitating the same.

30. PRIVACY, SECURITY, AND CONFIDENTIALITY: The Vendor agrees that it will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the Agency, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the Agency's policies, procedures, and rules. Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements, set forth in <http://www.state.wv.us/admin/purchase/privacy/default.html>.

31. YOUR SUBMISSION IS A PUBLIC DOCUMENT: Vendor's entire response to the Solicitation and the resulting Contract are public documents. As public documents, they will be disclosed to the public following the bid/proposal opening or award of the contract, as required by the competitive bidding laws of West Virginia Code §§ 5A-3-1 et seq., 5-22-1 et seq., and 5G-1-1 et seq. and the Freedom of Information Act West Virginia Code §§ 29B-1-1 et seq.

DO NOT SUBMIT MATERIAL YOU CONSIDER TO BE CONFIDENTIAL, A TRADE SECRET, OR OTHERWISE NOT SUBJECT TO PUBLIC DISCLOSURE.

Submission of any bid, proposal, or other document to the Purchasing Division constitutes your explicit consent to the subsequent public disclosure of the bid, proposal, or document. The Purchasing Division will disclose any document labeled "confidential," "proprietary," "trade secret," "private," or labeled with any other claim against public disclosure of the documents, to include any "trade secrets" as defined by West Virginia Code § 47-22-1 et seq. All submissions are subject to public disclosure without notice.

32. LICENSING: In accordance with West Virginia Code of State Rules § 148-1-6.1.e, Vendor must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, West Virginia Insurance Commission, or any other state agency or political subdivision. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. Upon request, the Vendor must provide all necessary releases to obtain information to enable the Purchasing Division Director or the Agency to verify that the Vendor is licensed and in good standing with the above entities.

SUBCONTRACTOR COMPLIANCE: Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to be licensed, in good standing, and up-to-date on all state and local obligations as described in this section. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.

33. ANTITRUST: In submitting a bid to, signing a contract with, or accepting a Award Document from any agency of the State of West Virginia, the Vendor agrees to convey, sell, assign, or transfer to the State of West Virginia all rights, title, and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of West Virginia for price fixing and/or unreasonable restraints of trade relating to the particular commodities or services purchased or acquired by the State of West Virginia. Such assignment shall be made and become effective at the time the purchasing agency tenders the initial payment to Vendor.

34. VENDOR NON-CONFLICT: Neither Vendor nor its representatives are permitted to have any interest, nor shall they acquire any interest, direct or indirect, which would compromise the performance of its services hereunder. Any such interests shall be promptly presented in detail to the Agency.

Revised 11/1/2022

35. VENDOR RELATIONSHIP: The relationship of the Vendor to the State shall be that of an independent contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by this Contract. The Vendor as an independent contractor is solely liable for the acts and omissions of its employees and agents. Vendor shall be responsible for selecting, supervising, and compensating any and all individuals employed pursuant to the terms of this Solicitation and resulting contract. Neither the Vendor, nor any employees or subcontractors of the Vendor, shall be deemed to be employees of the State for any purpose whatsoever. Vendor shall be exclusively responsible for payment of employees and contractors for all wages and salaries, taxes, withholding payments, penalties, fees, fringe benefits, professional liability insurance premiums, contributions to insurance and pension, or other deferred compensation plans, including but not limited to, Workers' Compensation and Social Security obligations, licensing fees, etc. and the filing of all necessary documents, forms, and returns pertinent to all of the foregoing.

Vendor shall hold harmless the State, and shall provide the State and Agency with a defense against any and all claims including, but not limited to, the foregoing payments, withholdings, contributions, taxes, Social Security taxes, and employer income tax returns.

36. INDEMNIFICATION: The Vendor agrees to indemnify, defend, and hold harmless the State and the Agency, their officers, and employees from and against: (1) Any claims or losses for services rendered by any subcontractor, person, or firm performing or supplying services, materials, or supplies in connection with the performance of the Contract; (2) Any claims or losses resulting to any person or entity injured or damaged by the Vendor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data used under the Contract in a manner not authorized by the Contract, or by Federal or State statutes or regulations; and (3) Any failure of the Vendor, its officers, employees, or subcontractors to observe State and Federal laws including, but not limited to, labor and wage and hour laws.

37. NO DEBT CERTIFICATION: In accordance with West Virginia Code §§ 5A-3-10a and 5-22-1(i), the State is prohibited from awarding a contract to any bidder that owes a debt to the State or a political subdivision of the State. By submitting a bid, or entering into a contract with the State, Vendor is affirming that (1) for construction contracts, the Vendor is not in default on any monetary obligation owed to the state or a political subdivision of the state, and (2) for all other contracts, neither the Vendor nor any related party owe a debt as defined above, and neither the Vendor nor any related party are in employer default as defined in the statute cited above unless the debt or employer default is permitted under the statute.

38. CONFLICT OF INTEREST: Vendor, its officers or members or employees, shall not presently have or acquire an interest, direct or indirect, which would conflict with or compromise the performance of its obligations hereunder. Vendor shall periodically inquire of its officers, members and employees to ensure that a conflict of interest does not arise. Any conflict of interest discovered shall be promptly presented in detail to the Agency.

39. REPORTS: Vendor shall provide the Agency and/or the Purchasing Division with the following reports identified by a checked box below:

☐ Such reports as the Agency and/or the Purchasing Division may request. Requested reports may include, but are not limited to, quantities purchased, agencies utilizing the contract, total contract expenditures by agency, etc.

☐ Quarterly reports detailing the total quantity of purchases in units and dollars, along with a listing of purchases by agency. Quarterly reports should be delivered to the Purchasing Division via email at purchasing.division@wv.gov.

40. BACKGROUND CHECK: In accordance with W. Va. Code § 15-2D-3, the State reserves the right to prohibit a service provider's employees from accessing sensitive or critical information or to be present at the Capitol complex based upon results addressed from a criminal background check. Service providers should contact the West Virginia Division of Protective Services by phone at (304) 558-9911 for more information.

41. PREFERENCE FOR USE OF DOMESTIC STEEL PRODUCTS: Except when authorized by the Director of the Purchasing Division pursuant to W. Va. Code § 5A-3-56, no contractor may use or supply steel products for a State Contract Project other than those steel products made in the United States. A contractor who uses steel products in violation of this section may be subject to civil penalties pursuant to W. Va. Code § 5A-3-56. As used in this section:

- a. "State Contract Project" means any erection or construction of, or any addition to, alteration of or other improvement to any building or structure, including, but not limited to, roads or highways, or the installation of any heating or cooling or ventilating plants or other equipment, or the supply of and materials for such projects, pursuant to a contract with the State of West Virginia for which bids were solicited on or after June 6, 2001.
- b. "Steel Products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two or more or such operations, from steel made by the open hearth, basic oxygen, electric furnace, Bessemer or other steel making process.
- c. The Purchasing Division Director may, in writing, authorize the use of foreign steel products if:
 1. The cost for each contract item used does not exceed one tenth of one percent (.1%) of the total contract cost or two thousand five hundred dollars (\$2,500.00), whichever is greater. For the purposes of this section, the cost is the value of the steel product as delivered to the project; or
 2. The Director of the Purchasing Division determines that specified steel materials are not produced in the United States in sufficient quantity or otherwise are not reasonably available to meet contract requirements.

42. PREFERENCE FOR USE OF DOMESTIC ALUMINUM, GLASS, AND STEEL: In Accordance with W. Va. Code § 5-19-1 et seq., and W. Va. CSR § 148-10-1 et seq., for every contract or subcontract, subject to the limitations contained herein, for the construction, reconstruction, alteration, repair, improvement or maintenance of public works or for the purchase of any item of machinery or equipment to be used at sites of public works, only domestic aluminum, glass or steel products shall be supplied unless the spending officer determines, in writing, after the receipt of offers or bids, (1) that the cost of domestic aluminum, glass or steel products is unreasonable or inconsistent with the public interest of the State of West Virginia, (2) that domestic aluminum, glass or steel products are not produced in sufficient quantities to meet the contract requirements, or (3) the available domestic aluminum, glass, or steel do not meet the contract specifications. This provision only applies to public works contracts awarded in an amount more than fifty thousand dollars (\$50,000) or public works contracts that require more than ten thousand pounds of steel products.

The cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than twenty percent (20%) of the bid or offered price for foreign made aluminum, glass, or steel products. If the domestic aluminum, glass or steel products to be supplied or produced in a "substantial labor surplus area", as defined by the United States Department of Labor, the cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than thirty percent (30%) of the bid or offered price for foreign made aluminum, glass, or steel products. This preference shall be applied to an item of machinery or equipment, as indicated above, when the item is a single unit of equipment or machinery manufactured primarily of aluminum, glass or steel, is part of a public works contract and has the sole purpose or of being a permanent part of a single public works project. This provision does not apply to equipment or machinery purchased by a spending unit for use by that spending unit and not as part of a single public works project.

All bids and offers including domestic aluminum, glass or steel products that exceed bid or offer prices including foreign aluminum, glass or steel products after application of the preferences provided in this provision may be reduced to a price equal to or lower than the lowest bid or offer price for foreign aluminum, glass or steel products plus the applicable preference. If the reduced bid or offer prices are made in writing and supersede the prior bid or offer prices, all bids or offers, including the reduced bid or offer prices, will be reevaluated in accordance with this rule.

43. INTERESTED PARTY SUPPLEMENTAL DISCLOSURE: W. Va. Code § 6D-1-2 requires that for contracts with an actual or estimated value of at least \$1 million, the Vendor must submit to the Agency a disclosure of interested parties prior to beginning work under this Contract. Additionally, the Vendor must submit a supplemental disclosure of interested parties reflecting any new or differing interested parties to the contract, which were not included in the original pre-work interested party disclosure, within 30 days following the completion or termination of the contract. A copy of that form is included with this solicitation or can be obtained from the WV Ethics Commission. This requirement does not apply to publicly traded companies listed on a national or international stock exchange. A more detailed definition of interested parties can be obtained from the form referenced above.

44. PROHIBITION AGAINST USED OR REFURBISHED: Unless expressly permitted in the solicitation published by the State, Vendor must provide new, unused commodities, and is prohibited from supplying used or refurbished commodities, in fulfilling its responsibilities under this Contract.

45. VOID CONTRACT CLAUSES: This Contract is subject to the provisions of West Virginia Code § 5A-3-62, which automatically voids certain contract clauses that violate State law.

46. ISRAEL BOYCOTT: Bidder understands and agrees that, pursuant to W. Va. Code § 5A-3-63, it is prohibited from engaging in a boycott of Israel during the term of this contract.

DESIGNATED CONTACT: Vendor appoints the individual identified in this Section as the Contract Administrator and the initial point of contact for matters relating to this Contract.

(Printed Name and Title) Christina Beacham - Representative Public Sector

(Address) _____

(Phone Number) / (Fax Number) 724-272-8468

(Email address) tbeacham@ukg.com

CERTIFICATION AND SIGNATURE: By signing below, or submitting documentation through wvOASIS, I certify that: I have reviewed this Solicitation/Contract in its entirety; that I understand the requirements, terms and conditions, and other information contained herein; that this bid, offer or proposal constitutes an offer to the State that cannot be unilaterally withdrawn; that the product or service proposed meets the mandatory requirements contained in the Solicitation/Contract for that product or service, unless otherwise stated herein; that the Vendor accepts the terms and conditions contained in the Solicitation, unless otherwise stated herein; that I am submitting this bid, offer or proposal for review and consideration; that this bid or offer was made without prior understanding, agreement, or connection with any entity submitting a bid or offer for the same material, supplies, equipment or services; that this bid or offer is in all respects fair and without collusion or fraud; that this Contract is accepted or entered into without any prior understanding, agreement, or connection to any other entity that could be considered a violation of law; that I am authorized by the Vendor to execute and submit this bid, offer, or proposal, or any documents related thereto on Vendor's behalf; that I am authorized to bind the vendor in a contractual relationship; and that to the best of my knowledge, the vendor has properly registered with any State agency that may require registration.

By signing below, I further certify that I understand this Contract is subject to the provisions of West Virginia Code § 5A-3-62, which automatically voids certain contract clauses that violate State law; and that pursuant to W. Va. Code 5A-3-63, the entity entering into this contract is prohibited from engaging in a boycott against Israel.

UKG

(Company)

DocuSigned by:

Scott Giangrande

(Signature of Authorized Representative)

Scott Giangrande

Sr. Order Processing Analyst

3/24/2023 | 12:45 PM EDT

(Printed Name and Title of Authorized Representative) (Date)

978-947-1752

(Phone Number) (Fax Number)

scott.giangrande@ukg.com

(Email Address)

**ADDENDUM ACKNOWLEDGEMENT FORM
SOLICITATION NO.:**

Instructions: Please acknowledge receipt of all addenda issued with this solicitation by completing this addendum acknowledgment form. Check the box next to each addendum received and sign below. Failure to acknowledge addenda may result in bid disqualification.

Acknowledgment: I hereby acknowledge receipt of the following addenda and have made the necessary revisions to my proposal, plans and/or specification, etc.

Addendum Numbers Received:

(Check the box next to each addendum received)

- ☐ Addendum No. 1
- ☐ Addendum No. 2
- ☐ Addendum No. 3
- ☐ Addendum No. 4
- ☐ Addendum No. 5

- ☐ Addendum No. 6
- ☐ Addendum No. 7
- ☐ Addendum No. 8
- ☐ Addendum No. 9
- ☐ Addendum No. 10

I understand that failure to confirm the receipt of addenda may be cause for rejection of this bid. I further understand that any verbal representation made or assumed to be made during any oral discussion held between Vendor's representatives and any state personnel is not binding. Only the information issued in writing and added to the specifications by an official addendum is binding.

UKG

Company

DocuSigned by:

Scott Giangrande

Authorized Signature

3/24/2023 | 12:45 PM EDT

Date

NOTE: This addendum acknowledgment should be submitted with the bid to expedite document processing.

Exhibit B

Software as a Service Addendum

1. Definitions:

Kronos will host data in US data centers unless mutually agreed.

Authorized Persons means the service provider's employees, contractors, subcontractors or other agents who have responsibility in protecting or have access to the public jurisdiction's personal data and non-public data to enable the service provider to perform the services required.

Data Breach means the unauthorized access and acquisition of unencrypted and unredacted personal data that compromises the security or confidentiality of a public jurisdiction's personal information and that causes the service provider or public jurisdiction to reasonably believe that the data breach has caused or will cause identity theft or other fraud.

Individually Identifiable Health Information means information that is a subset of health information, including demographic information collected from an individual, and (1) is created or received by a health care provider, health plan, employer or health care clearinghouse; and (2) relates to the past, present or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (a) that identifies the individual; or (b) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

Non-Public Data means data, other than personal data, that is not subject to distribution to the public as public information. It is deemed to be sensitive and confidential by the public jurisdiction because it contains information that is exempt by statute, ordinance or administrative rule from access by the general public as public information.

Personal Data means data that includes information relating to a person that identifies the person by first name or first initial, and last name, and has any of the following personally identifiable information (PII): government-issued identification numbers (e.g., Social Security, driver's license, state identification card); financial account information, including account number, credit or debit card numbers; or protected health information (PHI).

Public Jurisdiction means any government or government agency that uses these terms and conditions. The term is a placeholder for the government or government agency.

Public Jurisdiction Data means all data created or in any way originating with the public jurisdiction, and all data that is the output of computer processing or other electronic manipulation of any data that was created by or in any way originated with the public jurisdiction, whether such data or output is stored on the public jurisdiction's hardware, the service provider's hardware or exists in any system owned, maintained or otherwise controlled by the public jurisdiction or by the service provider.

Public Jurisdiction Identified Contact means the person or persons designated in writing by the public jurisdiction to receive security incident or breach notification.

Restricted Data means personal data and non-public data.

Security Incident means the actual unauthorized access to personal data or non-public data the service provider believes could reasonably result in the use, disclosure or theft of a public jurisdiction's unencrypted personal data or non-public data within the possession or control of the service provider. A security incident may or may not turn into a Data Breach.

Service Provider means the contractor and its employees, subcontractors, agents and affiliates who are providing the services agreed to under the contract.

Software-as-a-Service (SaaS) means the capability provided to the consumer to use the provider's applications running on a cloud infrastructure. The applications are accessible from various client devices through a thin-client interface such as a Web browser (e.g., Web-based email) or a program interface. The consumer does not manage or control the underlying cloud infrastructure including network, servers, operating systems, storage or even individual application capabilities, with the possible exception of limited user-specific application configuration settings.

2. Data Ownership: The public jurisdiction will own all right, title and interest in its data that is related to the services provided by this contract. The service provider shall not access public jurisdiction user accounts or public jurisdiction data, except (1) in the course of data center operations, (2) in response to service or technical issues, (3) as required by the express terms of this contract or (4) at the public jurisdiction's written request.

3. Data Protection and Privacy: Protection of personal privacy and data shall be an integral part of the business activities of the service provider to ensure there is no inappropriate or unauthorized use of public jurisdiction information at any time. To this end, the service provider shall safeguard the confidentiality, integrity and availability of public jurisdiction information and comply with the following conditions:

- a) The service provider shall implement and maintain appropriate administrative, technical and physical security measures to safeguard against unauthorized access, disclosure or theft of personal data and non-public data. In Appendix A, the public jurisdiction shall indicate whether restricted information will be processed by the service provider. Such security measures shall be in accordance with recognized industry practice and not less stringent than the measures the service provider applies to its own personal data and non-public data of similar kind. The service provider shall ensure that all such measures, including the manner in which personal data and non-public data are collected, accessed, used, stored, processed, disposed of and disclosed, comply with applicable data protection and privacy laws, as well as the terms and conditions of this Addendum and shall survive termination of the underlying contract.
- b) The service provider represents and warrants that its collection, access, use, storage, disposal and disclosure of personal data and non-public data do and will comply with all applicable federal and state privacy and data protection laws, as well as all other applicable regulations and directives.

- c) The service provider shall support third-party multi-factor authentication via SAML 2.0 integration with public jurisdiction third-party identity provider as described in product documentation to safeguard personal data and non-public data.
- d) All data obtained by the service provider in the performance of this contract shall become and remain the property of the public jurisdiction.
- e) All personal data shall be encrypted at rest and in transit to/from the edge of Kronos Cloud data centers with controlled access. Unless otherwise stipulated, the service provider is responsible for encryption of the personal data.
- f) Unless otherwise stipulated, the service provider shall encrypt all non-public data at rest and in transit, in accordance with recognized industry practice.
- g) With delivery of the software and instructions, the service provider shall provide guidelines to the public jurisdiction detailing the public jurisdiction's specific security roles and responsibilities and best practices for implementation of security controls for the service provider's application. These guidelines shall be made a part of this contract.
- h) At no time shall any data or process – that either belong to or are intended for the use of a public jurisdiction or its officers, agents or employees — be copied, disclosed or retained by the service provider or any party related to the service provider for subsequent use in any transaction that does not include the public jurisdiction.
- i) The service provider shall not use or disclose any information collected in connection with the service issued from this proposal for any purpose other than fulfilling the service.
- j) Data Location. For non-public data and personal data, the service provider shall provide its data center services to the public jurisdiction and its end users solely from data centers in the U.S. Storage of public jurisdiction data at rest shall be located solely in data centers in the U.S. The service provider shall not allow its personnel or contractors to *store* public jurisdiction data on portable devices, including personal computers, except for devices that are used and kept only at its U.S. data centers. With agreement from the public jurisdiction, this term may be met by the service provider providing its services from an acceptable alternative data center location, which agreement shall be stated in Appendix A. The service provider shall permit its personnel and contractors to access public jurisdiction data remotely only as required to provide technical support.

4. Security Incident or Data Breach Notification: The service provider shall inform the public jurisdiction of any actual/confirmed security incident or data breach.

- a) Incident Response: The service provider may need to communicate with outside parties regarding a security incident, which may include contacting law enforcement, fielding media inquiries and seeking external expertise as, defined by law, contained in the contract, or at Service Provider's sole discretion. Discussing security incidents with the public jurisdiction shall be handled on an urgent as-needed basis, as part of service provider communication and mitigation processes .

- b) **Security Incident Reporting Requirements:** The service provider shall report an actual/confirmed Security Incident as soon as practicable, but no later than twenty-four (24) hours after the service provider becomes aware of it, to: (1) the department privacy officer, by email, with a read receipt, identified in Appendix A; and, (2) unless otherwise directed by the public jurisdiction in the underlying contract, the WVOT Online Computer Security and Privacy Incident Reporting System at <https://apps.wv.gov/ot/ir/Default.aspx>. The following information shall be shared with the public jurisdiction: (1) incident phase (detection and analysis; containment, eradication and recovery; or post-incident activity), (2) projected business impact, and, (3) attack source information.
- c) **Breach Reporting Requirements:** Upon the discovery of a data breach or unauthorized access to non-public data, the service provider shall immediately report to: (1) the department privacy officer, by email, with a read receipt, identified in Appendix A; and, (2) unless otherwise directed by the public jurisdiction in the underlying contract, the WVOT Online Computer Security and Privacy Incident Reporting System at <https://apps.wv.gov/ot/ir/Default.aspx>.

5. Breach Responsibilities: This section only applies when a data breach occurs with respect to personal data within the possession or control of the service provider.

- a) The service provider shall provide the public jurisdiction with the name and contact information for a team of service provider who shall serve as the public jurisdiction's primary security contact and shall be available to assist the public jurisdiction twenty-four (24) hours per day, seven (7) days per week as a contact in resolving obligations associated with a data breach. The service provider shall provide this information in Appendix A.
- b) Immediately following the service provider's notification to the public jurisdiction of a data breach, the parties shall cooperate with each other to investigate the data breach. The service provider agrees to fully cooperate with the public jurisdiction in the public jurisdiction's handling of the matter, including, without limitation, at the public jurisdiction's request, making available relevant information and reporting required to comply with applicable law and regulation.
- c) Within 72 hours of the discovery, upon request, the service provider shall notify the parties listed in 4(c) above, to the extent known: (1) date of discovery; (2) list of data elements and the number of individual records; (3) description of the unauthorized persons known or reasonably believed to have improperly used or disclosed the personal data; (4) description of where the personal data is believed to have been improperly transmitted, sent, or utilized; and, (5) description of the probable causes of the improper use or disclosure.
- d) The service provider shall (1) cooperate with the public jurisdiction as reasonably requested by the public jurisdiction to investigate and resolve the data breach, (2) promptly implement necessary remedial measures, if necessary, and prevent any further data breach at the service provider's expense in accordance with applicable privacy rights, laws and regulations and (3) document responsive actions taken related to the data breach, including any post-incident review of events and actions taken to make changes in business practices in providing the services, if necessary.

- e) If a data breach is a direct result of the service provider's breach of its contract obligation to encrypt personal data or otherwise prevent its release, the service provider shall bear the costs associated with (1) the investigation and resolution of the data breach; (2) notifications to individuals, regulators or others required by state or federal law; (3) a credit monitoring service (4) a website or a toll-free number and call center for affected individuals required by state law — all not to exceed the average per record per person cost calculated for data breaches in the United States (currently \$141 per record/person) in the most recent Cost of Data Breach Study: Global Analysis published by the Ponemon Institute at the time of the data breach; and (5) complete all corrective actions as reasonably determined by service provider based on root cause. The service provider agrees that it shall not inform any third party of any data breach without first obtaining the public jurisdiction's prior written consent, other than to inform a complainant that the matter has been forwarded to the public jurisdiction's legal counsel and/or engage a third party with appropriate expertise and confidentiality protections for any reason connected to the data breach. Except with respect to where the service provider has an independent legal obligation to report a data breach, the service provider agrees that the public jurisdiction shall have the sole right to determine: (1) whether notice of the data breach is to be provided to any individuals, regulators, law enforcement agencies, consumer reporting agencies or others, as required by law or regulation, or otherwise in the public jurisdiction's discretion; and (2) the contents of such notice, whether any type of remediation may be offered to affected persons, and the nature and extent of any such remediation. The service provider retains the right to report activity to law enforcement.

6. Notification of Legal Requests: The service provider shall contact the public jurisdiction upon receipt of any electronic discovery, litigation holds, discovery searches and expert testimonies related to the public jurisdiction's data under this contract, or which in any way might reasonably require access to the data of the public jurisdiction. The service provider shall not respond to subpoenas, service of process and other legal requests related to the public jurisdiction without first notifying the public jurisdiction, unless prohibited by law from providing such notice.

7. Termination and Suspension of Service:

- a) In the event of a termination of the contract, the service provider shall implement an orderly return of public jurisdiction data in MS SQL format at a time agreed to by the parties and the subsequent secure disposal of public jurisdiction data.
- b) During any period of service suspension, the service provider shall not take any action to intentionally erase any public jurisdiction data.
- c) Unless otherwise specified in the Contract, in the event of termination of any services or agreement in entirety, the service provider shall not take any action to intentionally erase any public jurisdiction data for a period of:

- 30 days after the effective date of termination, if the termination is for convenience

After such period, the service provider shall have no obligation to maintain or provide any public jurisdiction data and shall thereafter, unless legally prohibited, delete all public jurisdiction data in its systems or otherwise in its possession or under its control.

- d) The public jurisdiction shall be entitled to any post-termination assistance generally made available with respect to the services, unless a unique data retrieval arrangement has been established as part of the Contract.
- e) The service provider shall securely dispose of all requested data in all of its forms, such as disk, CD/ DVD, backup tape and paper, when requested by the public jurisdiction. Data shall be permanently deleted and shall not be recoverable, according to National Institute of Standards and Technology (NIST)-approved methods. Certificates of destruction shall be provided to the public jurisdiction upon request.

8. Background Checks: The service provider shall conduct criminal background checks and not utilize any staff, including subcontractors, to fulfill the obligations of the contract who have been convicted of any crime of dishonesty, including but not limited to criminal fraud, or otherwise convicted of any felony or misdemeanor offense for which incarceration for up to 1 year is an authorized penalty. The service provider shall promote and maintain an awareness of the importance of securing the public jurisdiction's information among the service provider's employees and agents.

9. Oversight of Authorized Persons: During the term of each authorized person's employment or engagement by service provider, service provider shall at all times cause such persons to abide strictly by service provider's obligations under this Agreement and service provider's standard policies and procedures. The service provider further agrees that it shall maintain a disciplinary process to address any unauthorized access, use or disclosure of personal data by any of service provider's officers, partners, principals, employees, agents or contractors.

10. Access to Security Logs and Reports: The service provider shall provide reports to the public jurisdiction through the application. Reports shall include, user access including failed log-in attempts, user access IP address, user access history and application-level security logs for all public jurisdiction files related to this contract.

11. Data Protection Self-Assessment: The service provider shall complete and upon request, submit an industry standard questionnaire, which is currently the Cloud Security Alliance "Consensus Assessments Initiative Questionnaire" to the Department privacy officer. The service provider shall first submit the questionnaire to the public jurisdiction as part of its response to the solicitation and, upon request, annually thereafter, on the anniversary of the date of contract execution.

12. Data Center Audit: The service provider shall perform an audit of its infrastructure and data centers at least annually at its expense and provide a redacted version of the

audit report upon request. The service provider may remove its proprietary information from the redacted version. A Service Organization Control (SOC) 2 and (SOC) 1 audit report or approved equivalent as detailed below sets the minimum level of a third-party audit.

13. Change Control and Advance Notice: The service provider shall give, advance notice as defined in the SLA exhibit.

14. Security:

- a) At a minimum, the service provider's safeguards for the protection of data shall include: (1) securing business facilities, data centers, paper files, servers, back-up systems and computing equipment, including, but not limited to, all mobile devices and other equipment with information storage capability; (2) implementing network, device application, database and platform security; (3) securing information transmission, storage and disposal; (4) implementing authentication and access controls within media, applications, operating systems and equipment; (5) implementing appropriate personnel security and integrity procedures and practices, including, but not limited to, conducting background checks consistent with applicable law; and (6) providing appropriate privacy and information security training to service provider's employees.
- b) The service provider shall execute well-defined recurring action steps that identify and monitor vulnerabilities, and provide remediation or corrective measures. Where the service provider's technology or the public jurisdiction's required dependence on a third-party application to interface with the technology creates a critical or high risk, the service provider shall remediate the vulnerability as soon as possible.
- c) Upon the public jurisdiction's written request, the service provider shall provide a high-level network diagram with respect to connectivity to the public jurisdiction's network that illustrates the service provider's information technology network infrastructure.

15. Non-disclosure and Separation of Duties: The service provider shall enforce separation of job duties, require commercially reasonable non-disclosure agreements, and limit staff knowledge of public jurisdiction data to that which is absolutely necessary to perform job duties.

16. Import and Export of Data: The public jurisdiction shall have the ability to securely import, export or dispose of data in standard format in piecemeal or in entirety at its discretion without interference from the service provider.

17. Responsibilities and Uptime Guarantee: The service provider shall be responsible for the acquisition and operation of all hardware, software and network support related to the services being provided. The technical and professional activities required for establishing, managing and maintaining the environments are the responsibilities of the service provider.

18. Subcontractor Disclosure: The service provider shall identify all of its strategic business partners related to services provided under this contract, including but not limited to all subcontractors or other entities or individuals who may be a party to a joint venture or similar agreement with the service provider, and who shall be involved in any custom application development and/or operations. These subcontractors shall be disclosed to the public jurisdiction as part of the service provider's response to the solicitation.

19. Right to Remove Individuals: The public jurisdiction shall have the right at any time to require that the service provider remove from interaction with public jurisdiction any service provider representative who the public jurisdiction believes is detrimental to its working relationship with the service provider. The public jurisdiction shall provide the service provider with notice of its determination, and the reasons it requests the removal. If the public jurisdiction signifies that a potential security violation exists with respect to the request, the service provider shall immediately remove such individual. The service provider shall not assign the person to any aspect of the contract or future work orders without the public jurisdiction's consent.

20. Business Continuity and Disaster Recovery: The service provider shall provide a business continuity and disaster recovery plan executive summary upon request.

21. Compliance with Accessibility Standards: The service provider shall comply with and adhere to Accessibility Standards of Section 508 Amendment to the Rehabilitation Act of 1973.

22. Web Services: The service provider shall make available Web services as defined in product documentation.

23. Encryption of Data at Rest: The service provider shall ensure hard drive encryption used NIST approved algorithms.

24. Subscription Terms: Service provider grants to a public jurisdiction a license to:

- Access and use the service for its business purposes;
- For SaaS, use underlying software as embodied or used in the service; and
- View, copy, upload, download (where applicable), and use service provider's documentation.

25. Equitable Relief: Service provider acknowledges that any breach of its covenants or obligations set forth in Addendum may cause the public jurisdiction irreparable harm for which monetary damages would not be adequate compensation and agrees that, in the event of such breach or threatened breach, the public jurisdiction is entitled to seek equitable relief, including a restraining order, injunctive relief, specific performance and any other relief that may be available from any court, in addition to any other remedy to which the public jurisdiction may be entitled at law or in equity. Such remedies shall not be deemed to be exclusive but shall be in addition to all other remedies available at law

21. Compliance with Accessibility Standards: The service provider shall comply with and adhere to Accessibility Standards of Section 508 Amendment to the Rehabilitation Act of 1973.

22. Web Services: The service provider shall make available Web services as defined in product documentation.

23. Encryption of Data at Rest: The service provider shall ensure hard drive encryption used NIST approved algorithms.

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- Access and use the service for its business purposes;
- For SaaS, use underlying software as embodied or used in the service; and
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25. Equitable Relief: Service provider acknowledges that any breach of its covenants or obligations set forth in Addendum may cause the public jurisdiction irreparable harm for which monetary damages would not be adequate compensation and agrees that, in the event of such breach or threatened breach, the public jurisdiction is entitled to seek equitable relief, including a restraining order, injunctive relief, specific performance and any other relief that may be available from any court, in addition to any other remedy to which the public jurisdiction may be entitled at law or in equity. Such remedies shall not be deemed to be exclusive but shall be in addition to all other remedies available at law or in equity, subject to any express exclusions or limitations in this Addendum to the contrary.

AGREED:

Name of Agency: SEP Name of Vendor: UKG

Signature: E. K. Hartley Signature: Scott Giangrande
DocuSigned by:

Title: Director Title: Sr. Order Processing Analyst

Date: 4.27.2023 Date: 3/24/2023 | 12:45 PM EDT

Appendix A

(To be completed by the Agency's Procurement Officer prior to the execution of the Addendum, and shall be made a part of the Addendum. Required information not identified prior to execution of the Addendum may only be added by amending Appendix A and the Addendum, via Change Order.)

Name of Service Provider/Vendor: Kronos Incorporated _____

Name of Agency: Enterprise Resource Planning Board _____

Agency/public jurisdiction's required information:

1. Will restricted information be processed by the service provider?
Yes ☐
No ☒
2. If yes to #1, does the restricted information include personal data?
Yes ☐
No ☐
3. If yes to #1, does the restricted information include non-public data?
Yes ☐
No ☐
4. If yes to #1, may the service provider store public jurisdiction data in a data center in an acceptable alternative data center location, which is a country that is not the U.S.?
Yes ☐
No ☐

5. Provide name and email address for the Department privacy officer:

Name: Vincent Smith _____

Email address: vincent.smith@wvsao.gov _____

Vendor/Service Provider's required information:

6. Provide name and contact information for vendor's employee who shall serve as the public jurisdiction's primary security contact:

Name: Brian Goodwin _____

Email address: Brian.Goodwin@ukg.com _____

Phone Number: 978-244-6328 _____

WV-96
1/1/2019

**STATE OF WEST VIRGINIA
ADDENDUM TO VENDOR'S STANDARD CONTRACTUAL FORMS**

State Agency, Board, or Commission (the "State"):

Vendor:

Contract/Lease Number ("Contract"):

Commodity/Service:

The State and the Vendor are entering into the Contract identified above. The Vendor desires to incorporate one or more forms it created into the Contract. Vendor's form(s), however, include(s) one or more contractual terms and conditions that the State cannot or will not accept. In consideration for the State's incorporating Vendor's form(s) into the Contract, the Vendor enters into this Addendum which specifically eliminates or alters the legal enforceability of certain terms and conditions contained in Vendor's form(s). Therefore, on the date shown below each signature line, the parties agree to the following contractual terms and conditions in this Addendum are dominate over any competing terms made a part of the Contract:

1. **ORDER OF PRECEDENCE:** This Addendum modifies and supersedes anything contained on Vendor's form(s) whether or not they are submitted before or after the signing of this Addendum. **IN THE EVENT OF ANY CONFLICT BETWEEN VENDOR'S FORM(S) AND THIS ADDENDUM, THIS ADDENDUM SHALL CONTROL.**
2. **PAYMENT** – Payments for goods/services will be made in arrears only upon receipt of a proper invoice, detailing the goods/services provided or receipt of the goods/services, whichever is later. Notwithstanding the foregoing, payments for software licenses, subscriptions, or maintenance may be paid annually in advance.

Any language imposing any interest or charges due to late payment is deleted.

3. **FISCAL YEAR FUNDING** – Performance of this Contract is contingent upon funds being appropriated by the WV Legislature or otherwise being available for this Contract. In the event funds are not appropriated or otherwise available, the Contract becomes of no effect and is null and void after June 30 of the current fiscal year. If that occurs, the State may notify the Vendor that an alternative source of funding has been obtained and thereby avoid the automatic termination. Non-appropriation or non-funding shall not be considered an event of default.
4. **RIGHT TO TERMINATE** – The State reserves the right to terminate this Contract upon thirty (30) days written notice to the Vendor. If this right is exercised, the State agrees to pay the Vendor only for all undisputed services rendered or goods received before the termination's effective date. All provisions are deleted that seek to require the State to (1) compensate Vendor, in whole or in part, for lost profit, (2) pay a termination fee, or (3) pay liquidated damages if the Contract is terminated early.

Any language seeking to accelerate payments in the event of Contract termination, default, or non-funding is hereby deleted.

5. **DISPUTES** – Any language binding the State to any arbitration or to the decision of any arbitration board, commission, panel or other entity is deleted; as is any requirement to waive a jury trial.

Any language requiring or permitting disputes under this Contract to be resolved in the courts of any state other than the State of West Virginia is deleted. All legal actions for damages brought by Vendor against the State shall be brought in the West Virginia Claims Commission. Other causes of action must be brought in the West Virginia court authorized by statute to exercise jurisdiction over it.

Any language requiring the State to agree to, or be subject to, any form of equitable relief not authorized by the Constitution or laws of State of West Virginia is deleted.

6. **FEES OR COSTS:** Any language obligating the State to pay costs of collection, court costs, or attorney's fees, unless ordered by a court of competent jurisdiction is deleted.
7. **GOVERNING LAW** – Any language requiring the application of the law of any state other than the State of West Virginia in interpreting or enforcing the Contract is deleted. The Contract shall be governed by the laws of the State of West Virginia.
8. **RISK SHIFTING** – Any provision requiring the State to bear the costs of all or a majority of business/legal risks associated with this Contract, to indemnify the Vendor, or hold the Vendor or a third party harmless for any act or omission is hereby deleted.
9. **LIMITING LIABILITY** – Any language limiting the Vendor's liability for direct damages to person or property is deleted.
10. **TAXES** – Any provisions requiring the State to pay Federal, State or local taxes or file tax returns or reports on behalf of Vendor are deleted. The State will, upon request, provide a tax exempt certificate to confirm its tax exempt status.
11. **NO WAIVER** – Any provision requiring the State to waive any rights, claims or defenses is hereby deleted.

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1/1/2019

12. **STATUTE OF LIMITATIONS** – Any clauses limiting the time in which the State may bring suit against the Vendor or any other third party are deleted.
13. **ASSIGNMENT** – The Vendor agrees not to assign the Contract to any person or entity without the State's prior written consent, which will not be unreasonably delayed or denied. The State reserves the right to assign this Contract to another State agency, board or commission upon thirty (30) days written notice to the Vendor. These restrictions do not apply to the payments made by the State. Any assignment will not become effective and binding upon the State until the State is notified of the assignment, and the State and Vendor execute a change order to the Contract.
14. **RENEWAL** – Any language that seeks to automatically renew, modify, or extend the Contract beyond the initial term or automatically continue the Contract period from term to term is deleted. The Contract may be renewed or continued only upon mutual written agreement of the Parties.
15. **INSURANCE** – Any provision requiring the State to maintain any type of insurance for either its or the Vendor's benefit is deleted.
16. **RIGHT TO REPOSSESSION NOTICE** – Any provision for repossession of equipment without notice is hereby deleted. However, the State does recognize a right of repossession with notice.
17. **DELIVERY** – All deliveries under the Contract will be FOB destination unless the State expressly and knowingly agrees otherwise. Any contrary delivery terms are hereby deleted.
18. **CONFIDENTIALITY** – Any provisions regarding confidential treatment or non-disclosure of the terms and conditions of the Contract are hereby deleted. State contracts are public records under the West Virginia Freedom of Information Act ("FOIA") (W. Va. Code §29B-a-1, et seq.) and public procurement laws. This Contract and other public records may be disclosed without notice to the vendor at the State's sole discretion.

Any provisions regarding confidentiality or non-disclosure related to contract performance are only effective to the extent they are consistent with FOIA and incorporated into the Contract through a separately approved and signed non-disclosure agreement.
19. **THIRD-PARTY SOFTWARE** – If this Contract contemplates or requires the use of third-party software, the vendor represents that none of the mandatory click-through, unsigned, or web-linked terms and conditions presented or required before using such third-party software conflict with any term of this Addendum or that it has the authority to modify such third-party software's terms and conditions to be subordinate to this Addendum. The Vendor shall indemnify and defend the State against all claims resulting from an assertion that such third-party terms and conditions are not in accord with, or subordinate to, this Addendum.
20. **AMENDMENTS** – The parties agree that all amendments, modifications, alterations or changes to the Contract shall be by mutual agreement, in writing, and signed by both parties. Any language to the contrary is deleted.

Notwithstanding the foregoing, this Addendum can only be amended by (1) identifying the alterations to this form by using *Italics* to identify language being added and ~~strike through~~ for language being deleted (do not use track-changes) and (2) having the Office of the West Virginia Attorney General's authorized representative expressly agree to and knowingly approve those alterations.

State: SRP
By: S.K. Hartsoy
Printed Name: E.K. Hartsoy
Title: Director
Date: 4.27.2023

Vendor: UKG
DocuSigned by:
By: Scott Giangrande
69741407C20D418...
Printed Name: Scott Giangrande
Title: Sr. Order Processing Analyst
Date: 3/24/2023 | 12:45 PM EDT

Exhibit D

UKG Dimensions™ Addendum

This UKG Dimensions™ Addendum (the “Addendum”) sets forth the supplemental terms and conditions and is made part of Agreement No. CSSD ERP2300000001 (“Agreement”) which governs the provision of UKG’s UKG Dimensions software as a service and other related offerings by Kronos Incorporated, a UKG company, (“Kronos” or “UKG”) to the State of West Virginia (“Customer” or “State”). Capitalized terms not defined within the text of the Addendum are defined in Annex E.

This Addendum consists of this execution page and the following Annexes’, which are incorporated by reference, and which form an integral part of this Addendum and the Agreement:

- Annex A: Dimensions General Terms and Conditions
 - Attachment A-1: Equipment Purchase, Rental, and Support
 - Attachment A-2: Professional and Educational Services Policies
 - Attachment A-3: Service Level Agreement
- Annex B: UKG Dimensions Cloud Guidelines:
<https://www.ukg.com/ukg-dimensions/Agreement/cloud-guidelines>
- Annex C: Acceptable Use Policy (AUP):
<https://www.ukg.com/policies/acceptable-use>
- Annex D: AtomSphere Service and Boomi Software
- Annex E: Definitions
- Annex F: Dimensions Privacy & Security Addendum

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

Annex A: Dimensions General Terms and Conditions

Article 1. Order Forms

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

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

1.2 The following Fees may appear on an Order Form:

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

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

Article 2. Billing

2.1 UKG will invoice the Fees on the Billing Frequency indicated on the Order Form. For each Order Form, the billing period of the PEPM Fees will start on the Billing Start Date and will continue for the time period indicated as the Initial Term. Customer will pay the Fees on the Payment Terms and in the currency, indicated on the Order Form. Customer will send payment to the attention of UKG 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 provided in this Addendum, Customer payments are non-refundable. Unless Customer has provided UKG with valid evidence of tax-exemption, Customer is responsible for all applicable Taxes related to the Service and other items set forth on the Order Form. Each Party is responsible to pay all costs and fees attributable to such Party pursuant to the Shipping Terms indicated on the Order Form.

2.2 For each Renewal Term, UKG may increase the PEPM Fees by no more than four percent (4%) over the previous year's PEPM Fees for the same Applications and the same licensed quantity. UKG will reflect these increased PEPM Fees in the applicable invoice for each Renewal Term. For renewals based on the Annual in Advance Billing Frequency, UKG will provide Customer with the renewal invoice prior to commencement of the Renewal Term and payment will be made by Customer in accordance with the payment terms agreed upon with Customer for the Initial Term.

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

Article 3. Additional Services

Section 3.1 Implementation and Professional Services

3.1.1 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 Addendum and other contract documents, giving precedence to each document as contained in the Addendum to Kronos Agreement with the State of West Virginia. 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.

3.1.2 While Customer may configure the Applications itself, as part of the Implementation Services as described in an SOW, UKG may also configure the Applications. UKG will configure the Applications based on Customer's instructions and direction.

3.1.3 UKG may also provide Professional Services to Customer that do not require an SOW but which will be as set forth on an Order Form. Further, after Implementation, any additional Professional Services requested by Customer shall be provided at a rate of \$220 per hour for the Initial Term. Thereafter, current rates shall apply. At the time of its request for such additional services, the Customer will confirm to UKG the amount of funds it has available to pay for such services (the "Budgeted Amount"). UKG will bill Customer monthly at the hourly rate for the actual hours worked providing these additional services up to the Budgeted Amount. Thereafter, if additional hours are needed, the parties shall mutually agree to such hours.

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

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

Section 3.2 Educational Services

3.2.1 As part of the PEPM Fees UKG will provide its live, hands-on virtual training facilitated by a knowledgeable instructor and delivered remotely via a published schedule. Training is intended for the following audiences:

- a. Core Team training to help key functional and technical users make informed solution design and configuration decisions, and to provide fundamental product knowledge.
- b. Application & System Administrator to prepare functional and technical super users to perform their most common tasks in the solution.

3.2.2 As part of the PEPM Fees UKG shall also provide self-paced product training throughout the Term of this Agreement. This training will include training content that will provide for all levels of training from beginner up to advanced.

3.2.3 UKG also offers fee-based consulting services that are not included under the terms of the Educational Services referenced above.

Section 3.3 Support Services

3.3.1 Support Services for the Services will be provided and include (i) customer phone, email and online support 24 hours a day/7 days a week and (ii) periodic enhancements and modifications to the Applications, including bug fixes to correct verifiable and reproducible errors reported to UKG.

Article 4. Service Level Agreement

UKG offers the Service Level Agreement and associated SLA Credits as described in Attachment A-3. UKG remains obligated to provide the Service as otherwise described in the Agreement and this Addendum.

Article 5. Data Security and Privacy

Section 5.1 Data

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

5.1.2 **"Aggregated Data"** is any statistical data that is derived from the operation of the Service, including without limitation, for analysis of the Service, Configurations or Customer Data, and is created by UKG 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. UKG owns the Aggregated Data. Nothing in this Addendum will prohibit UKG from utilizing the Aggregated Data for any purposes, provided that UKG's use of Aggregated Data will anonymize Customer Data, will not reveal any Customer Confidential Information, and will not reveal any Personally Identifiable Information.

Section 5.2 Security and Privacy

5.2.1 UKG will maintain the Controls throughout the Term.

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

5.2.3 UKG employees will access Customer Data from the locations from which such employees work. Customer consents to UKG's handling, collection, use, transfer, and processing of Customer Data to provide the Service. As may be required by Applicable Law, Customer will ensure that Customer Data may be provided to UKG for the purposes of providing the Service. Customer has obtained all necessary consents from individuals to enable UKG to use the Customer Data to provide the Service. As may be

contemplated by the applicable Data Protection Laws, Customer will remain the “controller” of Customer Data and UKG will be considered a “processor” of Customer Data.

5.2.4 UKG will notify Customer 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 UKG is taking in response to the breach.

5.2.5 Consent to Use Sub-processors. Customer agrees that UKG may use sub-processors to fulfill its contractual obligations under the Addendum. The list of sub-processors that are currently engaged by UKG to carry out processing activities on Customer Data on behalf of Customer can be found at: www.ukg.com/ukg-dimensions/Addendum/subprocessors

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

5.2.8 Sub-processor Obligations. When engaging any sub-processor:

- a. UKG will enter into a written Addendum with the sub-processor;
- b. UKG will endeavor to ensure that the sub-processor provides sufficient guarantees to implement appropriate technical and organizational measures to meet the requirements of applicable Data Protection Laws; and,
- c. UKG will remain responsible for the performance of the sub-processor’s data protection obligations pursuant to such written Addendum and the requirements of applicable Data Protection Laws.
- d. Customer Data that is “at rest” must reside within the continental United States.

Article 6. Warranty

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

Article 7. License

Section 7.1 Technology License

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

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

7.1.3 Customer shall 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 for such connectivity.

Article 8. Authorized Users & Marketplace

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

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

Article 11. Changes

The information found in any Annex (or at any URL referenced in this Addendum) 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 UKG.

Article 12. Feedback

From time to time, Customer may provide Feedback. UKG has sole discretion to determine whether or not to undertake the development of any enhancements, new features or functionality contained in or with Feedback. Customer hereby grants UKG 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 UKG's business without any compensation to Customer or any other restriction or obligation, whether based on intellectual property right claim or otherwise. For the avoidance of doubt, no Feedback will be deemed to be Customer Confidential Information, and nothing in this Addendum limits UKG's right to independently use, develop, evaluate, or market products or services, whether incorporating Feedback or otherwise.

Exhibit A-1

Equipment Purchase, Rental and Support Policy

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

Section 1. Purchase and Sale of Equipment

When indicated on the applicable Order Form as Purchased Equipment, UKG sells to Customer, and Customer purchases from UKG, 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. UKG will invoice Customer for purchased Equipment upon shipment of the Equipment and payment will be due net 30 days from the date of delivery.

Section 2. Equipment Rentals

The following terms apply only to Equipment Customer rents from UKG 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 conterminously with the Term of the Service.

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

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

2.4 Ownership. All Equipment shall remain the property of UKG. 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 UKG to give full effect to the intent of terms of this paragraph (d).

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

2.6 Return of Equipment. Upon termination or expiration of the Rental Period for the Equipment or upon termination or expiration of the Agreement, for any reason, Customer shall return, within thirty (30) days of the effective date of termination and at Customer's expense, the Equipment. Equipment will be returned to UKG in the same condition as and when received, reasonable wear and tear excepted. If Customer fails to return Equipment within this time period, upon receiving an invoice from UKG, Customer shall pay UKG the then list price of the unreturned Equipment.

Section 3. Warranty

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

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

Section 4. Firmware

Customer may not download firmware updates for the UKG Equipment unless Customer is maintaining such Equipment under a support plan with UKG. If Customer is not maintaining the Equipment under a support plan with UKG, UKG shall have the right to verify Customer's UKG Equipment to determine if Customer has downloaded any firmware to which Customer is not entitled. If Customer has downloaded firmware for the UKG Equipment to which Customer is not entitled, Customer shall be responsible to pay UKG for such updated firmware in accordance with UKG's then-current support policies.

Section 5. Export

Customer acknowledges that the Equipment may be restricted by the United States Government or by the country in which the Equipment is installed from export to certain

countries and certain organizations and individuals, and agrees to comply with such laws. Customer agrees to comply with all applicable laws of all of the countries in which the Equipment may be used by Customer and shall indemnify UKG for any noncompliance which results in damages or liability to UKG. Customer's obligations hereunder shall survive the termination or expiration of this Agreement.

Section 6. Equipment Support

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

6.1 Term

Equipment Support Services have a term of one (1) year commencing upon the expiration of the applicable warranty set forth above. Equipment Support Services will be automatically extended for additional one year terms on the anniversary of its commencement date ("Renewal Date"), unless either party has given the other thirty (30) days written notification of its intent not to renew. UKG may change the annual Equipment Support Services Fees effective at the end of the initial one (1) year term or effective on the Renewal Date, by giving Customer at least thirty (30) days prior written notification, provided that UKG may increase such Fees by no more than four percent (4%) over the previous year's Fees for the same quantity of covered Equipment.

6.2 Payment

Customer agrees to pay the Equipment Support Services Fees for the initial term as set forth on the Order Form for each Product listed. Customer agrees that all Products of the same type that are owned by the Customer, including without limitation Customer's "Spare Products" (as defined below), must be covered by the Equipment Support Services. Customer agrees that if Customer purchases, during the term of the Equipment Support Services, any Products of the same type as those covered by Customer under Equipment Support Services, such additional Products must be covered by the Equipment Support Services.

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

6.4. Depot Support Service

6.4.1 Upon the failure of an installed Product, Customer shall notify UKG of such failure and UKG will provide remote support in an attempt to resolve the problem. Those

failures determined by UKG to be Product related shall be dispatched to a UKG Depot Repair Center, and Customer will be provided with a Return Material Authorization Number (RMA) for the failed Product if Customer is to return the failed Product to UKG, as reasonably determined by UKG. Customer must return the failed Product with the supplied RMA number. Return and repair procedures for failed Product shall be provided based on the Depot option - Depot Exchange or Depot Repair - selected by Customer on the applicable Order Form and as specified herein and in UKG's then-current Support Services Policies which may be accessed at: <https://www.ukg.com/support-policies-and-services> ("Support Policies").

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

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

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

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

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

6.6 UKG warrants that all service packs and firmware updates provided under this Agreement shall materially perform in accordance with the UKG 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 UKG's repair or

replacement of the deficient service pack(s) or firmware update(s), at UKG's option, provided that Customer's use, installation and maintenance thereof have conformed to the specifications.

6.7 Responsibilities of Customer

Customer agrees that it shall return failed Products promptly as the failures occur and that it shall not hold failed Products and send failed Product to UKG 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 UKG's published specifications for such Products;
- b. De-install all failed Products and install all replacement Products in accordance with UKG's published installation guidelines;
- c. Ensure that the Product(s) are returned to UKG properly packaged; and
- d. Obtain an RMA before returning any Product to UKG and place the RMA clearly and conspicuously on the outside of the shipping package. Customer may only return the specific Product authorized by UKG when issuing the RMA.

6.8 Support Exclusions

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

- a. Any cause external to the Products including, but not limited to, electrical work, fire, flood, water, wind, lightning, transportation, or any act of God;
- b. Customer's failure to continually provide a suitable installation environment (as indicated in UKG's 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 UKG's 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 UKG;
- e. Government imposed sanctions, rules, regulations or laws preventing the shipment of the Products; or
- f. Customer's repair, attempted repair or modification of the Products.

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

6.9 Delivery

All domestic shipments are FOB Destination to/from Customer and UKG with the shipping party bearing all costs and risks of loss, and with title passing upon delivery to the identified destination. All international shipments are DDU (Deliver Duties Unpaid) to the Customer, with Customer responsible for all duties and V.A.T. when sending Product to UKG (DDP). Customer agrees to pay or reimburse UKG for any substantial increase in fuel surcharges which may occur.

6.10 Warranty

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

6.11 Default, Suspension, and Termination

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

6.11.2 Customer may terminate Equipment Support Services if UKG is in default under the Agreement, and such default is not corrected within thirty (30) days after written notice. UKG may terminate Equipment Support Services if Customer defaults under this or any other agreement with UKG, and such default is not corrected within thirty (30) days after written notice. In addition, this Agreement will terminate and all charges due hereunder will become immediately due and payable in the event that Customer ceases to do business as a going concern or has its assets assigned by law.

Section 7. Finger Scan and Facial Recognition

7.1 For Customer's use of Equipment containing finger scan sensor and/or facial recognition technology ("FS/FR Equipment"), Customer warrants that it is compliant and will maintain compliance with all applicable biometric privacy laws with respect to its use of FS/FR Equipment. If required by law, Customer further warrants that prior to using FS/FR Equipment it shall: (i) obtain signed releases from employees consenting to the use of the applicable FS/FR Equipment for employee timekeeping purposes; (ii) issue policies to their employees and the public regarding its retention and destruction of the finger scan or facial recognition data, and (iii) ensure that any releases, consents, or policies required by applicable law shall expressly apply to UKG and its authorized subcontractors.

7.2 Customer agrees to defend, hold harmless and indemnify UKG, its employees, directors, parent, subsidiaries and authorized partners and subcontractors (collectively, "UKG Indemnitees") for any claims, damages, penalties or fines asserted or awarded against a UKG Indemnitee arising out of or relating to Customer's breach of any of the warranties in section 7.1 above with respect to FS/FR Equipment. Upon receipt of notice of such a claim, Customer shall assume sole control of the defense and settlement of such claim; provided that: (i) UKG shall be entitled to participate in the defense of such claim and to employ counsel at its own expense to assist in the handling of such claim, on a monitoring and a non-controlling basis; (ii) Customer shall not settle any claim on any terms or in any manner that adversely affects the rights of UKG without its prior written consent; and (iii) UKG shall provide reasonable cooperation and assistance at Customer's sole cost and expense.

Exhibit A-2

Implementation, Professional and Educational Services Engagement Policies

1. UKG will provide the Customer with a Statement of Work (also known as the SOW) that outlines the project deliverables and provides an estimate for the project scope and cost required to complete the engagement, based upon preliminary information provided by the Customer. This Statement of Work is an estimate; the Collaborate Phase of the engagement will be used to determine whether modifications to the project scope or project budget are required.
2. The Statement of Work is valid for one year from the date of signature.
3. Any changes to the project scope and/or project duration will be reflected through the generation of a UKG Change Order, which is initiated by the UKG Project Manager and approved and signed by the Customer.
 - a. These changes could be due to an increase or change in project scope or deliverables, insufficient customer resources or time commitment, changes to customer project schedule, or technical limitations.
4. Unless otherwise addressed within these policies, the hourly rate(s) quoted within a Change Order for work to be performed within normal business hours will be consistent with that contained within the original Statement of Work. In instances where specialized resources are requested, but not contained within the original Statement of Work, the quoted rate will be established as UKG' current rate for such requested services.
5. UKG personnel working at the Customer site shall have access to necessary infrastructure (servers, network, etc.).
6. In instances where UKG personnel are working remotely access will be granted through the use of industry standard tools (VPN, DTS, GoToMyPC, PCAnywhere, etc.).
7. Customer agrees to not hire any UKG employee who has performed services under the Agreement for a period of one-year after the completion of such services
8. If not hosted by UKG Cloud Services, all required system administration, maintenance, backups, tuning, etc., is the responsibility of the Customer
9. Customer Data: To perform the implementation and to provide support after completion, UKG may need to access and retain information regarding your employees and business organization. UKG will take all reasonable steps to limit and safeguard the security of this information.
10. Scheduled Work Policies:
 - a. Professional Services
 - i. Professional Services work will be conducted during normal business hours, 8:00AM – 5:00PM, Monday through Friday.
 - ii. All Professional Services work scheduled to start outside of normal business hours will be billed in full at a premium rate described below. For work to be performed after hours, on holidays, or on weekends, an approved Change Order will be required prior to scheduling (see Change Order Process below). Customers will be charged as follows:

1. All Professional Services will be scheduled and billed for actual hours worked with a minimum of 1 hour. A level of effort must be submitted to and approved by Customer before any work may commence.
 - a. After Hours
 - i. All scheduled work will be billed at 1.5 times the contract rate by role
 - ii. After Hours is considered 5:00PM-8:00AM, Monday through Friday
 - b. Weekends
 - i. All scheduled work will be billed at 2.0 times the contract rate by role
 - ii. Weekends are considered 5:00PM Friday through 8:00AM Monday
 - c. Holiday
 - i. All scheduled work will be billed at 2.0 times the contract rate by role
 - ii. Holidays are any UKG recognized Holidays, which include for example in the USA: New Year's Day, President's Day, Memorial Day, Independence Day, Thanksgiving Day, the day after Thanksgiving, Christmas Day. UKG recognized Holidays will vary by country.
- b. Education Services
 - i. All Education services (Training delivery and User Adoption Consulting) scheduled to start outside of normal business hours will be billed in full at a premium rate described below. Customers will be charged as follows:
 1. After Hours
 - a. There will be a 1.5 times premium per student for public courses or per class for private day rates
 - b. After Hours is considered 5:00PM-8:00AM, Monday through Friday
 2. Weekends
 - a. There will be a 2.0 times premium per student for public courses or per class for private day rates
 - b. Weekends are considered 5:00PM Friday through 8:00AM Monday
 3. Holidays
 - a. There will be a 2.0 times premium per student for public courses or per class for private day rates
 - b. Holidays are any UKG recognized Holidays, which include but not limited to: New Year's Day, President's Day, Memorial Day, Independence Day, Thanksgiving Day, the day after Thanksgiving, Christmas Day.

11. Travel Policies

- a. Customer is responsible for airfare, lodging and related travel expenses for onsite consultants.
- b. Customer is responsible for travel costs for employees attending training at a UKG location.
- c. Customer is responsible for travel and related costs for a UKG trainer/User Adoption consultant providing instruction at the Customer location.
- d. If a UKG employee is required on-site per the customer request, a minimum of 8 hours will be billed per day.
- e. All travel time (portal to portal) will be billed at the current contract rate by role. Travel time above two hours in any one direction will be billed at the current contract rate by role.

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

- a. Professional Services:
 - i. 2 business days prior to scheduled work – 50% of planned charges are invoiced for schedule work
 - ii. 1 business day prior to scheduled work – 100% of planned charges are invoiced for scheduled work
 - iii. Business days are: Monday, Tuesday, Wednesday, Thursday, and Friday, excluding Holidays
- b. User Adoption Services Cancellation Policy
 - i. 2 business days prior to scheduled work – 50% of planned charges are invoiced for schedule work
 - ii. 1 business day prior to scheduled work – 100% of planned charges are invoiced for scheduled work
 - iii. Business days are: Monday, Tuesday, Wednesday, Thursday, and Friday, excluding Holidays
- c. Cancellation Policy Example:
 - i. Work is schedule for Wednesday, 1p-5p (4 hours)
 - ii. If customer cancels on:
 1. Friday – no penalty
 2. Monday – 50% of planned charges are invoiced (2 hours)
 3. Tuesday – 100% of planned charged are invoiced (4 hours)
 - iii. Cancellation Policy Example with a Holiday:
 1. Work is schedule for Wednesday, 1p-5p (4 hours)
 2. If customer cancels on:
 - a. Thursday – no penalty
 - b. Friday – 50% of planned charges are invoiced (2 hours)
 - c. Monday – holiday, doesn't count as "business day
 - d. Tuesday – 100% of planned charged are invoiced (4 hours)

d. Education Services:

- i. For any PUBLIC course held in KnowledgeMap Live, attendees must cancel at least five business days before the class start date to avoid future registration restrictions.
- ii. UKG reserves the right to cancel classes up to two business days before the scheduled start date for public courses held in KnowledgeMap Live due to lack of enrollment or any other unforeseen circumstances.
- iii. For any PRIVATE course held at a customer site or in KnowledgeMap Live; the private class must be cancelled at least ten business days before the private class start date to avoid cancellation fees (equal to the cost of the course). Student substitutions can be made at any time as long as prerequisites have been met.

13. Additional Education Services Policies

a. KnowledgeMap Live Course Updates Policy

Courses are updated on a regular basis; the schedule for course updates is dependent on the nature of the update. Content errors or technical issues are resolved as soon as possible after they are reported. Other changes to course content and flow typically align with the software product release cycle or updates to UKG's software implementation methodology. These timelines vary, but for UKG Dimensions this is approximately every three months. Content is reviewed by subject matter experts during these update cycles to verify continued currency and accuracy of content.

14. Not all product lines offer all service options described in this policy.



PROJECT CHANGE ORDER FORM

Customer <CUSTOMER NAME>
Name

Solution
ID <SOLUTION ID>

Bill to

Ship to

Payment
Terms Net <XX> Days

Customer
Purchase
Order

UKG
Practice

Sales
Person

Project#

Operating
Unit/
Currency

New task
required

New
project
required

Project Budget Impact

Billing Role	Item	UOM	Contract Type	Previous Order#	Qty in Hours	Rate	Ext Amt
Solution Consultant	9990002-ENT	HR	Estimate				
Integration Consultant	9990002-ENT	HR	Estimate				
Totals							

Amounts exclude tax

Authorization Signatures

(I authorize the change to the UKG Project Budget, as described above, and I authorize UKG to invoice for the amount applicable.)		
Authorized Customer Contact Name and Title/Role	* Signature	Date

Comments

<p>Except as specifically amended by this Change Order, all other provisions of the relevant Service Work Order or Statement of Work (as applicable) remains un-amended and in full force and effect.</p> <p>This Change Order is to top up the budget with a total of <XX> hours. These hours are offered on a Time and Materials basis.</p> <p><Scope Description></p>
--

Order Management Internal Use Only

If Change Order processed please select box		Date	
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Exhibit A-3

UKG Dimensions Service Level Agreement

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

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

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

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

"Excluded Event" means any event that causes unavailability to the Service due to (a) the acts or omissions of Customer, its employees, customers, contractors or agents; (b) the failure or malfunction of equipment, applications or systems not owned or controlled by UKG or its third party suppliers providing the Service; (c) failures or malfunctions resulting from circuits provided by Customer; (d) any inconsistencies or changes in Customer's source environment, including either intentional or accidental connections or disconnections to the environment; (e) Customer Data; (f) Force Majeure events; (g) expected downtime during the Maintenance Periods described below; (h) any suspension of the Service in accordance with the terms of the Agreement; (i) the unavailability of required Customer personnel, including as a result of failure to provide UKG 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 UKG to maintain and update the Services, when downtime may be necessary. Customer chooses maintenance window based on location of data center selected on Order Form.

The Maintenance Period is used for purposes of the Service Credit Calculation; UKG continuously supports the production environment on a 24x7 basis to reduce disruptions.

The current weekly Maintenance Period for each of the data center locations are:

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

Service Credit Calculation: An Outage will be deemed to commence when the Service is unavailable to Customer and ends when UKG 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

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

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

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

ADDENDUM TO KRONOS AGREEMENT WITH THE STATE OF WEST VIRGINIA

Kronos Incorporated ("Kronos") and the State of West Virginia ("State") agree that this addendum amends all documents included in the agreement between Kronos and the State, identified as Agreement No. CSSD ERP2300000001 and any other documents incidental thereto.

The Parties Agree as follows:

1. **Order of Precedence:** Any references to an order of precedence are hereby deleted to the extent that they conflict with this provision. The order of precedence for documents included in this contract shall be as follows:
 - a. This Addendum - First in priority.
 - b. Purchasing Division's General Terms and Conditions attached hereto as Exhibit A – Second Priority
 - c. The Software as a Service Addendum attached hereto as Exhibit B – Third Priority
 - d. The WV-96 attached hereto as Exhibit C –Fourth Priority
 - e. UKG Dimensions Addendum attached hereto as Exhibit D –Fifth Priority.
2. **Modified Terms:** The following terms are expressly modified as stated herein.
 - a. **WV-96**
 - i. Section 9, Limitation of Liability, is replaced by

"The Agency, as a State entity, cannot agree to assume the potential liability of a Vendor. Accordingly, any provision limiting the Vendor's liability for direct damages is hereby deleted. Vendor's liability under the agreement shall not exceed three times the total value of the agreement."
 - b. **General Terms and Conditions:**
 - i. Section 20 of the General Terms and Conditions entitled "Time" is removed in its entirety.
 - ii. Section 36 of the General Terms and Conditions entitled "Indemnification" is modified by limiting Kronos indemnification obligations to IP infringement, personal injury, death, and damage to tangible personal property. Kronos agrees to indemnify and hold Customer harmless from and against all claims, suits and demands for bodily injury or tangible property damage to the extent caused by the negligence or willful misconduct of Kronos' employees in the performance of services under this Agreement, provided that Kronos is given prompt written notice of any such claim and has sole control over the investigation, preparation, defense and settlement of such claim, and further provided that Customer reasonably cooperates with Kronos in connection with the foregoing and provides Kronos with all information in Customer's possession related to such claim and further assistance as reasonably requested by Kronos. The particulars of Kronos' indemnification for IP infringement are found in Exhibit C, UKG Dimensions Software As A Service Terms and Conditions, Section 13.

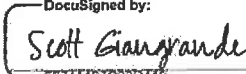
- iii. Section 40 of the General Terms and Conditions entitled "Background Check" is removed in its entirety and replaced with the following:

"40. Background Check: The State reserves the right to prohibit a service provider's employees from accessing sensitive or critical information or to be present at the Capitol complex based upon results addressed from a criminal background check. Service providers should contact the West Virginia Division of Protective Services by phone at (304) 558-9911 for more information."

- iv. Section 3 of the General Terms and Conditions entitled "Contract Term, Renewal, Extension" is eliminated in its entirety. The term of this Contract will be 48 Months with the option to renew for three (3) additional one (1) year terms.


The Parties are signing this Addendum on the date stated below the signature.

Kronos Incorporated

By: 
DocuSigned by:
59741407C20D419...
Its: Scott Giangrande Sr. Order Processing Analyst
Date: 4/17/2023 | 3:28 PM EDT

State of West Virginia
By the Enterprise Resource Planning Board

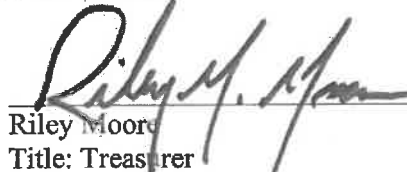
Dated: _____, 2023


Jim Justice
Title: Governor

Dated: 4/18/23, 2023


John B. McCuskey
Title: Auditor

Dated: 4/20/23, 2023


Riley Moore
Title: Treasurer

INSTRUCTIONS TO VENDORS SUBMITTING BIDS

1. REVIEW DOCUMENTS THOROUGHLY: The attached documents contain a solicitation for bids. Please read these instructions and all documents attached in their entirety. These instructions provide critical information about requirements that if overlooked could lead to disqualification of a Vendor's bid. All bids must be submitted in accordance with the provisions contained in these instructions and the Solicitation. Failure to do so may result in disqualification of Vendor's bid.

2. MANDATORY TERMS: The Solicitation may contain mandatory provisions identified by the use of the words "must," "will," and "shall." Failure to comply with a mandatory term in the Solicitation will result in bid disqualification.

3. PREBID MEETING: The item identified below shall apply to this Solicitation.

☒ A pre-bid meeting will not be held prior to bid opening

☐ A MANDATORY PRE-BID meeting will be held at the following place and time:

All Vendors submitting a bid must attend the mandatory pre-bid meeting. Failure to attend the mandatory pre-bid meeting shall result in disqualification of the Vendor's bid. No one individual is permitted to represent more than one vendor at the pre-bid meeting. Any individual that does attempt to represent two or more vendors will be required to select one vendor to which the individual's attendance will be attributed. The vendors not selected will be deemed to have not attended the pre-bid meeting unless another individual attended on their behalf.

An attendance sheet provided at the pre-bid meeting shall serve as the official document verifying attendance. Any person attending the pre-bid meeting on behalf of a Vendor must list on the attendance sheet his or her name and the name of the Vendor he or she is representing.

Additionally, the person attending the pre-bid meeting should include the Vendor's E-Mail address, phone number, and Fax number on the attendance sheet. It is the Vendor's responsibility to locate the attendance sheet and provide the required information. Failure to complete the attendance sheet as required may result in disqualification of Vendor's bid.

All Vendors should arrive prior to the starting time for the pre-bid. Vendors who arrive after the starting time but prior to the end of the pre-bid will be permitted to sign in but are charged with knowing all matters discussed at the pre-bid.

Questions submitted at least five business days prior to a scheduled pre-bid will be discussed at the pre-bid meeting if possible. Any discussions or answers to questions at the pre-bid meeting are preliminary in nature and are non-binding. Official and binding answers to questions will be published in a written addendum to the Solicitation prior to bid opening.

4. VENDOR QUESTION DEADLINE: Vendors may submit questions relating to this Solicitation to the Purchasing Division. Questions must be submitted in writing. All questions must be submitted on or before the date listed below and to the address listed below to be considered. A written response will be published in a Solicitation addendum if a response is possible and appropriate. Non-written discussions, conversations, or questions and answers regarding this Solicitation are preliminary in nature and are nonbinding.

Submitted emails should have the solicitation number in the subject line.

Question Submission Deadline:

Submit Questions to:
2019 Washington Street, East
Charleston, WV 25305
Fax: (304) 558-3970
Email:

5. VERBAL COMMUNICATION: Any verbal communication between the Vendor and any State personnel is not binding, including verbal communication at the mandatory pre-bid conference. Only information issued in writing and added to the Solicitation by an official written addendum by the Purchasing Division is binding.

6. BID SUBMISSION: All bids must be submitted on or before the date and time of the bid opening listed in section 7 below. Vendors can submit bids electronically through wvOASIS, in paper form delivered to the Purchasing Division at the address listed below either in person or by courier, or in facsimile form by faxing to the Purchasing Division at the number listed below. Notwithstanding the foregoing, the Purchasing Division may prohibit the submission of bids electronically through wvOASIS at its sole discretion. Such a prohibition will be contained and communicated in the wvOASIS system resulting in the Vendor's inability to submit bids through wvOASIS. The Purchasing Division will not accept bids, modification of bids, or addendum acknowledgment forms via email. Bids submitted in paper or facsimile form must contain a signature. Bids submitted in wvOASIS are deemed to be electronically signed.

Any bid received by the Purchasing Division staff is considered to be in the possession of the Purchasing Division and will not be returned for any reason.

For Request for Proposal ("RFP") Responses Only: Submission of a response to a Request for Proposal is not permitted in wvOASIS. In the event that Vendor is responding to a request for proposal, the Vendor shall submit one original technical and one original cost proposal prior to the bid opening date and time identified in Section 7 below, plus _____ convenience copies of each to the Purchasing Division at the address shown below. Additionally, the Vendor should clearly identify and segregate the cost proposal from the technical proposal in a separately sealed envelope.

Revised 11/1/2022

Bid Delivery Address and Fax Number:

Department of Administration, Purchasing Division
2019 Washington Street East
Charleston, WV 25305-0130
Fax: 304-558-3970

A bid submitted in paper or facsimile form should contain the information listed below on the face of the submission envelope or fax cover sheet. Otherwise, the bid may be rejected by the Purchasing Division.

VENDOR NAME:

BUYER:

SOLICITATION NO.:

BID OPENING DATE:

BID OPENING TIME:

FAX NUMBER:

7. BID OPENING: Bids submitted in response to this Solicitation will be opened at the location identified below on the date and time listed below. Delivery of a bid after the bid opening date and time will result in bid disqualification. For purposes of this Solicitation, a bid is considered delivered when confirmation of delivery is provided by wvOASIS (in the case of electronic submission) or when the bid is time stamped by the official Purchasing Division time clock (in the case of hand delivery).

Bid Opening Date and Time:

Bid Opening Location: Department of Administration, Purchasing Division
2019 Washington Street East
Charleston, WV 25305-0130

8. ADDENDUM ACKNOWLEDGEMENT: Changes or revisions to this Solicitation will be made by an official written addendum issued by the Purchasing Division. Vendor should acknowledge receipt of all addenda issued with this Solicitation by completing an Addendum Acknowledgment Form, a copy of which is included herewith. Failure to acknowledge addenda may result in bid disqualification. The addendum acknowledgement should be submitted with the bid to expedite document processing.

9. BID FORMATTING: Vendor should type or electronically enter the information onto its bid to prevent errors in the evaluation. Failure to type or electronically enter the information may result in bid disqualification.

10. ALTERNATE MODEL OR BRAND: Unless the box below is checked, any model, brand, or specification listed in this Solicitation establishes the acceptable level of quality only and is not intended to reflect a preference for, or in any way favor, a particular brand or vendor. Vendors may bid alternates to a listed model or brand provided that the alternate is at least equal to the model or brand and complies with the required specifications. The equality of any alternate being bid shall be determined by the State at its sole discretion. Any Vendor bidding an alternate model or brand should clearly identify the alternate items in its bid and should include manufacturer's specifications, industry literature, and/or any other relevant documentation demonstrating the equality of the alternate items. Failure to provide information for alternate items may be grounds for rejection of a Vendor's bid.

☐ This Solicitation is based upon a standardized commodity established under W. Va. Code § 5A-3-61. Vendors are expected to bid the standardized commodity identified. Failure to bid the standardized commodity will result in your firm's bid being rejected.

11. EXCEPTIONS AND CLARIFICATIONS: The Solicitation contains the specifications that shall form the basis of a contractual agreement. Vendor shall clearly mark any exceptions, clarifications, or other proposed modifications in its bid. Exceptions to, clarifications of, or modifications of a requirement or term and condition of the Solicitation may result in bid disqualification.

12. COMMUNICATION LIMITATIONS: In accordance with West Virginia Code of State Rules §148-1-6.6, communication with the State of West Virginia or any of its employees regarding this Solicitation during the solicitation, bid, evaluation or award periods, except through the Purchasing Division, is strictly prohibited without prior Purchasing Division approval. Purchasing Division approval for such communication is implied for all agency delegated and exempt purchases.

13. REGISTRATION: Prior to Contract award, the apparent successful Vendor must be properly registered with the West Virginia Purchasing Division and must have paid the \$125 fee, if applicable.

14. UNIT PRICE: Unit prices shall prevail in cases of a discrepancy in the Vendor's bid.

15. PREFERENCE: Vendor Preference may be requested in purchases of motor vehicles or construction and maintenance equipment and machinery used in highway and other infrastructure projects. Any request for preference must be submitted in writing with the bid, must specifically identify the preference requested with reference to the applicable subsection of West Virginia Code § 5A-3-37, and must include with the bid any information necessary to evaluate and confirm the applicability of the requested preference. A request form to help facilitate the request can be found at:
www.state.wv.us/admin/purchase/vrc/Venpref.pdf.

15A. RECIPROCAL PREFERENCE: The State of West Virginia applies a reciprocal preference to all solicitations for commodities and printing in accordance with W. Va. Code § 5A-3-37(b). In effect, non-resident vendors receiving a preference in their home states, will see that same preference granted to West Virginia resident vendors bidding against them in West Virginia. Any request for reciprocal preference must include with the bid any information necessary to evaluate and confirm the applicability of the preference. A request form to help facilitate the request can be found at: www.state.wv.us/admin/purchase/vrc/Venpref.pdf.

16. SMALL, WOMEN-OWNED, OR MINORITY-OWNED BUSINESSES: For any solicitations publicly advertised for bid, in accordance with West Virginia Code §5A-3-37 and W. Va. CSR § 148-22-9, any non-resident vendor certified as a small, women- owned, or minority-owned business under W. Va. CSR § 148-22-9 shall be provided the same preference made available to any resident vendor. Any non-resident small, women-owned, or minority-owned business must identify itself as such in writing, must submit that writing to the Purchasing Division with its bid, and must be properly certified under W. Va. CSR § 148-22-9 prior to contract award to receive the preferences made available to resident vendors. Preference for a non-resident small, women-owned, or minority owned business shall be applied in accordance with W. Va. CSR § 148-22-9.

17. WAIVER OF MINOR IRREGULARITIES: The Director reserves the right to waive minor irregularities in bids or specifications in accordance with West Virginia Code of State Rules § 148-1-4.6.

18. ELECTRONIC FILE ACCESS RESTRICTIONS: Vendor must ensure that its submission in wvOASIS can be accessed and viewed by the Purchasing Division staff immediately upon bid opening. The Purchasing Division will consider any file that cannot be immediately accessed and viewed at the time of the bid opening (such as, encrypted files, password protected files, or incompatible files) to be blank or incomplete as context requires and are therefore unacceptable. A vendor will not be permitted to unencrypt files, remove password protections, or resubmit documents after bid opening to make a file viewable if those documents are required with the bid. A Vendor may be required to provide document passwords or remove access restrictions to allow the Purchasing Division to print or electronically save documents provided that those documents are viewable by the Purchasing Division prior to obtaining the password or removing the access restriction.

19. NON-RESPONSIBLE: The Purchasing Division Director reserves the right to reject the bid of any vendor as Non-Responsible in accordance with W. Va. Code of State Rules § 148-1-5.3, when the Director determines that the vendor submitting the bid does not have the capability to fully perform or lacks the integrity and reliability to assure good-faith performance.”

20. ACCEPTANCE/REJECTION: The State may accept or reject any bid in whole, or in part in accordance with W. Va. Code of State Rules § 148-1-4.5. and § 148-1-6.4.b.”

21. YOUR SUBMISSION IS A PUBLIC DOCUMENT: Vendor's entire response to the Solicitation and the resulting Contract are public documents. As public documents, they will be disclosed to the public following the bid/proposal opening or award of the contract, as required by the competitive bidding laws of West Virginia Code §§ 5A-3-1 et seq., 5-22-1 et seq., and 5G-1-1 et seq. and the Freedom of Information Act West Virginia Code §§ 29B-1-1 et seq.

DO NOT SUBMIT MATERIAL YOU CONSIDER TO BE CONFIDENTIAL, A TRADE SECRET, OR OTHERWISE NOT SUBJECT TO PUBLIC DISCLOSURE.

Submission of any bid, proposal, or other document to the Purchasing Division constitutes your explicit consent to the subsequent public disclosure of the bid, proposal, or document. The Purchasing Division will disclose any document labeled "confidential," "proprietary," "trade secret," "private," or labeled with any other claim against public disclosure of the documents, to include any "trade secrets" as defined by West Virginia Code § 47-22-1 et seq. All submissions are subject to public disclosure without notice.

22. WITH THE BID REQUIREMENTS: In instances where these specifications require documentation or other information with the bid, and a vendor fails to provide it with the bid, the Director of the Purchasing Division reserves the right to request those items after bid opening and prior to contract award pursuant to the authority to waive minor irregularities in bids or specifications under W. Va. CSR § 148-1-4.6. This authority does not apply to instances where state law mandates receipt with the bid.

23. EMAIL NOTIFICATION OF AWARD: The Purchasing Division will attempt to provide bidders with e-mail notification of contract award when a solicitation that the bidder participated in has been awarded. For notification purposes, bidders must provide the Purchasing Division with a valid email address in the bid response. Bidders may also monitor wvOASIS or the Purchasing Division's website to determine when a contract has been awarded.

24. ISRAEL BOYCOTT CERTIFICATION: Vendor's act of submitting a bid in response to this solicitation shall be deemed a certification from bidder to the State that bidder is not currently engaged in, and will not for the duration of the contract, engage in a boycott of Israel. This certification is required by W. Va. Code § 5A-3-63.

GENERAL TERMS AND CONDITIONS:

1. CONTRACTUAL AGREEMENT: Issuance of an Award Document signed by the Purchasing Division Director, or his designee, and approved as to form by the Attorney General's office constitutes acceptance by the State of this Contract made by and between the State of West Virginia and the Vendor. Vendor's signature on its bid, or on the Contract if the Contract is not the result of a bid solicitation, signifies Vendor's agreement to be bound by and accept the terms and conditions contained in this Contract.

2. DEFINITIONS: As used in this Solicitation/Contract, the following terms shall have the meanings attributed to them below. Additional definitions may be found in the specifications included with this Solicitation/Contract.

2.1. "Agency" or "Agencies" means the agency, board, commission, or other entity of the State of West Virginia that is identified on the first page of the Solicitation or any other public entity seeking to procure goods or services under this Contract.

2.2. "Bid" or "Proposal" means the vendors submitted response to this solicitation.

2.3. "Contract" means the binding agreement that is entered into between the State and the Vendor to provide the goods or services requested in the Solicitation.

2.4. "Director" means the Director of the West Virginia Department of Administration, Purchasing Division.

2.5. "Purchasing Division" means the West Virginia Department of Administration, Purchasing Division.

2.6. "Award Document" means the document signed by the Agency and the Purchasing Division, and approved as to form by the Attorney General, that identifies the Vendor as the contract holder.

2.7. "Solicitation" means the official notice of an opportunity to supply the State with goods or services that is published by the Purchasing Division.

2.8. "State" means the State of West Virginia and/or any of its agencies, commissions, boards, etc. as context requires.

2.9. "Vendor" or "Vendors" means any entity submitting a bid in response to the Solicitation, the entity that has been selected as the lowest responsible bidder, or the entity that has been awarded the Contract as context requires.

3. CONTRACT TERM; RENEWAL; EXTENSION: The term of this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below:

☒ **Term Contract**

Initial Contract Term: The Initial Contract Term will be for a period of 48 Months. The Initial Contract Term becomes effective on the effective start date listed on the first page of this Contract, identified as the State of West Virginia contract cover page containing the signatures of the Purchasing Division, Attorney General, and Encumbrance clerk (or another page identified as _____), and the Initial Contract Term ends on the effective end date also shown on the first page of this Contract.

Renewal Term: This Contract may be renewed upon the mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any request for renewal should be delivered to the Agency and then submitted to the Purchasing Division thirty (30) days prior to the expiration date of the initial contract term or appropriate renewal term. A Contract renewal shall be in accordance with the terms and conditions of the original contract. Unless otherwise specified below, renewal of this Contract is limited to Three successive one (1) year periods or multiple renewal periods of less than one year, provided that the multiple renewal periods do not exceed the total number of months available in all renewal years combined. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's office (Attorney General approval is as to form only)

☐ **Alternate Renewal Term** – This contract may be renewed for _____ successive _____ year periods or shorter periods provided that they do not exceed the total number of months contained in all available renewals. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's office (Attorney General approval is as to form only)

Delivery Order Limitations: In the event that this contract permits delivery orders, a delivery order may only be issued during the time this Contract is in effect. Any delivery order issued within one year of the expiration of this Contract shall be effective for one year from the date the delivery order is issued. No delivery order may be extended beyond one year after this Contract has expired.

☐ **Fixed Period Contract:** This Contract becomes effective upon Vendor's receipt of the notice to proceed and must be completed within _____ days.

☐ **Fixed Period Contract with Renewals:** This Contract becomes effective upon Vendor's receipt of the notice to proceed and part of the Contract more fully described in the attached specifications must be completed within _____ days. Upon completion of the work covered by the preceding sentence, the vendor agrees that:

☐ the contract will continue for _____ years;

☐ the contract may be renewed for _____ successive _____ year periods or shorter periods provided that they do not exceed the total number of months contained in all available renewals. Automatic renewal of this Contract is prohibited. Renewals must be approved by the Vendor, Agency, Purchasing Division and Attorney General's Office (Attorney General approval is as to form only).

☐ **One-Time Purchase:** The term of this Contract shall run from the issuance of the Award Document until all of the goods contracted for have been delivered, but in no event will this Contract extend for more than one fiscal year.

☐ **Construction/Project Oversight:** This Contract becomes effective on the effective start date listed on the first page of this Contract, identified as the State of West Virginia contract cover page containing the signatures of the Purchasing Division, Attorney General, and Encumbrance clerk (or another page identified as _____), and continues until the project for which the vendor is providing oversight is complete.

☐ **Other:** Contract Term specified in _____

4. AUTHORITY TO PROCEED: Vendor is authorized to begin performance of this contract on the date of encumbrance listed on the front page of the Award Document unless either the box for "Fixed Period Contract" or "Fixed Period Contract with Renewals" has been checked in Section 3 above. If either "Fixed Period Contract" or "Fixed Period Contract with Renewals" has been checked, Vendor must not begin work until it receives a separate notice to proceed from the State. The notice to proceed will then be incorporated into the Contract via change order to memorialize the official date that work commenced.

5. QUANTITIES: The quantities required under this Contract shall be determined in accordance with the category that has been identified as applicable to this Contract below.

☒ **Open End Contract:** Quantities listed in this Solicitation/Award Document are approximations only, based on estimates supplied by the Agency. It is understood and agreed that the Contract shall cover the quantities actually ordered for delivery during the term of the Contract, whether more or less than the quantities shown.

☐ **Service:** The scope of the service to be provided will be more clearly defined in the specifications included herewith.

☒ **Combined Service and Goods:** The scope of the service and deliverable goods to be provided will be more clearly defined in the specifications included herewith.

☐ **One-Time Purchase:** This Contract is for the purchase of a set quantity of goods that are identified in the specifications included herewith. Once those items have been delivered, no additional goods may be procured under this Contract without an appropriate change order approved by the Vendor, Agency, Purchasing Division, and Attorney General's office.

☐ **Construction:** This Contract is for construction activity more fully defined in the specifications.

6. EMERGENCY PURCHASES: The Purchasing Division Director may authorize the Agency to purchase goods or services in the open market that Vendor would otherwise provide under this Contract if those goods or services are for immediate or expedited delivery in an emergency. Emergencies shall include, but are not limited to, delays in transportation or an unanticipated increase in the volume of work. An emergency purchase in the open market, approved by the Purchasing Division Director, shall not constitute a breach of this Contract and shall not entitle the Vendor to any form of compensation or damages. This provision does not excuse the State from fulfilling its obligations under a One-Time Purchase contract.

7. REQUIRED DOCUMENTS: All of the items checked in this section must be provided to the Purchasing Division by the Vendor as specified:

☐ **LICENSE(S) / CERTIFICATIONS / PERMITS:** In addition to anything required under the Section of the General Terms and Conditions entitled Licensing, the apparent successful Vendor shall furnish proof of the following licenses, certifications, and/or permits upon request and in a form acceptable to the State. The request may be prior to or after contract award at the State's sole discretion.

☐☐☐☐

The apparent successful Vendor shall also furnish proof of any additional licenses or certifications contained in the specifications regardless of whether or not that requirement is listed above.

8. INSURANCE: The apparent successful Vendor shall furnish proof of the insurance identified by a checkmark below prior to Contract award. The insurance coverages identified below must be maintained throughout the life of this contract. Thirty (30) days prior to the expiration of the insurance policies, Vendor shall provide the Agency with proof that the insurance mandated herein has been continued. Vendor must also provide Agency with immediate notice of any changes in its insurance policies, including but not limited to, policy cancelation, policy reduction, or change in insurers. The apparent successful Vendor shall also furnish proof of any additional insurance requirements contained in the specifications prior to Contract award regardless of whether that insurance requirement is listed in this section.

Vendor must maintain:

☒ **Commercial General Liability Insurance** in at least an amount of: \$1,000,000 per occurrence.

☐ **Automobile Liability Insurance** in at least an amount of: _____ per occurrence.

☐ **Professional/Malpractice/Errors and Omission Insurance** in at least an amount of: _____ per occurrence. Notwithstanding the forgoing, Vendor's are not required to list the State as an additional insured for this type of policy.

☐ **Commercial Crime and Third Party Fidelity Insurance** in an amount of: _____ per occurrence.

☒ **Cyber Liability Insurance** in an amount of: \$1,000,000 per occurrence.

☐ **Builders Risk Insurance** in an amount equal to 100% of the amount of the Contract.

☐ **Pollution Insurance** in an amount of: _____ per occurrence.

☐ **Aircraft Liability** in an amount of: _____ per occurrence.

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9. WORKERS' COMPENSATION INSURANCE: Vendor shall comply with laws relating to workers compensation, shall maintain workers' compensation insurance when required, and shall furnish proof of workers' compensation insurance upon request.

10. VENUE: All legal actions for damages brought by Vendor against the State shall be brought in the West Virginia Claims Commission. Other causes of action must be brought in the West Virginia court authorized by statute to exercise jurisdiction over it.

11. LIQUIDATED DAMAGES: This clause shall in no way be considered exclusive and shall not limit the State or Agency's right to pursue any other available remedy. Vendor shall pay liquidated damages in the amount specified below or as described in the specifications:

☐ _____ for _____

☐ Liquidated Damages Contained in the Specifications.

☐ Liquidated Damages Are Not Included in this Contract.

12. ACCEPTANCE: Vendor's signature on its bid, or on the certification and signature page, constitutes an offer to the State that cannot be unilaterally withdrawn, signifies that the product or service proposed by vendor meets the mandatory requirements contained in the Solicitation for that product or service, unless otherwise indicated, and signifies acceptance of the terms and conditions contained in the Solicitation unless otherwise indicated.

13. PRICING: The pricing set forth herein is firm for the life of the Contract, unless specified elsewhere within this Solicitation/Contract by the State. A Vendor's inclusion of price adjustment provisions in its bid, without an express authorization from the State in the Solicitation to do so, may result in bid disqualification. Notwithstanding the foregoing, Vendor must extend any publicly advertised sale price to the State and invoice at the lower of the contract price or the publicly advertised sale price.

14. PAYMENT IN ARREARS: Payments for goods/services will be made in arrears only upon receipt of a proper invoice, detailing the goods/services provided or receipt of the goods/services, whichever is later. Notwithstanding the foregoing, payments for software maintenance, licenses, or subscriptions may be paid annually in advance.

15. PAYMENT METHODS: Vendor must accept payment by electronic funds transfer and P-Card. (The State of West Virginia's Purchasing Card program, administered under contract by a banking institution, processes payment for goods and services through state designated credit cards.)

16. TAXES: The Vendor shall pay any applicable sales, use, personal property or any other taxes arising out of this Contract and the transactions contemplated thereby. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.

17. ADDITIONAL FEES: Vendor is not permitted to charge additional fees or assess additional charges that were not either expressly provided for in the solicitation published by the State of West Virginia, included in the Contract, or included in the unit price or lump sum bid amount that Vendor is required by the solicitation to provide. Including such fees or charges as notes to the solicitation may result in rejection of vendor's bid. Requesting such fees or charges be paid after the contract has been awarded may result in cancellation of the contract.

18. FUNDING: This Contract shall continue for the term stated herein, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise made available, this Contract becomes void and of no effect beginning on July 1 of the fiscal year for which funding has not been appropriated or otherwise made available. If that occurs, the State may notify the Vendor that an alternative source of funding has been obtained and thereby avoid the automatic termination. Non-appropriation or non-funding shall not be considered an event of default.

19. CANCELLATION: The Purchasing Division Director reserves the right to cancel this Contract immediately upon written notice to the vendor if the materials or workmanship supplied do not conform to the specifications contained in the Contract. The Purchasing Division Director may also cancel any purchase or Contract upon 30 days written notice to the Vendor in accordance with West Virginia Code of State Rules § 148-1-5.2.b.

20. TIME: Time is of the essence regarding all matters of time and performance in this Contract.

21. APPLICABLE LAW: This Contract is governed by and interpreted under West Virginia law without giving effect to its choice of law principles. Any information provided in specification manuals, or any other source, verbal or written, which contradicts or violates the West Virginia Constitution, West Virginia Code, or West Virginia Code of State Rules is void and of no effect.

22. COMPLIANCE WITH LAWS: Vendor shall comply with all applicable federal, state, and local laws, regulations and ordinances. By submitting a bid, Vendor acknowledges that it has reviewed, understands, and will comply with all applicable laws, regulations, and ordinances.

SUBCONTRACTOR COMPLIANCE: Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to comply with all applicable laws, regulations, and ordinances. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.

23. ARBITRATION: Any references made to arbitration contained in this Contract, Vendor's bid, or in any American Institute of Architects documents pertaining to this Contract are hereby deleted, void, and of no effect.

24. MODIFICATIONS: This writing is the parties' final expression of intent. Notwithstanding anything contained in this Contract to the contrary no modification of this Contract shall be binding without mutual written consent of the Agency, and the Vendor, with approval of the Purchasing Division and the Attorney General's office (Attorney General approval is as to form only). Any change to existing contracts that adds work or changes contract cost, and were not included in the original contract, must be approved by the Purchasing Division and the Attorney General's Office (as to form) prior to the implementation of the change or commencement of work affected by the change.

25. WAIVER: The failure of either party to insist upon a strict performance of any of the terms or provision of this Contract, or to exercise any option, right, or remedy herein contained, shall not be construed as a waiver or a relinquishment for the future of such term, provision, option, right, or remedy, but the same shall continue in full force and effect. Any waiver must be expressly stated in writing and signed by the waiving party.

26. SUBSEQUENT FORMS: The terms and conditions contained in this Contract shall supersede any and all subsequent terms and conditions which may appear on any form documents submitted by Vendor to the Agency or Purchasing Division such as price lists, order forms, invoices, sales agreements, or maintenance agreements, and includes internet websites or other electronic documents. Acceptance or use of Vendor's forms does not constitute acceptance of the terms and conditions contained thereon.

27. ASSIGNMENT: Neither this Contract nor any monies due, or to become due hereunder, may be assigned by the Vendor without the express written consent of the Agency, the Purchasing Division, the Attorney General's office (as to form only), and any other government agency or office that may be required to approve such assignments.

28. WARRANTY: The Vendor expressly warrants that the goods and/or services covered by this Contract will: (a) conform to the specifications, drawings, samples, or other description furnished or specified by the Agency; (b) be merchantable and fit for the purpose intended; and (c) be free from defect in material and workmanship.

29. STATE EMPLOYEES: State employees are not permitted to utilize this Contract for personal use and the Vendor is prohibited from permitting or facilitating the same.

30. PRIVACY, SECURITY, AND CONFIDENTIALITY: The Vendor agrees that it will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the Agency, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the Agency's policies, procedures, and rules. Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements, set forth in <http://www.state.wv.us/admin/purchase/privacy/default.html>.

31. YOUR SUBMISSION IS A PUBLIC DOCUMENT: Vendor's entire response to the Solicitation and the resulting Contract are public documents. As public documents, they will be disclosed to the public following the bid/proposal opening or award of the contract, as required by the competitive bidding laws of West Virginia Code §§ 5A-3-1 et seq., 5-22-1 et seq., and 5G-1-1 et seq. and the Freedom of Information Act West Virginia Code §§ 29B-1-1 et seq.

DO NOT SUBMIT MATERIAL YOU CONSIDER TO BE CONFIDENTIAL, A TRADE SECRET, OR OTHERWISE NOT SUBJECT TO PUBLIC DISCLOSURE.

Submission of any bid, proposal, or other document to the Purchasing Division constitutes your explicit consent to the subsequent public disclosure of the bid, proposal, or document. The Purchasing Division will disclose any document labeled "confidential," "proprietary," "trade secret," "private," or labeled with any other claim against public disclosure of the documents, to include any "trade secrets" as defined by West Virginia Code § 47-22-1 et seq. All submissions are subject to public disclosure without notice.

32. LICENSING: In accordance with West Virginia Code of State Rules § 148-1-6.1.e, Vendor must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, West Virginia Insurance Commission, or any other state agency or political subdivision. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. Upon request, the Vendor must provide all necessary releases to obtain information to enable the Purchasing Division Director or the Agency to verify that the Vendor is licensed and in good standing with the above entities.

SUBCONTRACTOR COMPLIANCE: Vendor shall notify all subcontractors providing commodities or services related to this Contract that as subcontractors, they too are required to be licensed, in good standing, and up-to-date on all state and local obligations as described in this section. Obligations related to political subdivisions may include, but are not limited to, business licensing, business and occupation taxes, inspection compliance, permitting, etc. Notification under this provision must occur prior to the performance of any work under the contract by the subcontractor.

33. ANTITRUST: In submitting a bid to, signing a contract with, or accepting a Award Document from any agency of the State of West Virginia, the Vendor agrees to convey, sell, assign, or transfer to the State of West Virginia all rights, title, and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of West Virginia for price fixing and/or unreasonable restraints of trade relating to the particular commodities or services purchased or acquired by the State of West Virginia. Such assignment shall be made and become effective at the time the purchasing agency tenders the initial payment to Vendor.

34. VENDOR NON-CONFLICT: Neither Vendor nor its representatives are permitted to have any interest, nor shall they acquire any interest, direct or indirect, which would compromise the performance of its services hereunder. Any such interests shall be promptly presented in detail to the Agency.

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35. VENDOR RELATIONSHIP: The relationship of the Vendor to the State shall be that of an independent contractor and no principal-agent relationship or employer-employee relationship is contemplated or created by this Contract. The Vendor as an independent contractor is solely liable for the acts and omissions of its employees and agents. Vendor shall be responsible for selecting, supervising, and compensating any and all individuals employed pursuant to the terms of this Solicitation and resulting contract. Neither the Vendor, nor any employees or subcontractors of the Vendor, shall be deemed to be employees of the State for any purpose whatsoever. Vendor shall be exclusively responsible for payment of employees and contractors for all wages and salaries, taxes, withholding payments, penalties, fees, fringe benefits, professional liability insurance premiums, contributions to insurance and pension, or other deferred compensation plans, including but not limited to, Workers' Compensation and Social Security obligations, licensing fees, etc. and the filing of all necessary documents, forms, and returns pertinent to all of the foregoing.

Vendor shall hold harmless the State, and shall provide the State and Agency with a defense against any and all claims including, but not limited to, the foregoing payments, withholdings, contributions, taxes, Social Security taxes, and employer income tax returns.

36. INDEMNIFICATION: The Vendor agrees to indemnify, defend, and hold harmless the State and the Agency, their officers, and employees from and against: (1) Any claims or losses for services rendered by any subcontractor, person, or firm performing or supplying services, materials, or supplies in connection with the performance of the Contract; (2) Any claims or losses resulting to any person or entity injured or damaged by the Vendor, its officers, employees, or subcontractors by the publication, translation, reproduction, delivery, performance, use, or disposition of any data used under the Contract in a manner not authorized by the Contract, or by Federal or State statutes or regulations; and (3) Any failure of the Vendor, its officers, employees, or subcontractors to observe State and Federal laws including, but not limited to, labor and wage and hour laws.

37. NO DEBT CERTIFICATION: In accordance with West Virginia Code §§ 5A-3-10a and 5-22-1(i), the State is prohibited from awarding a contract to any bidder that owes a debt to the State or a political subdivision of the State. By submitting a bid, or entering into a contract with the State, Vendor is affirming that (1) for construction contracts, the Vendor is not in default on any monetary obligation owed to the state or a political subdivision of the state, and (2) for all other contracts, neither the Vendor nor any related party owe a debt as defined above, and neither the Vendor nor any related party are in employer default as defined in the statute cited above unless the debt or employer default is permitted under the statute.

38. CONFLICT OF INTEREST: Vendor, its officers or members or employees, shall not presently have or acquire an interest, direct or indirect, which would conflict with or compromise the performance of its obligations hereunder. Vendor shall periodically inquire of its officers, members and employees to ensure that a conflict of interest does not arise. Any conflict of interest discovered shall be promptly presented in detail to the Agency.

39. REPORTS: Vendor shall provide the Agency and/or the Purchasing Division with the following reports identified by a checked box below:

☐ Such reports as the Agency and/or the Purchasing Division may request. Requested reports may include, but are not limited to, quantities purchased, agencies utilizing the contract, total contract expenditures by agency, etc.

☐ Quarterly reports detailing the total quantity of purchases in units and dollars, along with a listing of purchases by agency. Quarterly reports should be delivered to the Purchasing Division via email at purchasing.division@wv.gov.

40. BACKGROUND CHECK: In accordance with W. Va. Code § 15-2D-3, the State reserves the right to prohibit a service provider's employees from accessing sensitive or critical information or to be present at the Capitol complex based upon results addressed from a criminal background check. Service providers should contact the West Virginia Division of Protective Services by phone at (304) 558-9911 for more information.

41. PREFERENCE FOR USE OF DOMESTIC STEEL PRODUCTS: Except when authorized by the Director of the Purchasing Division pursuant to W. Va. Code § 5A-3-56, no contractor may use or supply steel products for a State Contract Project other than those steel products made in the United States. A contractor who uses steel products in violation of this section may be subject to civil penalties pursuant to W. Va. Code § 5A-3-56. As used in this section:

- a. "State Contract Project" means any erection or construction of, or any addition to, alteration of or other improvement to any building or structure, including, but not limited to, roads or highways, or the installation of any heating or cooling or ventilating plants or other equipment, or the supply of and materials for such projects, pursuant to a contract with the State of West Virginia for which bids were solicited on or after June 6, 2001.
- b. "Steel Products" means products rolled, formed, shaped, drawn, extruded, forged, cast, fabricated or otherwise similarly processed, or processed by a combination of two or more or such operations, from steel made by the open hearth, basic oxygen, electric furnace, Bessemer or other steel making process.
- c. The Purchasing Division Director may, in writing, authorize the use of foreign steel products if:
 1. The cost for each contract item used does not exceed one tenth of one percent (.1%) of the total contract cost or two thousand five hundred dollars (\$2,500.00), whichever is greater. For the purposes of this section, the cost is the value of the steel product as delivered to the project; or
 2. The Director of the Purchasing Division determines that specified steel materials are not produced in the United States in sufficient quantity or otherwise are not reasonably available to meet contract requirements.

42. PREFERENCE FOR USE OF DOMESTIC ALUMINUM, GLASS, AND STEEL: In Accordance with W. Va. Code § 5-19-1 et seq., and W. Va. CSR § 148-10-1 et seq., for every contract or subcontract, subject to the limitations contained herein, for the construction, reconstruction, alteration, repair, improvement or maintenance of public works or for the purchase of any item of machinery or equipment to be used at sites of public works, only domestic aluminum, glass or steel products shall be supplied unless the spending officer determines, in writing, after the receipt of offers or bids, (1) that the cost of domestic aluminum, glass or steel products is unreasonable or inconsistent with the public interest of the State of West Virginia, (2) that domestic aluminum, glass or steel products are not produced in sufficient quantities to meet the contract requirements, or (3) the available domestic aluminum, glass, or steel do not meet the contract specifications. This provision only applies to public works contracts awarded in an amount more than fifty thousand dollars (\$50,000) or public works contracts that require more than ten thousand pounds of steel products.

The cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than twenty percent (20%) of the bid or offered price for foreign made aluminum, glass, or steel products. If the domestic aluminum, glass or steel products to be supplied or produced in a "substantial labor surplus area", as defined by the United States Department of Labor, the cost of domestic aluminum, glass, or steel products may be unreasonable if the cost is more than thirty percent (30%) of the bid or offered price for foreign made aluminum, glass, or steel products. This preference shall be applied to an item of machinery or equipment, as indicated above, when the item is a single unit of equipment or machinery manufactured primarily of aluminum, glass or steel, is part of a public works contract and has the sole purpose or of being a permanent part of a single public works project. This provision does not apply to equipment or machinery purchased by a spending unit for use by that spending unit and not as part of a single public works project.

All bids and offers including domestic aluminum, glass or steel products that exceed bid or offer prices including foreign aluminum, glass or steel products after application of the preferences provided in this provision may be reduced to a price equal to or lower than the lowest bid or offer price for foreign aluminum, glass or steel products plus the applicable preference. If the reduced bid or offer prices are made in writing and supersede the prior bid or offer prices, all bids or offers, including the reduced bid or offer prices, will be reevaluated in accordance with this rule.

43. INTERESTED PARTY SUPPLEMENTAL DISCLOSURE: W. Va. Code § 6D-1-2 requires that for contracts with an actual or estimated value of at least \$1 million, the Vendor must submit to the Agency a disclosure of interested parties prior to beginning work under this Contract. Additionally, the Vendor must submit a supplemental disclosure of interested parties reflecting any new or differing interested parties to the contract, which were not included in the original pre-work interested party disclosure, within 30 days following the completion or termination of the contract. A copy of that form is included with this solicitation or can be obtained from the WV Ethics Commission. This requirement does not apply to publicly traded companies listed on a national or international stock exchange. A more detailed definition of interested parties can be obtained from the form referenced above.

44. PROHIBITION AGAINST USED OR REFURBISHED: Unless expressly permitted in the solicitation published by the State, Vendor must provide new, unused commodities, and is prohibited from supplying used or refurbished commodities, in fulfilling its responsibilities under this Contract.

45. VOID CONTRACT CLAUSES: This Contract is subject to the provisions of West Virginia Code § 5A-3-62, which automatically voids certain contract clauses that violate State law.

46. ISRAEL BOYCOTT: Bidder understands and agrees that, pursuant to W. Va. Code § 5A-3-63, it is prohibited from engaging in a boycott of Israel during the term of this contract.

DESIGNATED CONTACT: Vendor appoints the individual identified in this Section as the Contract Administrator and the initial point of contact for matters relating to this Contract.

(Printed Name and Title) Christina Beacham - Representative Public Sector

(Address) _____

(Phone Number) / (Fax Number) 724-272-8468

(Email address) tbeacham@ukg.com

CERTIFICATION AND SIGNATURE: By signing below, or submitting documentation through wvOASIS, I certify that: I have reviewed this Solicitation/Contract in its entirety; that I understand the requirements, terms and conditions, and other information contained herein; that this bid, offer or proposal constitutes an offer to the State that cannot be unilaterally withdrawn; that the product or service proposed meets the mandatory requirements contained in the Solicitation/Contract for that product or service, unless otherwise stated herein; that the Vendor accepts the terms and conditions contained in the Solicitation, unless otherwise stated herein; that I am submitting this bid, offer or proposal for review and consideration; that this bid or offer was made without prior understanding, agreement, or connection with any entity submitting a bid or offer for the same material, supplies, equipment or services; that this bid or offer is in all respects fair and without collusion or fraud; that this Contract is accepted or entered into without any prior understanding, agreement, or connection to any other entity that could be considered a violation of law; that I am authorized by the Vendor to execute and submit this bid, offer, or proposal, or any documents related thereto on Vendor's behalf; that I am authorized to bind the vendor in a contractual relationship; and that to the best of my knowledge, the vendor has properly registered with any State agency that may require registration.

By signing below, I further certify that I understand this Contract is subject to the provisions of West Virginia Code § 5A-3-62, which automatically voids certain contract clauses that violate State law; and that pursuant to W. Va. Code 5A-3-63, the entity entering into this contract is prohibited from engaging in a boycott against Israel.

UKG

(Company)

DocuSigned by:

Scott Giangrande

(Signature of Authorized Representative)

Scott Giangrande

Sr. Order Processing Analyst

3/24/2023 | 12:45 PM EDT

(Printed Name and Title of Authorized Representative) (Date)

978-947-1752

(Phone Number) (Fax Number)

scott.giangrande@ukg.com

(Email Address)

ADDENDUM ACKNOWLEDGEMENT FORM
SOLICITATION NO.:

Instructions: Please acknowledge receipt of all addenda issued with this solicitation by completing this addendum acknowledgment form. Check the box next to each addendum received and sign below. Failure to acknowledge addenda may result in bid disqualification.

Acknowledgment: I hereby acknowledge receipt of the following addenda and have made the necessary revisions to my proposal, plans and/or specification, etc.

Addendum Numbers Received:

(Check the box next to each addendum received)

- ☐ Addendum No. 1
- ☐ Addendum No. 2
- ☐ Addendum No. 3
- ☐ Addendum No. 4
- ☐ Addendum No. 5

- ☐ Addendum No. 6
- ☐ Addendum No. 7
- ☐ Addendum No. 8
- ☐ Addendum No. 9
- ☐ Addendum No. 10

I understand that failure to confirm the receipt of addenda may be cause for rejection of this bid. I further understand that any verbal representation made or assumed to be made during any oral discussion held between Vendor's representatives and any state personnel is not binding. Only the information issued in writing and added to the specifications by an official addendum is binding.

UKG

Company

DocuSigned by:

Scott Giangrande

Authorized Signature

3/24/2023 | 12:45 PM EDT

Date

NOTE: This addendum acknowledgement should be submitted with the bid to expedite document processing.

Exhibit B

Software as a Service Addendum

1. Definitions:

Kronos will host data in US data centers unless mutually agreed.

Authorized Persons means the service provider's employees, contractors, subcontractors or other agents who have responsibility in protecting or have access to the public jurisdiction's personal data and non-public data to enable the service provider to perform the services required.

Data Breach means the unauthorized access and acquisition of unencrypted and unredacted personal data that compromises the security or confidentiality of a public jurisdiction's personal information and that causes the service provider or public jurisdiction to reasonably believe that the data breach has caused or will cause identity theft or other fraud.

Individually Identifiable Health Information means information that is a subset of health information, including demographic information collected from an individual, and (1) is created or received by a health care provider, health plan, employer or health care clearinghouse; and (2) relates to the past, present or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (a) that identifies the individual; or (b) with respect to which there is a reasonable basis to believe the information can be used to identify the individual.

Non-Public Data means data, other than personal data, that is not subject to distribution to the public as public information. It is deemed to be sensitive and confidential by the public jurisdiction because it contains information that is exempt by statute, ordinance or administrative rule from access by the general public as public information.

Personal Data means data that includes information relating to a person that identifies the person by first name or first initial, and last name, and has any of the following personally identifiable information (PII): government-issued identification numbers (e.g., Social Security, driver's license, state identification card); financial account information, including account number, credit or debit card numbers; or protected health information (PHI).

Public Jurisdiction means any government or government agency that uses these terms and conditions. The term is a placeholder for the government or government agency.

Public Jurisdiction Data means all data created or in any way originating with the public jurisdiction, and all data that is the output of computer processing or other electronic manipulation of any data that was created by or in any way originated with the public jurisdiction, whether such data or output is stored on the public jurisdiction's hardware, the service provider's hardware or exists in any system owned, maintained or otherwise controlled by the public jurisdiction or by the service provider.

Public Jurisdiction Identified Contact means the person or persons designated in writing by the public jurisdiction to receive security incident or breach notification.

Restricted Data means personal data and non-public data.

Security Incident means the actual unauthorized access to personal data or non-public data the service provider believes could reasonably result in the use, disclosure or theft of a public jurisdiction's unencrypted personal data or non-public data within the possession or control of the service provider. A security incident may or may not turn into a Data Breach.

Service Provider means the contractor and its employees, subcontractors, agents and affiliates who are providing the services agreed to under the contract.

Software-as-a-Service (SaaS) means the capability provided to the consumer to use the provider's applications running on a cloud infrastructure. The applications are accessible from various client devices through a thin-client interface such as a Web browser (e.g., Web-based email) or a program interface. The consumer does not manage or control the underlying cloud infrastructure including network, servers, operating systems, storage or even individual application capabilities, with the possible exception of limited user-specific application configuration settings.

2. Data Ownership: The public jurisdiction will own all right, title and interest in its data that is related to the services provided by this contract. The service provider shall not access public jurisdiction user accounts or public jurisdiction data, except (1) in the course of data center operations, (2) in response to service or technical issues, (3) as required by the express terms of this contract or (4) at the public jurisdiction's written request.

3. Data Protection and Privacy: Protection of personal privacy and data shall be an integral part of the business activities of the service provider to ensure there is no inappropriate or unauthorized use of public jurisdiction information at any time. To this end, the service provider shall safeguard the confidentiality, integrity and availability of public jurisdiction information and comply with the following conditions:

- a) The service provider shall implement and maintain appropriate administrative, technical and physical security measures to safeguard against unauthorized access, disclosure or theft of personal data and non-public data. In Appendix A, the public jurisdiction shall indicate whether restricted information will be processed by the service provider. Such security measures shall be in accordance with recognized industry practice and not less stringent than the measures the service provider applies to its own personal data and non-public data of similar kind. The service provider shall ensure that all such measures, including the manner in which personal data and non-public data are collected, accessed, used, stored, processed, disposed of and disclosed, comply with applicable data protection and privacy laws, as well as the terms and conditions of this Addendum and shall survive termination of the underlying contract.
- b) The service provider represents and warrants that its collection, access, use, storage, disposal and disclosure of personal data and non-public data do and will comply with all applicable federal and state privacy and data protection laws, as well as all other applicable regulations and directives.

- c) The service provider shall support third-party multi-factor authentication via SAML 2.0 integration with public jurisdiction third-party identity provider as described in product documentation to safeguard personal data and non-public data.
- d) All data obtained by the service provider in the performance of this contract shall become and remain the property of the public jurisdiction.
- e) All personal data shall be encrypted at rest and in transit to/from the edge of Kronos Cloud data centers with controlled access. Unless otherwise stipulated, the service provider is responsible for encryption of the personal data.
- f) Unless otherwise stipulated, the service provider shall encrypt all non-public data at rest and in transit, in accordance with recognized industry practice.
- g) With delivery of the software and instructions, the service provider shall provide guidelines to the public jurisdiction detailing the public jurisdiction's specific security roles and responsibilities and best practices for implementation of security controls for the service provider's application. These guidelines shall be made a part of this contract.
- h) At no time shall any data or process – that either belong to or are intended for the use of a public jurisdiction or its officers, agents or employees — be copied, disclosed or retained by the service provider or any party related to the service provider for subsequent use in any transaction that does not include the public jurisdiction.
- i) The service provider shall not use or disclose any information collected in connection with the service issued from this proposal for any purpose other than fulfilling the service.
- j) **Data Location.** For non-public data and personal data, the service provider shall provide its data center services to the public jurisdiction and its end users solely from data centers in the U.S. Storage of public jurisdiction data at rest shall be located solely in data centers in the U.S. The service provider shall not allow its personnel or contractors to *store* public jurisdiction data on portable devices, including personal computers, except for devices that are used and kept only at its U.S. data centers. With agreement from the public jurisdiction, this term may be met by the service provider providing its services from an acceptable alternative data center location, which agreement shall be stated in Appendix A. The service provider shall permit its personnel and contractors to access public jurisdiction data remotely only as required to provide technical support.

4. Security Incident or Data Breach Notification: The service provider shall inform the public jurisdiction of any actual/confirmed security incident or data breach.

- a) **Incident Response:** The service provider may need to communicate with outside parties regarding a security incident, which may include contacting law enforcement, fielding media inquiries and seeking external expertise as, defined by law, contained in the contract, or at Service Provider's sole discretion. Discussing security incidents with the public jurisdiction shall be handled on an urgent as-needed basis, as part of service provider communication and mitigation processes .

- b) **Security Incident Reporting Requirements:** The service provider shall report an actual/confirmed Security Incident as soon as practicable, but no later than twenty-four (24) hours after the service provider becomes aware of it, to: (1) the department privacy officer, by email, with a read receipt, identified in Appendix A; and, (2) unless otherwise directed by the public jurisdiction in the underlying contract, the WVOT Online Computer Security and Privacy Incident Reporting System at <https://apps.wv.gov/ot/ir/Default.aspx>. The following information shall be shared with the public jurisdiction: (1) incident phase (detection and analysis; containment, eradication and recovery; or post-incident activity), (2) projected business impact, and, (3) attack source information.
- c) **Breach Reporting Requirements:** Upon the discovery of a data breach or unauthorized access to non-public data, the service provider shall immediately report to: (1) the department privacy officer, by email, with a read receipt, identified in Appendix A; and, (2) unless otherwise directed by the public jurisdiction in the underlying contract, the WVOT Online Computer Security and Privacy Incident Reporting System at <https://apps.wv.gov/ot/ir/Default.aspx>.

5. Breach Responsibilities: This section only applies when a data breach occurs with respect to personal data within the possession or control of the service provider.

- a) The service provider shall provide the public jurisdiction with the name and contact information for a team of service provider who shall serve as the public jurisdiction's primary security contact and shall be available to assist the public jurisdiction twenty-four (24) hours per day, seven (7) days per week as a contact in resolving obligations associated with a data breach. The service provider shall provide this information in Appendix A.
- b) Immediately following the service provider's notification to the public jurisdiction of a data breach, the parties shall cooperate with each other to investigate the data breach. The service provider agrees to fully cooperate with the public jurisdiction in the public jurisdiction's handling of the matter, including, without limitation, at the public jurisdiction's request, making available relevant information and reporting required to comply with applicable law and regulation.
- c) Within 72 hours of the discovery, upon request, the service provider shall notify the parties listed in 4(c) above, to the extent known: (1) date of discovery; (2) list of data elements and the number of individual records; (3) description of the unauthorized persons known or reasonably believed to have improperly used or disclosed the personal data; (4) description of where the personal data is believed to have been improperly transmitted, sent, or utilized; and, (5) description of the probable causes of the improper use or disclosure.
- d) The service provider shall (1) cooperate with the public jurisdiction as reasonably requested by the public jurisdiction to investigate and resolve the data breach, (2) promptly implement necessary remedial measures, if necessary, and prevent any further data breach at the service provider's expense in accordance with applicable privacy rights, laws and regulations and (3) document responsive actions taken related to the data breach, including any post-incident review of events and actions taken to make changes in business practices in providing the services, if necessary.

- e) If a data breach is a direct result of the service provider's breach of its contract obligation to encrypt personal data or otherwise prevent its release, the service provider shall bear the costs associated with (1) the investigation and resolution of the data breach; (2) notifications to individuals, regulators or others required by state or federal law; (3) a credit monitoring service (4) a website or a toll-free number and call center for affected individuals required by state law — all not to exceed the average per record per person cost calculated for data breaches in the United States (currently \$141 per record/person) in the most recent Cost of Data Breach Study: Global Analysis published by the Ponemon Institute at the time of the data breach; and (5) complete all corrective actions as reasonably determined by service provider based on root cause. The service provider agrees that it shall not inform any third party of any data breach without first obtaining the public jurisdiction's prior written consent, other than to inform a complainant that the matter has been forwarded to the public jurisdiction's legal counsel and/or engage a third party with appropriate expertise and confidentiality protections for any reason connected to the data breach. Except with respect to where the service provider has an independent legal obligation to report a data breach, the service provider agrees that the public jurisdiction shall have the sole right to determine: (1) whether notice of the data breach is to be provided to any individuals, regulators, law enforcement agencies, consumer reporting agencies or others, as required by law or regulation, or otherwise in the public jurisdiction's discretion; and (2) the contents of such notice, whether any type of remediation may be offered to affected persons, and the nature and extent of any such remediation. The service provider retains the right to report activity to law enforcement.

6. Notification of Legal Requests: The service provider shall contact the public jurisdiction upon receipt of any electronic discovery, litigation holds, discovery searches and expert testimonies related to the public jurisdiction's data under this contract, or which in any way might reasonably require access to the data of the public jurisdiction. The service provider shall not respond to subpoenas, service of process and other legal requests related to the public jurisdiction without first notifying the public jurisdiction, unless prohibited by law from providing such notice.

7. Termination and Suspension of Service:

- a) In the event of a termination of the contract, the service provider shall implement an orderly return of public jurisdiction data in MS SQL format at a time agreed to by the parties and the subsequent secure disposal of public jurisdiction data.
- b) During any period of service suspension, the service provider shall not take any action to intentionally erase any public jurisdiction data.
- c) Unless otherwise specified in the Contract, in the event of termination of any services or agreement in entirety, the service provider shall not take any action to intentionally erase any public jurisdiction data for a period of:

- 30 days after the effective date of termination, if the termination is for convenience

After such period, the service provider shall have no obligation to maintain or provide any public jurisdiction data and shall thereafter, unless legally prohibited, delete all public jurisdiction data in its systems or otherwise in its possession or under its control.

- d) The public jurisdiction shall be entitled to any post-termination assistance generally made available with respect to the services, unless a unique data retrieval arrangement has been established as part of the Contract.
- e) The service provider shall securely dispose of all requested data in all of its forms, such as disk, CD/ DVD, backup tape and paper, when requested by the public jurisdiction. Data shall be permanently deleted and shall not be recoverable, according to National Institute of Standards and Technology (NIST)-approved methods. Certificates of destruction shall be provided to the public jurisdiction upon request.

8. Background Checks: The service provider shall conduct criminal background checks and not utilize any staff, including subcontractors, to fulfill the obligations of the contract who have been convicted of any crime of dishonesty, including but not limited to criminal fraud, or otherwise convicted of any felony or misdemeanor offense for which incarceration for up to 1 year is an authorized penalty. The service provider shall promote and maintain an awareness of the importance of securing the public jurisdiction's information among the service provider's employees and agents.

9. Oversight of Authorized Persons: During the term of each authorized person's employment or engagement by service provider, service provider shall at all times cause such persons to abide strictly by service provider's obligations under this Agreement and service provider's standard policies and procedures. The service provider further agrees that it shall maintain a disciplinary process to address any unauthorized access, use or disclosure of personal data by any of service provider's officers, partners, principals, employees, agents or contractors.

10. Access to Security Logs and Reports: The service provider shall provide reports to the public jurisdiction through the application. Reports shall include, user access including failed log-in attempts, user access IP address, user access history and application-level security logs for all public jurisdiction files related to this contract.

11. Data Protection Self-Assessment: The service provider shall complete and upon request, submit an industry standard questionnaire, which is currently the Cloud Security Alliance "Consensus Assessments Initiative Questionnaire" to the Department privacy officer. The service provider shall first submit the questionnaire to the public jurisdiction as part of its response to the solicitation and, upon request, annually thereafter, on the anniversary of the date of contract execution.

12. Data Center Audit: The service provider shall perform an audit of its infrastructure and data centers at least annually at its expense and provide a redacted version of the

audit report upon request. The service provider may remove its proprietary information from the redacted version. A Service Organization Control (SOC) 2 and (SOC) 1 audit report or approved equivalent as detailed below sets the minimum level of a third-party audit.

13. Change Control and Advance Notice: The service provider shall give, advance notice as defined in the SLA exhibit.

14. Security:

- a) At a minimum, the service provider's safeguards for the protection of data shall include: (1) securing business facilities, data centers, paper files, servers, back-up systems and computing equipment, including, but not limited to, all mobile devices and other equipment with information storage capability; (2) implementing network, device application, database and platform security; (3) securing information transmission, storage and disposal; (4) implementing authentication and access controls within media, applications, operating systems and equipment; (5) implementing appropriate personnel security and integrity procedures and practices, including, but not limited to, conducting background checks consistent with applicable law; and (6) providing appropriate privacy and information security training to service provider's employees.
- b) The service provider shall execute well-defined recurring action steps that identify and monitor vulnerabilities, and provide remediation or corrective measures. Where the service provider's technology or the public jurisdiction's required dependence on a third-party application to interface with the technology creates a critical or high risk, the service provider shall remediate the vulnerability as soon as possible.
- c) Upon the public jurisdiction's written request, the service provider shall provide a high-level network diagram with respect to connectivity to the public jurisdiction's network that illustrates the service provider's information technology network infrastructure.

15. Non-disclosure and Separation of Duties: The service provider shall enforce separation of job duties, require commercially reasonable non-disclosure agreements, and limit staff knowledge of public jurisdiction data to that which is absolutely necessary to perform job duties.

16. Import and Export of Data: The public jurisdiction shall have the ability to securely import, export or dispose of data in standard format in piecemeal or in entirety at its discretion without interference from the service provider.

17. Responsibilities and Uptime Guarantee: The service provider shall be responsible for the acquisition and operation of all hardware, software and network support related to the services being provided. The technical and professional activities required for establishing, managing and maintaining the environments are the responsibilities of the service provider.

18. Subcontractor Disclosure: The service provider shall identify all of its strategic business partners related to services provided under this contract, including but not limited to all subcontractors or other entities or individuals who may be a party to a joint venture or similar agreement with the service provider, and who shall be involved in any custom application development and/or operations. These subcontractors shall be disclosed to the public jurisdiction as part of the service provider's response to the solicitation.

19. Right to Remove Individuals: The public jurisdiction shall have the right at any time to require that the service provider remove from interaction with public jurisdiction any service provider representative who the public jurisdiction believes is detrimental to its working relationship with the service provider. The public jurisdiction shall provide the service provider with notice of its determination, and the reasons it requests the removal. If the public jurisdiction signifies that a potential security violation exists with respect to the request, the service provider shall immediately remove such individual. The service provider shall not assign the person to any aspect of the contract or future work orders without the public jurisdiction's consent.

20. Business Continuity and Disaster Recovery: The service provider shall provide a business continuity and disaster recovery plan executive summary upon request.

21. Compliance with Accessibility Standards: The service provider shall comply with and adhere to Accessibility Standards of Section 508 Amendment to the Rehabilitation Act of 1973.

22. Web Services: The service provider shall make available Web services as defined in product documentation.

23. Encryption of Data at Rest: The service provider shall ensure hard drive encryption used NIST approved algorithms.

24. Subscription Terms: Service provider grants to a public jurisdiction a license to:

- a. Access and use the service for its business purposes;
- b. For SaaS, use underlying software as embodied or used in the service; and
- c. View, copy, upload, download (where applicable), and use service provider's documentation.

25. Equitable Relief: Service provider acknowledges that any breach of its covenants or obligations set forth in Addendum may cause the public jurisdiction irreparable harm for which monetary damages would not be adequate compensation and agrees that, in the event of such breach or threatened breach, the public jurisdiction is entitled to seek equitable relief, including a restraining order, injunctive relief, specific performance and any other relief that may be available from any court, in addition to any other remedy to which the public jurisdiction may be entitled at law or in equity. Such remedies shall not be deemed to be exclusive but shall be in addition to all other remedies available at law

21. Compliance with Accessibility Standards: The service provider shall comply with and adhere to Accessibility Standards of Section 508 Amendment to the Rehabilitation Act of 1973.

22. Web Services: The service provider shall make available Web services as defined in product documentation.

23. Encryption of Data at Rest: The service provider shall ensure hard drive encryption used NIST approved algorithms.

24. Subscription Terms: Service provider grants to a public jurisdiction a license to:

- Access and use the service for its business purposes;
- For SaaS, use underlying software as embodied or used in the service; and
- View, copy, upload, download (where applicable), and use service provider's documentation.

25. Equitable Relief: Service provider acknowledges that any breach of its covenants or obligations set forth in Addendum may cause the public jurisdiction irreparable harm for which monetary damages would not be adequate compensation and agrees that, in the event of such breach or threatened breach, the public jurisdiction is entitled to seek equitable relief, including a restraining order, injunctive relief, specific performance and any other relief that may be available from any court, in addition to any other remedy to which the public jurisdiction may be entitled at law or in equity. Such remedies shall not be deemed to be exclusive but shall be in addition to all other remedies available at law or in equity, subject to any express exclusions or limitations in this Addendum to the contrary.

AGREED:

Name of Agency: ERP Name of Vendor: UKG

Signature: E. K. Hartley Signature: Scott Giangrande
DocuSigned by: 65741607C20D478...

Title: Director Title: Sr. Order Processing Analyst

Date: 4.27.2023 Date: 3/24/2023 | 12:45 PM EDT

Appendix A

(To be completed by the Agency's Procurement Officer prior to the execution of the Addendum, and shall be made a part of the Addendum. Required information not identified prior to execution of the Addendum may only be added by amending Appendix A and the Addendum, via Change Order.)

Name of Service Provider/Vendor: Kronos Incorporated_____

Name of Agency: Enterprise Resource Planning Board_____

Agency/public jurisdiction's required information:

1. Will restricted information be processed by the service provider?
Yes ☐
No ☒
2. If yes to #1, does the restricted information include personal data?
Yes ☐
No ☐
3. If yes to #1, does the restricted information include non-public data?
Yes ☐
No ☐
4. If yes to #1, may the service provider store public jurisdiction data in a data center in an acceptable alternative data center location, which is a country that is not the U.S.?
Yes ☐
No ☐

5. Provide name and email address for the Department privacy officer:

Name: Vincent Smith _____

Email address: vincent.smith@wvsao.gov _____

Vendor/Service Provider's required information:

6. Provide name and contact information for vendor's employee who shall serve as the public jurisdiction's primary security contact:

Name: Brian Goodwin _____

Email address: Brian.Goodwin@ukg.com _____

Phone Number: 978-244-6328 _____

WV-96
1/1/2019

**STATE OF WEST VIRGINIA
ADDENDUM TO VENDOR'S STANDARD CONTRACTUAL FORMS**

State Agency, Board, or Commission (the "State"):

Vendor:

Contract/Lease Number ("Contract"):

Commodity/Service:

The State and the Vendor are entering into the Contract identified above. The Vendor desires to incorporate one or more forms it created into the Contract. Vendor's form(s), however, include(s) one or more contractual terms and conditions that the State cannot or will not accept. In consideration for the State's incorporating Vendor's form(s) into the Contract, the Vendor enters into this Addendum which specifically eliminates or alters the legal enforceability of certain terms and conditions contained in Vendor's form(s). Therefore, on the date shown below each signature line, the parties agree to the following contractual terms and conditions in this Addendum are dominate over any competing terms made a part of the Contract:

1. **ORDER OF PRECEDENCE:** This Addendum modifies and supersedes anything contained on Vendor's form(s) whether or not they are submitted before or after the signing of this Addendum. **IN THE EVENT OF ANY CONFLICT BETWEEN VENDOR'S FORM(S) AND THIS ADDENDUM, THIS ADDENDUM SHALL CONTROL.**

2. **PAYMENT** – Payments for goods/services will be made in arrears only upon receipt of a proper invoice, detailing the goods/services provided or receipt of the goods/services, whichever is later. Notwithstanding the foregoing, payments for software licenses, subscriptions, or maintenance may be paid annually in advance.

Any language imposing any interest or charges due to late payment is deleted.

3. **FISCAL YEAR FUNDING** – Performance of this Contract is contingent upon funds being appropriated by the WV Legislature or otherwise being available for this Contract. In the event funds are not appropriated or otherwise available, the Contract becomes of no effect and is null and void after June 30 of the current fiscal year. If that occurs, the State may notify the Vendor that an alternative source of funding has been obtained and thereby avoid the automatic termination. Non-appropriation or non-funding shall not be considered an event of default.

4. **RIGHT TO TERMINATE** – The State reserves the right to terminate this Contract upon thirty (30) days written notice to the Vendor. If this right is exercised, the State agrees to pay the Vendor only for all undisputed services rendered or goods received before the termination's effective date. All provisions are deleted that seek to require the State to (1) compensate Vendor, in whole or in part, for lost profit, (2) pay a termination fee, or (3) pay liquidated damages if the Contract is terminated early.

Any language seeking to accelerate payments in the event of Contract termination, default, or non-funding is hereby deleted.

5. **DISPUTES** – Any language binding the State to any arbitration or to the decision of any arbitration board, commission, panel or other entity is deleted; as is any requirement to waive a jury trial.

Any language requiring or permitting disputes under this Contract to be resolved in the courts of any state other than the State of West Virginia is deleted. All legal actions for damages brought by Vendor against the State shall be brought in the West Virginia Claims Commission. Other causes of action must be brought in the West Virginia court authorized by statute to exercise jurisdiction over it.

Any language requiring the State to agree to, or be subject to, any form of equitable relief not authorized by the Constitution or laws of State of West Virginia is deleted.

6. **FEES OR COSTS:** Any language obligating the State to pay costs of collection, court costs, or attorney's fees, unless ordered by a court of competent jurisdiction is deleted.
7. **GOVERNING LAW** – Any language requiring the application of the law of any state other than the State of West Virginia in interpreting or enforcing the Contract is deleted. The Contract shall be governed by the laws of the State of West Virginia.
8. **RISK SHIFTING** – Any provision requiring the State to bear the costs of all or a majority of business/legal risks associated with this Contract, to indemnify the Vendor, or hold the Vendor or a third party harmless for any act or omission is hereby deleted.
9. **LIMITING LIABILITY** – Any language limiting the Vendor's liability for direct damages to person or property is deleted.
10. **TAXES** – Any provisions requiring the State to pay Federal, State or local taxes or file tax returns or reports on behalf of Vendor are deleted. The State will, upon request, provide a tax exempt certificate to confirm its tax exempt status.
11. **NO WAIVER** – Any provision requiring the State to waive any rights, claims or defenses is hereby deleted.

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1/1/2019

12. **STATUTE OF LIMITATIONS** – Any clauses limiting the time in which the State may bring suit against the Vendor or any other third party are deleted.
13. **ASSIGNMENT** – The Vendor agrees not to assign the Contract to any person or entity without the State's prior written consent, which will not be unreasonably delayed or denied. The State reserves the right to assign this Contract to another State agency, board or commission upon thirty (30) days written notice to the Vendor. These restrictions do not apply to the payments made by the State. Any assignment will not become effective and binding upon the State until the State is notified of the assignment, and the State and Vendor execute a change order to the Contract.
14. **RENEWAL** – Any language that seeks to automatically renew, modify, or extend the Contract beyond the initial term or automatically continue the Contract period from term to term is deleted. The Contract may be renewed or continued only upon mutual written agreement of the Parties.
15. **INSURANCE** – Any provision requiring the State to maintain any type of insurance for either its or the Vendor's benefit is deleted.
16. **RIGHT TO REPOSSESSION NOTICE** – Any provision for repossession of equipment without notice is hereby deleted. However, the State does recognize a right of repossession with notice.
17. **DELIVERY** – All deliveries under the Contract will be FOB destination unless the State expressly and knowingly agrees otherwise. Any contrary delivery terms are hereby deleted.
18. **CONFIDENTIALITY** – Any provisions regarding confidential treatment or non-disclosure of the terms and conditions of the Contract are hereby deleted. State contracts are public records under the West Virginia Freedom of Information Act ("FOIA") (W. Va. Code §29B-a-1, et seq.) and public procurement laws. This Contract and other public records may be disclosed without notice to the vendor at the State's sole discretion.
- Any provisions regarding confidentiality or non-disclosure related to contract performance are only effective to the extent they are consistent with FOIA and incorporated into the Contract through a separately approved and signed non-disclosure agreement.
19. **THIRD-PARTY SOFTWARE** – If this Contract contemplates or requires the use of third-party software, the vendor represents that none of the mandatory click-through, unsigned, or web-linked terms and conditions presented or required before using such third-party software conflict with any term of this Addendum or that it has the authority to modify such third-party software's terms and conditions to be subordinate to this Addendum. The Vendor shall indemnify and defend the State against all claims resulting from an assertion that such third-party terms and conditions are not in accord with, or subordinate to, this Addendum.
20. **AMENDMENTS** – The parties agree that all amendments, modifications, alterations or changes to the Contract shall be by mutual agreement, in writing, and signed by both parties. Any language to the contrary is deleted.

Notwithstanding the foregoing, this Addendum can only be amended by (1) identifying the alterations to this form by using *Italics* to identify language being added and ~~strikethrough~~ for language being deleted (do not use track-changes) and (2) having the Office of the West Virginia Attorney General's authorized representative expressly agree to and knowingly approve those alterations.

State: SRD
By: S.K. Hartsoy
Printed Name: E.K. Hartsoy
Title: Director
Date: 4.27.2023

Vendor: UKG
DocuSigned by: Scott Giangrande
By: Scott Giangrande
66741407C20D41B...
Printed Name: Scott Giangrande
Title: Sr. Order Processing Analyst
Date: 3/24/2023 | 12:45 PM EDT

Exhibit D

UKG Dimensions™ Addendum

This UKG Dimensions™ Addendum (the "Addendum") sets forth the supplemental terms and conditions and is made part of Agreement No. CSSD ERP2300000001 ("Agreement") which governs the provision of UKG's UKG Dimensions software as a service and other related offerings by Kronos Incorporated, a UKG company, ("Kronos" or "UKG") to the State of West Virginia ("Customer" or "State"). Capitalized terms not defined within the text of the Addendum are defined in Annex E.

This Addendum consists of this execution page and the following Annexes', which are incorporated by reference, and which form an integral part of this Addendum and the Agreement:

- Annex A: Dimensions General Terms and Conditions
 - Attachment A-1: Equipment Purchase, Rental, and Support
 - Attachment A-2: Professional and Educational Services Policies
 - Attachment A-3: Service Level Agreement
- Annex B: UKG Dimensions Cloud Guidelines:
<https://www.ukg.com/ukg-dimensions/Agreement/cloud-guidelines>
- Annex C: Acceptable Use Policy (AUP):
<https://www.ukg.com/policies/acceptable-use>
- Annex D: AtomSphere Service and Boomi Software
- Annex E: Definitions
- Annex F: Dimensions Privacy & Security Addendum

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

Annex A: Dimensions General Terms and Conditions

Article 1. Order Forms

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

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

1.2 The following Fees may appear on an Order Form:

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

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

Article 2. Billing

2.1 UKG will invoice the Fees on the Billing Frequency indicated on the Order Form. For each Order Form, the billing period of the PEPM Fees will start on the Billing Start Date and will continue for the time period indicated as the Initial Term. Customer will pay the Fees on the Payment Terms and in the currency, indicated on the Order Form. Customer will send payment to the attention of UKG 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 provided in this Addendum, Customer payments are non-refundable. Unless Customer has provided UKG with valid evidence of tax-exemption, Customer is responsible for all applicable Taxes related to the Service and other items set forth on the Order Form. Each Party is responsible to pay all costs and fees attributable to such Party pursuant to the Shipping Terms indicated on the Order Form.

2.2 For each Renewal Term, UKG may increase the PEPM Fees by no more than four percent (4%) over the previous year's PEPM Fees for the same Applications and the same licensed quantity. UKG will reflect these increased PEPM Fees in the applicable invoice for each Renewal Term. For renewals based on the Annual in Advance Billing Frequency, UKG will provide Customer with the renewal invoice prior to commencement of the Renewal Term and payment will be made by Customer in accordance with the payment terms agreed upon with Customer for the Initial Term.

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

Article 3. Additional Services

Section 3.1 Implementation and Professional Services

3.1.1 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 Addendum and other contract documents, giving precedence to each document as contained in the Addendum to Kronos Agreement with the State of West Virginia. 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.

3.1.2 While Customer may configure the Applications itself, as part of the Implementation Services as described in an SOW, UKG may also configure the Applications. UKG will configure the Applications based on Customer's instructions and direction.

3.1.3 UKG may also provide Professional Services to Customer that do not require an SOW but which will be as set forth on an Order Form. Further, after Implementation, any additional Professional Services requested by Customer shall be provided at a rate of \$220 per hour for the Initial Term. Thereafter, current rates shall apply. At the time of its request for such additional services, the Customer will confirm to UKG the amount of funds it has available to pay for such services (the "Budgeted Amount"). UKG will bill Customer monthly at the hourly rate for the actual hours worked providing these additional services up to the Budgeted Amount. Thereafter, if additional hours are needed, the parties shall mutually agree to such hours.

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

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

Section 3.2 Educational Services

3.2.1 As part of the PEPM Fees UKG will provide its live, hands-on virtual training facilitated by a knowledgeable instructor and delivered remotely via a published schedule. Training is intended for the following audiences:

- a. Core Team training to help key functional and technical users make informed solution design and configuration decisions, and to provide fundamental product knowledge.
- b. Application & System Administrator to prepare functional and technical super users to perform their most common tasks in the solution.

3.2.2 As part of the PEPM Fees UKG shall also provide self-paced product training throughout the Term of this Agreement. This training will include training content that will provide for all levels of training from beginner up to advanced.

3.2.3 UKG also offers fee-based consulting services that are not included under the terms of the Educational Services referenced above.

Section 3.3 Support Services

3.3.1 Support Services for the Services will be provided and include (i) customer phone, email and online support 24 hours a day/7 days a week and (ii) periodic enhancements and modifications to the Applications, including bug fixes to correct verifiable and reproducible errors reported to UKG.

Article 4. Service Level Agreement

UKG offers the Service Level Agreement and associated SLA Credits as described in Attachment A-3. UKG remains obligated to provide the Service as otherwise described in the Agreement and this Addendum.

Article 5. Data Security and Privacy

Section 5.1 Data

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

5.1.2 **"Aggregated Data"** is any statistical data that is derived from the operation of the Service, including without limitation, for analysis of the Service, Configurations or Customer Data, and is created by UKG 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. UKG owns the Aggregated Data. Nothing in this Addendum will prohibit UKG from utilizing the Aggregated Data for any purposes, provided that UKG's use of Aggregated Data will anonymize Customer Data, will not reveal any Customer Confidential Information, and will not reveal any Personally Identifiable Information.

Section 5.2 Security and Privacy

5.2.1 UKG will maintain the Controls throughout the Term.

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

5.2.3 UKG employees will access Customer Data from the locations from which such employees work. Customer consents to UKG's handling, collection, use, transfer, and processing of Customer Data to provide the Service. As may be required by Applicable Law, Customer will ensure that Customer Data may be provided to UKG for the purposes of providing the Service. Customer has obtained all necessary consents from individuals to enable UKG to use the Customer Data to provide the Service. As may be

contemplated by the applicable Data Protection Laws, Customer will remain the “controller” of Customer Data and UKG will be considered a “processor” of Customer Data.

5.2.4 UKG will notify Customer 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 UKG is taking in response to the breach.

5.2.5 Consent to Use Sub-processors. Customer agrees that UKG may use sub-processors to fulfill its contractual obligations under the Addendum. The list of sub-processors that are currently engaged by UKG to carry out processing activities on Customer Data on behalf of Customer can be found at: www.ukg.com/ukg-dimensions/Addendum/subprocessors

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

5.2.8 Sub-processor Obligations. When engaging any sub-processor:

- a. UKG will enter into a written Addendum with the sub-processor;
- b. UKG will endeavor to ensure that the sub-processor provides sufficient guarantees to implement appropriate technical and organizational measures to meet the requirements of applicable Data Protection Laws; and,
- c. UKG will remain responsible for the performance of the sub-processor’s data protection obligations pursuant to such written Addendum and the requirements of applicable Data Protection Laws.
- d. Customer Data that is “at rest” must reside within the continental United States.

Article 6. Warranty

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

Article 7. License

Section 7.1 Technology License

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

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

7.1.3 Customer shall 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 for such connectivity.

Article 8. Authorized Users & Marketplace

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

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

Article 11. Changes

The information found in any Annex (or at any URL referenced in this Addendum) 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 UKG.

Article 12. Feedback

From time to time, Customer may provide Feedback. UKG has sole discretion to determine whether or not to undertake the development of any enhancements, new features or functionality contained in or with Feedback. Customer hereby grants UKG 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 UKG's business without any compensation to Customer or any other restriction or obligation, whether based on intellectual property right claim or otherwise. For the avoidance of doubt, no Feedback will be deemed to be Customer Confidential Information, and nothing in this Addendum limits UKG's right to independently use, develop, evaluate, or market products or services, whether incorporating Feedback or otherwise.

Exhibit A-1

Equipment Purchase, Rental and Support Policy

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

Section 1. Purchase and Sale of Equipment

When indicated on the applicable Order Form as Purchased Equipment, UKG sells to Customer, and Customer purchases from UKG, 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. UKG will invoice Customer for purchased Equipment upon shipment of the Equipment and payment will be due net 30 days from the date of delivery.

Section 2. Equipment Rentals

The following terms apply only to Equipment Customer rents from UKG 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 contemporaneously with the Term of the Service.

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

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

2.4 Ownership. All Equipment shall remain the property of UKG. 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 UKG to give full effect to the intent of terms of this paragraph (d).

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

2.6 Return of Equipment. Upon termination or expiration of the Rental Period for the Equipment or upon termination or expiration of the Agreement, for any reason, Customer shall return, within thirty (30) days of the effective date of termination and at Customer's expense, the Equipment. Equipment will be returned to UKG in the same condition as and when received, reasonable wear and tear excepted. If Customer fails to return Equipment within this time period, upon receiving an invoice from UKG, Customer shall pay UKG the then list price of the unreturned Equipment.

Section 3. Warranty

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

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

Section 4. Firmware

Customer may not download firmware updates for the UKG Equipment unless Customer is maintaining such Equipment under a support plan with UKG. If Customer is not maintaining the Equipment under a support plan with UKG, UKG shall have the right to verify Customer's UKG Equipment to determine if Customer has downloaded any firmware to which Customer is not entitled. If Customer has downloaded firmware for the UKG Equipment to which Customer is not entitled, Customer shall be responsible to pay UKG for such updated firmware in accordance with UKG's then-current support policies.

Section 5. Export

Customer acknowledges that the Equipment may be restricted by the United States Government or by the country in which the Equipment is installed from export to certain

countries and certain organizations and individuals, and agrees to comply with such laws. Customer agrees to comply with all applicable laws of all of the countries in which the Equipment may be used by Customer and shall indemnify UKG for any noncompliance which results in damages or liability to UKG. Customer's obligations hereunder shall survive the termination or expiration of this Agreement.

Section 6. Equipment Support

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

6.1 Term

Equipment Support Services have a term of one (1) year commencing upon the expiration of the applicable warranty set forth above. Equipment Support Services will be automatically extended for additional one year terms on the anniversary of its commencement date ("Renewal Date"), unless either party has given the other thirty (30) days written notification of its intent not to renew. UKG may change the annual Equipment Support Services Fees effective at the end of the initial one (1) year term or effective on the Renewal Date, by giving Customer at least thirty (30) days prior written notification, provided that UKG may increase such Fees by no more than four percent (4%) over the previous year's Fees for the same quantity of covered Equipment.

6.2 Payment

Customer agrees to pay the Equipment Support Services Fees for the initial term as set forth on the Order Form for each Product listed. Customer agrees that all Products of the same type that are owned by the Customer, including without limitation Customer's "Spare Products" (as defined below), must be covered by the Equipment Support Services. Customer agrees that if Customer purchases, during the term of the Equipment Support Services, any Products of the same type as those covered by Customer under Equipment Support Services, such additional Products must be covered by the Equipment Support Services.

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

6.4. Depot Support Service

6.4.1 Upon the failure of an installed Product, Customer shall notify UKG of such failure and UKG will provide remote support in an attempt to resolve the problem. Those

failures determined by UKG to be Product related shall be dispatched to a UKG Depot Repair Center, and Customer will be provided with a Return Material Authorization Number (RMA) for the failed Product if Customer is to return the failed Product to UKG, as reasonably determined by UKG. Customer must return the failed Product with the supplied RMA number. Return and repair procedures for failed Product shall be provided based on the Depot option - Depot Exchange or Depot Repair - selected by Customer on the applicable Order Form and as specified herein and in UKG's then-current Support Services Policies which may be accessed at: <https://www.ukg.com/support-policies-and-services> ("Support Policies").

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

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

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

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

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

6.6 UKG warrants that all service packs and firmware updates provided under this Agreement shall materially perform in accordance with the UKG 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 UKG's repair or

replacement of the deficient service pack(s) or firmware update(s), at UKG's option, provided that Customer's use, installation and maintenance thereof have conformed to the specifications.

6.7 Responsibilities of Customer

Customer agrees that it shall return failed Products promptly as the failures occur and that it shall not hold failed Products and send failed Product to UKG 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 UKG's published specifications for such Products;
- b. De-install all failed Products and install all replacement Products in accordance with UKG's published installation guidelines;
- c. Ensure that the Product(s) are returned to UKG properly packaged; and
- d. Obtain an RMA before returning any Product to UKG and place the RMA clearly and conspicuously on the outside of the shipping package. Customer may only return the specific Product authorized by UKG when issuing the RMA.

6.8 Support Exclusions

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

- a. Any cause external to the Products including, but not limited to, electrical work, fire, flood, water, wind, lightning, transportation, or any act of God;
- b. Customer's failure to continually provide a suitable installation environment (as indicated in UKG's 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 UKG's 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 UKG;
- e. Government imposed sanctions, rules, regulations or laws preventing the shipment of the Products; or
- f. Customer's repair, attempted repair or modification of the Products.

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

6.9 Delivery

All domestic shipments are FOB Destination to/from Customer and UKG with the shipping party bearing all costs and risks of loss, and with title passing upon delivery to the identified destination. All international shipments are DDU (Deliver Duties Unpaid) to the Customer, with Customer responsible for all duties and V.A.T. when sending Product to UKG (DDP). Customer agrees to pay or reimburse UKG for any substantial increase in fuel surcharges which may occur.

6.10 Warranty

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

6.11 Default, Suspension, and Termination

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

6.11.2 Customer may terminate Equipment Support Services if UKG is in default under the Agreement, and such default is not corrected within thirty (30) days after written notice. UKG may terminate Equipment Support Services if Customer defaults under this or any other agreement with UKG, and such default is not corrected within thirty (30) days after written notice. In addition, this Agreement will terminate and all charges due hereunder will become immediately due and payable in the event that Customer ceases to do business as a going concern or has its assets assigned by law.

Section 7. Finger Scan and Facial Recognition

7.1 For Customer's use of Equipment containing finger scan sensor and/or facial recognition technology ("FS/FR Equipment"), Customer warrants that it is compliant and will maintain compliance with all applicable biometric privacy laws with respect to its use of FS/FR Equipment. If required by law, Customer further warrants that prior to using FS/FR Equipment it shall: (i) obtain signed releases from employees consenting to the use of the applicable FS/FR Equipment for employee timekeeping purposes; (ii) issue policies to their employees and the public regarding its retention and destruction of the finger scan or facial recognition data, and (iii) ensure that any releases, consents, or policies required by applicable law shall expressly apply to UKG and its authorized subcontractors.

7.2 Customer agrees to defend, hold harmless and indemnify UKG, its employees, directors, parent, subsidiaries and authorized partners and subcontractors (collectively, "UKG Indemnitees") for any claims, damages, penalties or fines asserted or awarded against a UKG Indemnitee arising out of or relating to Customer's breach of any of the warranties in section 7.1 above with respect to FS/FR Equipment. Upon receipt of notice of such a claim, Customer shall assume sole control of the defense and settlement of such claim; provided that: (i) UKG shall be entitled to participate in the defense of such claim and to employ counsel at its own expense to assist in the handling of such claim, on a monitoring and a non-controlling basis; (ii) Customer shall not settle any claim on any terms or in any manner that adversely affects the rights of UKG without its prior written consent; and (iii) UKG shall provide reasonable cooperation and assistance at Customer's sole cost and expense.

Exhibit A-2

Implementation, Professional and Educational Services Engagement Policies

1. UKG will provide the Customer with a Statement of Work (also known as the SOW) that outlines the project deliverables and provides an estimate for the project scope and cost required to complete the engagement, based upon preliminary information provided by the Customer. This Statement of Work is an estimate; the Collaborate Phase of the engagement will be used to determine whether modifications to the project scope or project budget are required.
2. The Statement of Work is valid for one year from the date of signature.
3. Any changes to the project scope and/or project duration will be reflected through the generation of a UKG Change Order, which is initiated by the UKG Project Manager and approved and signed by the Customer.
 - a. These changes could be due to an increase or change in project scope or deliverables, insufficient customer resources or time commitment, changes to customer project schedule, or technical limitations.
4. Unless otherwise addressed within these policies, the hourly rate(s) quoted within a Change Order for work to be performed within normal business hours will be consistent with that contained within the original Statement of Work. In instances where specialized resources are requested, but not contained within the original Statement of Work, the quoted rate will be established as UKG' current rate for such requested services.
5. UKG personnel working at the Customer site shall have access to necessary infrastructure (servers, network, etc.).
6. In instances where UKG personnel are working remotely access will be granted through the use of industry standard tools (VPN, DTS, GoToMyPC, PCAnywhere, etc.).
7. Customer agrees to not hire any UKG employee who has performed services under the Agreement for a period of one-year after the completion of such services
8. If not hosted by UKG Cloud Services, all required system administration, maintenance, backups, tuning, etc., is the responsibility of the Customer
9. Customer Data: To perform the implementation and to provide support after completion, UKG may need to access and retain information regarding your employees and business organization. UKG will take all reasonable steps to limit and safeguard the security of this information.
10. Scheduled Work Policies:
 - a. Professional Services
 - i. Professional Services work will be conducted during normal business hours, 8:00AM – 5:00PM, Monday through Friday.
 - ii. All Professional Services work scheduled to start outside of normal business hours will be billed in full at a premium rate described below. For work to be performed after hours, on holidays, or on weekends, an approved Change Order will be required prior to scheduling (see Change Order Process below). Customers will be charged as follows:

1. All Professional Services will be scheduled and billed for actual hours worked with a minimum of 1 hour. A level of effort must be submitted to and approved by Customer before any work may commence.
 - a. After Hours
 - i. All scheduled work will be billed at 1.5 times the contract rate by role
 - ii. After Hours is considered 5:00PM-8:00AM, Monday through Friday
 - b. Weekends
 - i. All scheduled work will be billed at 2.0 times the contract rate by role
 - ii. Weekends are considered 5:00PM Friday through 8:00AM Monday
 - c. Holiday
 - i. All scheduled work will be billed at 2.0 times the contract rate by role
 - ii. Holidays are any UKG recognized Holidays, which include for example in the USA: New Year's Day, President's Day, Memorial Day, Independence Day, Thanksgiving Day, the day after Thanksgiving, Christmas Day. UKG recognized Holidays will vary by country.
- b. Education Services
 - i. All Education services (Training delivery and User Adoption Consulting) scheduled to start outside of normal business hours will be billed in full at a premium rate described below. Customers will be charged as follows:
 1. After Hours
 - a. There will be a 1.5 times premium per student for public courses or per class for private day rates
 - b. After Hours is considered 5:00PM-8:00AM, Monday through Friday
 2. Weekends
 - a. There will be a 2.0 times premium per student for public courses or per class for private day rates
 - b. Weekends are considered 5:00PM Friday through 8:00AM Monday
 3. Holidays
 - a. There will be a 2.0 times premium per student for public courses or per class for private day rates
 - b. Holidays are any UKG recognized Holidays, which include but not limited to: New Year's Day, President's Day, Memorial Day, Independence Day, Thanksgiving Day, the day after Thanksgiving, Christmas Day.

11. Travel Policies

- a. Customer is responsible for airfare, lodging and related travel expenses for onsite consultants.
- b. Customer is responsible for travel costs for employees attending training at a UKG location.
- c. Customer is responsible for travel and related costs for a UKG trainer/User Adoption consultant providing instruction at the Customer location.
- d. If a UKG employee is required on-site per the customer request, a minimum of 8 hours will be billed per day.
- e. All travel time (portal to portal) will be billed at the current contract rate by role. Travel time above two hours in any one direction will be billed at the current contract rate by role.

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

- a. Professional Services:
 - i. 2 business days prior to scheduled work – 50% of planned charges are invoiced for schedule work
 - ii. 1 business day prior to scheduled work – 100% of planned charges are invoiced for scheduled work
 - iii. Business days are: Monday, Tuesday, Wednesday, Thursday, and Friday, excluding Holidays
- b. User Adoption Services Cancellation Policy
 - i. 2 business days prior to scheduled work – 50% of planned charges are invoiced for schedule work
 - ii. 1 business day prior to scheduled work – 100% of planned charges are invoiced for scheduled work
 - iii. Business days are: Monday, Tuesday, Wednesday, Thursday, and Friday, excluding Holidays
- c. Cancellation Policy Example:
 - i. Work is schedule for Wednesday, 1p-5p (4 hours)
 - ii. If customer cancels on:
 1. Friday – no penalty
 2. Monday – 50% of planned charges are invoiced (2 hours)
 3. Tuesday – 100% of planned charged are invoiced (4 hours)
 - iii. Cancellation Policy Example with a Holiday:
 1. Work is schedule for Wednesday, 1p-5p (4 hours)
 2. If customer cancels on:
 - a. Thursday – no penalty
 - b. Friday – 50% of planned charges are invoiced (2 hours)
 - c. Monday – holiday, doesn't count as "business day
 - d. Tuesday – 100% of planned charged are invoiced (4 hours)

d. Education Services:

- i. For any PUBLIC course held in KnowledgeMap Live, attendees must cancel at least five business days before the class start date to avoid future registration restrictions.
- ii. UKG reserves the right to cancel classes up to two business days before the scheduled start date for public courses held in KnowledgeMap Live due to lack of enrollment or any other unforeseen circumstances.
- iii. For any PRIVATE course held at a customer site or in KnowledgeMap Live; the private class must be cancelled at least ten business days before the private class start date to avoid cancellation fees (equal to the cost of the course). Student substitutions can be made at any time as long as prerequisites have been met.

13. Additional Education Services Policies

a. KnowledgeMap Live Course Updates Policy

Courses are updated on a regular basis; the schedule for course updates is dependent on the nature of the update. Content errors or technical issues are resolved as soon as possible after they are reported. Other changes to course content and flow typically align with the software product release cycle or updates to UKG's software implementation methodology. These timelines vary, but for UKG Dimensions this is approximately every three months. Content is reviewed by subject matter experts during these update cycles to verify continued currency and accuracy of content.

14. Not all product lines offer all service options described in this policy.



PROJECT CHANGE ORDER FORM

Customer <CUSTOMER NAME>
Name

Solution <SOLUTION ID>
ID

Bill to

Ship to

Payment
Terms Net <XX> Days

Customer
Purchase
Order

UKG
Practice

Sales
Person

Project#

Operating
Unit/
Currency

New task
required

New
project
required

Project Budget Impact

Billing Role	Item	UOM	Contract Type	Previous Order#	Qty in Hours	Rate	Ext Amt
Solution Consultant	9990002-ENT	HR	Estimate				
Integration Consultant	9990002-ENT	HR	Estimate				
Totals							

Amounts exclude tax

Authorization Signatures

(I authorize the change to the UKG Project Budget, as described above, and I authorize UKG to invoice for the amount applicable.)

Authorized Customer Contact Name and Title/Role	* Signature	Date

Comments

Except as specifically amended by this Change Order, all other provisions of the relevant Service Work Order or Statement of Work (as applicable) remains un-amended and in full force and effect.

This Change Order is to top up the budget with a total of <XX> hours. These hours are offered on a Time and Materials basis.

<Scope Description>

Order Management Internal Use Only

If Change Order processed please select box		Date	
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Exhibit A-3

UKG Dimensions Service Level Agreement

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

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

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

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

"Excluded Event" means any event that causes unavailability to the Service due to (a) the acts or omissions of Customer, its employees, customers, contractors or agents; (b) the failure or malfunction of equipment, applications or systems not owned or controlled by UKG or its third party suppliers providing the Service; (c) failures or malfunctions resulting from circuits provided by Customer; (d) any inconsistencies or changes in Customer's source environment, including either intentional or accidental connections or disconnections to the environment; (e) Customer Data; (f) Force Majeure events; (g) expected downtime during the Maintenance Periods described below; (h) any suspension of the Service in accordance with the terms of the Agreement; (i) the unavailability of required Customer personnel, including as a result of failure to provide UKG 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 UKG to maintain and update the Services, when downtime may be necessary. Customer chooses maintenance window based on location of data center selected on Order Form.

The Maintenance Period is used for purposes of the Service Credit Calculation; UKG continuously supports the production environment on a 24x7 basis to reduce disruptions.

The current weekly Maintenance Period for each of the data center locations are:

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

Service Credit Calculation: An Outage will be deemed to commence when the Service is unavailable to Customer and ends when UKG 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

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

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

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

Exhibit B
UKG DIMENSIONS Cloud Guidelines

The Hosting Services for UKG Dimensions Software as a Service is further described as follows:
The following guidelines and services apply to UKG Dimensions applications that are deployed in the Google Cloud:

SOLUTION DEFINITION

Tenants included	One standard production tenant One partial copy non-production tenant limited to 36 months of data
Additional tenants	Additional partial copy tenants available for purchase on an annual basis

Connectivity to

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

SFTP accounts	The UKG cloud SFTP service provides a generic endpoint for customers to push and pull files — including people import, payroll, accruals, schedules, punches, drivers, and more — to and from the UKG cloud in support of UKG® integrations. The service includes two SFTP managed service accounts that customers may use to automate their integrations with the UKG 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.
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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. UKG will assist in provisioning of the link.
Server-initiated device (optional)	Supported per Documentation (includes two VPN connections)

USAGE

Secure file transfer	Integration with UKG Dimensions using the UKG Cloud SFTP service is subject to the following limits: limits <ul style="list-style-type: none"> - 20 active concurrent sessions per SFTP account - File size transferred per SFTP session not to exceed 100MB - Storage quota of 10GB per SFTP account
Key performance indicators (KPIs)	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 UKG Dimensions applications will be limited to 400 per customer.
Server-initiated device (optional)	Supported per Documentation (includes two VPN connections)

POLICIES

Data refresh	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.
UKG application updates	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.
Customer termination	Upon customer termination, UKG will provide access to the service for an additional 30 days so the customer may extract data. Further, customer may extract data at any time during the Term.
Security compliance	A SOC 1 Type 2 report and a SOC 2 Type 2 report is published. Complementary user entity controls are available within the SOC reports. In addition, UKG Dimensions maintains ISO27001 and 27018 compliance, and upon written request details are available which describes the covered components. Customer agrees not to upload payment card information, as the service is not certified for PCI DSS. Customer agrees not to upload health information that falls under the United States HIPAA law.
Disaster recovery	Recovery time objective: 24 hours Recovery point objective: 4 hours
Encryption	Data encryption in transit and at rest is included.

- Third parties** The customer may contract with a third party to configure and/or implement UKG 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 UKG personnel or contractors employed by UKG.
- Legal Hold** UKG 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 UKG' control, UKG 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 UKG for the costs that UKG incurs to provide such assistance, such as professional services fees, copying, delivery, and other handling expenses. Subject to the above, UKG will produce the relevant data or documents. Except at its sole discretion or if legally required to do so, UKG will not entertain requests to store or host legacy or archived customer data or documents for these purposes. UKG periodically reviews all matters subject to legal hold, including data that is being retained.

Exhibit C

Acceptable Use Policy

This Acceptable Use Policy (this “Policy”) describes prohibited uses of the Services. The examples described in this Policy are not exhaustive. UKG may modify this Policy at any time upon written notice to Customer of a revised version. Per Article 11. “Changes” of the Dimensions Addendum, the modified version of this Policy will only become effective at the start of the next Renewal Term if the Customer, the West Virginia Purchasing Division, and the West Virginia Attorney General’s Office chooses to renew. If Customer violates the Policy or authorizes or helps others to do so, UKG may suspend use of the Services until the violation is corrected, or terminate the Agreement for cause in accordance with the terms of the Agreement.

(a) No Illegal, Harmful, or Offensive Use or Content

Customer may not use, or encourage, promote, facilitate or instruct others to use, the Services 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, UKG's 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.

(b) No Security Violations

Customer may not use the Services to violate the security or integrity of any network, computer or communications system, software application, or network or computing device (each, a “System”).

Prohibited activities include:

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

(c) No Network Abuse

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

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

(d) No E-Mail or Other Message Abuse

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

(e) Monitoring and Enforcement

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

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

UKG may report any activity that it suspects violates any law or regulation to appropriate law enforcement officials, regulators, or other appropriate third parties. UKG's reporting may include disclosing appropriate customer information. UKG 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.

(f) Reporting of Violations of this Policy

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

Exhibit D

AtomSphere Service and Boomi Software

As part of the Service, Customer has the right to access and use the Boomi AtomSphere Service provided by Boomi, LP. ("Boomi") and a non-exclusive, non-transferable and non-sublicensable license to use the associated Boomi Software as part of the Boomi AtomSphere Service. Customer may use the Boomi AtomSphere Service and the Boomi Software only to create integrations to and from the Service. If the Agreement terminates, Customer's rights to access the Boomi AtomSphere Service and the Boomi Software also terminates.

Customer understands and agrees that the AtomSphere Service and the Boomi Software may work in conjunction with third party products and Customer agrees to be responsible for ensuring that it is properly licensed to use such third party products. Customer further understands and agrees that (i) the AtomSphere Service and the Boomi Software are protected by copyright and other intellectual property laws and treaties, (ii) Boomi, its Affiliates and/or its suppliers own the copyright, and other intellectual property rights in the AtomSphere Service and Boomi Software, (iii) the Boomi Software is licensed, and not sold, (iv) this Agreement does not grant Customer any rights to Boomi's trademarks or service marks, and (v) with respect to the AtomSphere Service and Boomi Software, Boomi reserves any and all rights, implied or otherwise, which are not expressly granted to Customer in this Agreement.

Customer may, at its discretion, store other data on the systems to which it is provided access in connection with its use of the AtomSphere Service (the "Hosted Environment"). Customer is solely responsible for collecting, inputting and updating all Customer data stored in the Hosted Environment, and for ensuring that Customer complies with the Acceptable Use Policy with respect to the AtomSphere Service and Boomi Software. Customer agrees that such data may be accessed and used by Boomi and its representatives worldwide as may be needed to support Boomi's standard business operations with respect to the AtomSphere Service and Boomi Software. Customer agrees that data consisting of Customer contact information (e.g., email addresses, names) provided as part of Maintenance AtomSphere Services may be sent to Boomi's third party service providers as part of Boomi's services improvement processes.

In connection with the use of the Hosted Environment and the AtomSphere Service, Customer may not (i) attempt to use or gain unauthorized access to Boomi's or to any third-party's networks or equipment; (ii) permit other individuals or entities to copy the Boomi Software; nor (iii) provide unauthorized access to or use of any Boomi Software or the associated access credentials. Customer shall cooperate with Boomi's reasonable investigation of Hosted Environment outages, security issues, and any suspected breach of this Section.

Annex E: Definitions

"Acceptable Use Policy" and **"AUP"** are interchangeable terms referring to the UKG policy describing prohibited uses of the Service as further described in Annex C.

"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 Customer uses to access the Service.

"Application(s)" means those UKG Dimensions software application programs set forth on an Order Form which are made accessible for Customer to use under the terms of this Addendum.

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

"Boomi Software" means the third-party proprietary software associated with the Boomi AtomSphere Service as further described in Annex D.

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

"Confidential Information" is any non-public information relating to each of Customer's and UKG's businesses and those of UKG's Technology suppliers that is disclosed pursuant to this Addendum and which reasonably should have been understood by the recipient of such information to be confidential because of (i) legends or other markings, (ii) the circumstances of the disclosure, or (iii) the nature of the information itself. Information will not be considered "Confidential Information" if the information was (i) in the public domain without any breach of this Addendum; (ii) disclosed to the Receiving Party on a non-confidential basis from a source which is lawfully in possession of such Confidential Information and, to the knowledge of the Receiving Party, is not prohibited from disclosing such Confidential Information to Receiving Party; or (iii) released in writing from confidential treatment by Delivering Party; or (iv) required to be disclosed pursuant to a subpoena, order, civil investigative demand or similar process with which the Receiving Party is legally obligated to comply, and of which the Receiving Party notifies Delivering Party.

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

"Controls" means the administrative, physical, and technical safeguards for the protection of the security, confidentiality and integrity of Customer Data, designed and implemented by UKG 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 Customer, or its Authorized Users, posts or otherwise inputs into the Service, including but not limited to information, data (such as payroll data, vacation time, hours worked or other data elements associated with an Authorized User), text, multimedia images (e.g. graphics, audio and video files), or compilations.

“Customer Indemnified Party(ies)” means Customer and Customer’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 the services described in Section 3.2 (Educational Services), including but not limited to (i) UKG KnowledgeMap Learning Portal; (ii) UKG KnowledgeMap Live; and (iii) ala carte educational consulting services.

“Equipment” means UKG 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 UKG’s support of Equipment as further described in Attachment A-1.

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

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

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

“UKG KnowledgeMap™” means the online educational portal providing access to learning resources.

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

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

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

“Participating Entity(ies)” means those UKG or Customer entities that (i) directly or indirectly control, are controlled by, or are under common control with UKG or Customer, respectively and (ii) sign an Order

Form for the Service. **"Control"** (in this context) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and operating policies of the entity in respect of which the determination is being made through the ownership of the majority of its voting or equity securities, contract, voting trust or otherwise.

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

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

"Personally Identifiable Information" means information concerning individually identifiable employees of Customer that is protected against disclosure under Applicable Data Protection Law.

"Professional Services" means the professional, consulting, or training services provided by UKG 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 Addendum.

"Service" means the UKG supply of the commercially available version of the UKG Dimensions SaaS Applications in UKG's hosted environment and the services described in the Addendum related thereto.

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

"Taxes" means all applicable taxes relating to the goods and services provided by UKG hereunder, including all duties and country, federal, state, provincial or local taxes (including GST or VAT if applicable) but excluding taxes on UKG's income or business privilege.

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

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

ANNEX F
UKG DIMENSIONS PRIVACY AND SECURITY ADDENDUM

- 1. ISAE3402 / SSAE 18 (SOC 2) Audit:** UKG shall ensure compliance with ISAE3402/SSAE 18 AICPA Trust Principles for Security, Confidentiality, Privacy, Processing Integrity, and Availability (SOC 1 and SOC 2), and will undergo an audit each year for the purposes of examining the relevant controls with respect to the Applications. Such audits shall be carried out by an independent, certified third party and the resulting reports shall be provided to Customer by December 15th of each year. UKG shall ensure the data center carries out its own SOC 2 audits and provide such reports to Customer by December 15 of each year. Should this date need to be modified due to UKG audit cycles, UKG will provide notice of such.
- 2. ISO 27001/27018 Audits:** UKG shall ensure compliance with ISO 27001, 27017, and 27018 for the Application. UKG shall also ensure the datacenter used to provide the Application will continue to have its IT security management certified according to ISO 27001 or comparable industry standard security framework. The audits shall be carried out by an independent, certified third party, and, UKG shall provide the certificates to Customer by December 15th of each year.
- 3. Audit by Customer:** Customer shall have the right to receive assurances of the measures agreed upon to maintain data security and adequate data protection. Customer may exercise this audit right granted to it either personally or appoint a third party that is bound by appropriate obligations of confidentiality. Customer may exercise such audit right on an annual basis with reasonable notice and at a mutually agreed upon date and time. Any such audits shall be limited to a robust customer due diligence package consisting of details on UKG' information security/risk practices, examination of the results of the annual AICPA SSAE 18 SOC 1 and SOC 2 Type II audits conducted by an independent third party, executive summaries of the annual penetration test results as described in this addendum, and reasonable access to knowledgeable personnel to discuss the controls in place, including a meeting at UKG' corporate headquarters. In no event shall Customer or its designees be permitted to access UKG systems, network servers, scan summaries or activities logs.
- 4. Entity Controls:** Consistent with UKG' obligation to maintain its compliance with ISAE3402/SSAE 18 (SOC 1 and SOC 2) for the Applications, UKG shall continuously carry out the following security measures:
 - a. **Security Policy:** UKG shall maintain an information security policy that is reviewed annually by UKG and published and communicated to all UKG employees. UKG shall maintain a dedicated security and compliance function to maintain and monitor security controls in support of the Application.
 - b. **Employee Onboarding:** All personnel shall be subject to a background check upon hire and accept UKG' Code of Conduct.
 - c. **Employee Termination:** UKG shall terminate all credentials and access to the Applications of a UKG employee in the event of termination of his or her

employment within a timely manner, but in no event longer than three (3) business days.

- d. **Access Controls by UKG Personnel:** Access to all UKG owned or licensed network components, servers, databases, computers, and software programs by UKG personnel shall be protected by an authentication procedure that requires giving at least a unique username and complex password. UKG shall implement technical controls to enforce a password policy consisting of a minimum number of characters and complexity, including requirements of alpha, numeric, upper case, lower case and/or special characters. Lockout periods shall be in effect for inactivity and unsuccessful password attempts. Passwords must be changed after 90 days, at the latest.
- e. **Security Awareness Training:** UKG employees shall participate in security awareness and privacy training, upon hire and annually thereafter.
- f. **Security Documentations and Measures:** UKG shall maintain an organizational unit that is responsible for security and compliance issues. This unit shall develop, maintain, and operate to ensure that there is a trusted platform which meets an industry standard framework such as the SOC 2 criteria for Security, Availability, Processing Integrity, Privacy, and Confidentiality or the ISO 27001 framework.
- g. **Change Management:** UKG shall employ a change management process based on industry accepted standards for change management in configurations, software, and hardware with respect to the Application.

5. Application and Network Controls:

- a. **Privileged Access by UKG Personnel:** Privileged access to UKG owned or licensed network components, servers, databases, computers, and software programs by UKG personnel that are used in the provision of the Application shall be secured by means of a two-factor authentication and shall be defined by UKG in such a manner as to ensure that the access authorizations are granted only to the extent necessary to perform the assigned role. Any access to UKG's systems used in the provision of the Application shall be monitored.
- b. **Infrastructure of the Data Center:** UKG and/or its sub-processor(s) shall monitor the infrastructure in order to identify any security vulnerabilities.
- c. **Anti-Virus and Malware Scanning:** UKG uses commercially available malicious code detection software, including virus detection and malware detectors, on systems underlying the Application. Anti-virus definition files shall be updated regularly, on a scheduled basis, following the availability of such updates by the software provider.
- d. **Secure Coding Practices:** UKG developers shall be trained on secure development. Applications should be written in a secure manner to implement industry practices, such as input validation, session management, SQL injection, and cross site scripting mitigation. These practices shall be tested as part of the annual penetration testing described below.
- e. **Patch Management:** UKG shall review all patches, updates, and upgrades of operating systems, middleware, or applications to all relevant components of the

Applications after they have been released by the manufacturer and tested by UKG. UKG shall manage the patching process prudently to assure that critical patches are applied in a timely manner consistent with the associated risk.

- f. **Segregation of Customer Data:** UKG shall provide appropriate security controls and segmentation methods to protect and isolate Customer Data from other tenants.
- g. **Encrypted Data Transfers:** Customer Data input into the Application shall be secured using an industry standard protocol, such as Transport Layer Security (TLS).
- h. **Encrypted Data Storage:** UKG shall encrypt Customer Data using industry standard technology, which at a minimum, shall include the AES-256 encryption standard for data at rest.
- i. **Firewalls:** Connections to the Applications networks, shall be protected with industry standard firewalls. UKG shall update its firewall software regularly, on a scheduled basis, following the availability of updates by the software provider.
- j. **Intrusion Detection:** UKG shall implement and maintain an intrusion detection monitoring process at the network and/or host level to protect the Applications and detect unwanted or hostile network traffic. UKG shall update its intrusion detection software regularly, on a scheduled basis, following the availability of updates by the software provider or a heuristic analysis shall be used.
- k. **Systems Hardening and Secure Configuration:** UKG shall follow industry standards for platform hardening and secure configuration. UKG shall remove or disable unnecessary utilities from operating system configurations and restrict access rights to least privilege.
- l. **Penetration Testing:** UKG shall contract, as part of its security program and on at least an annual basis, with an independent third party to conduct a network and application penetration test. The penetration test will include, but is not limited to, the potential for unauthorized internet access, compromise of roles, and escalation of privileges for the Application. Upon request, UKG will provide an executive summary of said penetration test including the scope and methodology of the test and confirmation that critical and high-risk findings have been remediated or a plan (including time frame) is in place to remediate. Penetration testing includes the web application vulnerabilities defined by the Open Web Application Security Project (OWASP) Top 10 and those listed in the SANS 25 (as applicable) or its successor current at the time of the test.
- m. **Vulnerability Management:** UKG shall implement commercially reasonable processes designed to protect Customer Data from system vulnerabilities. UKG shall perform scanning of the infrastructure using an industry recognized automated scanning tool designed to detect security flaws and security vulnerabilities within the operating systems. UKG shall assess scan results and remediate relevant security vulnerabilities within a reasonable amount of time based on the risk to the Application.
- n. **Audit Logging:** UKG shall log UKG personnel's access to the Application to maintain an audit trail that includes, but is not limited to, web server logs, system logs, and network event logs.

- 6. Physical Access Control:** UKG shall ensure that its data center sub-processor uses industry standard technology to ensure that only the appropriately authorized staff have access to those systems of UKG that are used to provide the Application. This shall include at least the following measures: visitor sign-ins, role-based access controls, limited access to the server rooms and to the alarm systems which report any unauthorized access
- 7. Incident Response and Notification:**

 - a. UKG shall maintain security incident management policies and procedures, including security incident escalation procedures. In the event UKG confirms unauthorized access or acquisition, disclosure or use of Customer's personal data has occurred, UKG agrees to notify Customer, in accordance with the terms of the Agreement or per applicable law.
 - b. UKG shall (i) investigate such information security incident and perform a root cause analysis; (ii) remediate the effects of such information security incident; and (iii) provide Customer with assurances that such information security incident is not likely to recur
- 8. Disaster Recovery:** UKG shall maintain a Disaster Recovery plan and present verification of this plan (via the SOC 2 reporting) at the request of Customer. UKG shall test this plan once a year and verify that the planned measures are effective, reviewed by management and updated as necessary.
- 9. Business Continuity:** UKG shall maintain a plan for returning to operation in the event of a disaster and present a summary of this plan at the request of Customer. Upon UKG's declaration of disaster, UKG shall implement said plan to return the Application to operation. UKG shall annually test and review its business continuity plan and update as necessary.



Quote#: Q-146149
Expires: 30 Jun, 2023
Sales Executive: Christina Beacham

ORDER FORM
Order Type: Quote
Date: 13 Mar, 2023

Bill To Contact:

Bill To: West Virginia Enterprise Resource Planning Board
1007 Bullitt St Suite 400
Charleston, WV 25301-1017 USA

Ship To Contact: Kent Hartsog

Ship To: West Virginia Enterprise Resource Planning Board
1007 Bullitt St Suite 400
Charleston, WV 25301-1017 USA

Ship to Phone: (304) 558-2251
Ship to Mobile: (304) 546-3593
Contact: Kent Hartsog
Email: kent.hartsog@wvsao.gov

Currency: USD
Customer PO Number:
Solution ID: 6101714
Initial Term: 48 months
Billing Start Date: 120 Days from Execution of Order Form
Data Center Location: USA

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

Order Notes:

The parties agree that Customer is migrating from their existing Software as a Service applications (the "Existing Applications") to the UKG Dimensions Software as a Service offering ("WFD SaaS"). Customer's Software as a Service Agreement governing the Existing Applications will continue for up to two payroll cycles within 60 days after migration to WFD SaaS, but in no event beyond December 31, 2025. After such period, Customer's rights to use the Existing Applications, along with the associated Software as a Service Agreement, will be terminated, unless otherwise noted herein.

UKG Dimensions Monthly Service Fees shall be invoiced at the Billing Frequency indicated on this Order Form, commencing on the Billing Start Date. As of the Billing Start Date, UKG will credit Customer for any pre-paid but unused Monthly Service Fees for Existing Applications being migrated. Customer may apply credits against any amounts owed to UKG by Customer until such credit is expended. Customer understands that they remain responsible for payment of Monthly Service Fees on the Existing Applications until the UKG Dimensions Billing Start Date.

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

The fees for the Applications are invoiced 60 days prior to the Billing Start Date.

UKG Dimensions Analytics will remain an Optional Module for purchase for the first 16 months of the contract for 30,000 employees at \$0.76 PEPM.



Estimated Freight cost for this Order is \$0.

Customer is required to subscribe to Google Cloud Platform services including BigQuery and Storage from Google in order for Customer to receive the benefits of the UKG Dimensions Data Hub Enterprise solution. Customer will contract directly with Google for Google Cloud Platform services.

UKG agrees not to exceed the amount of fees set forth herein in order to complete the services described herein, unless additional hours are required to complete the services described herein due to a change in the scope of the project or timeline, [Customer's] delay in fulfilling its obligations, or as a result of a change in the complexity of the original scope of services based on information unknown at the time the parties entered into the SOW. Any such additional hours shall be agreed upon by the parties pursuant to the Change Order process described in the SOW. Travel expenses and training are not included in the Not to Exceed Fee and will be invoiced separately as incurred.

Customer agrees and acknowledges the payment terms listed in the header section of this order form of net 60 days is for all offerings unless otherwise expressly detailed below:

- The Bill As You Go Services listed under this order form shall be net N30 days from invoice date

SaaS Services

Billing Frequency: Annual in Advance

Product Name	Quantity	PEPM	Monthly Price
UKG DIMENSIONS TIMEKEEPING HOURLY	30,000	USD 1.96	USD 58,800.00
UKG DIMENSIONS ACTIVITIES	30,000	USD 0.49	USD 14,700.00
UKG DIMENSIONS ABSENCE	30,000	USD 0.49	USD 14,700.00
UKG DIMENSIONS ADVANCED SCHEDULING	30,000	USD 0.49	USD 14,700.00
UKG DIMENSIONS NON-PROD ADDITIONAL TENANT	30,000	USD 0.25	USD 7,500.00
Total Price			USD 110,400.00

Bill As You Go Services

Billing Frequency: Billed monthly as delivered

Item	Billing Role	Quantity	Unit Price	Total Price
TSG Technical Services	Technology Consultant	20	USD 125.00	USD 2,500.00
UKG DIMENSIONS ONBOARDING SERVICES ENTERPRISE	Project Manager	2,496	USD 125.00	USD 312,000.00
UKG DIMENSIONS ONBOARDING SERVICES ENTERPRISE	Integration Consultant	519	USD 125.00	USD 64,875.00
UKG DIMENSIONS ONBOARDING SERVICES ENTERPRISE	Solution Consultant	4,090	USD 125.00	USD 511,250.00
UKG DIMENSIONS ONBOARDING SERVICES ENTERPRISE	Technology Consultant	135	USD 125.00	USD 16,875.00
UKG DIMENSIONS INTEGRATION BUILD SERVICES	Integration Build Consultant	116	USD 100.00	USD 11,600.00
UKG DIMENSIONS USER ADOPTION SERVICES	Education Consultant	201	USD 125.00	USD 25,125.00
Total Price				USD 944,225.00



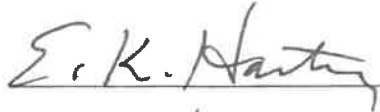
Quote Summary

Item	Total Price
Total Monthly SaaS and Equipment Rental Fees	USD 110,400.00

Item	Total Price
Total Bill As You Go Services	USD 944,225.00

West Virginia Enterprise Resource Planning Board

Signature:



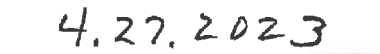
Name:



Title:



Effective Date:

**Kronos Incorporated**

Signature:

DocuSigned by:



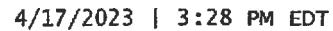
Name:



Title:



Effective Date:



Invoice amount will reflect deposit received. All professional services are billed as delivered with payment due, in accordance with the Payment Term set out in this Order Form. Unless otherwise indicated above, this order is subject to the relevant Kronos Terms and Conditions executed between the parties. THIS ORDER IS SUBJECT TO APPLICABLE TAXES. THE ACTUAL TAX AMOUNT TO BE PAID BY CUSTOMER WILL BE SHOWN ON CUSTOMER'S INVOICE. Shipping and handling charges will be reflected on the final invoice. The actual price on your invoice is the true and binding total for this order for purposes of amounts owed for the term. If you are tax exempt; please provide a copy of your "Tax Exempt Certificate" with your signed quote.

Statement of Work for State of West Virginia

UKG Dimensions Migration

Overview

This Statement of Work ("SOW") provides an overview of the project including scope, approach, costs, and how the project will be managed. To support a successful onboarding to the UKG Dimensions™ platform, the customer will provide the required internal project resources.

Project Outcomes

- Adherence to policy through automated pay calculations
 - Visibility to time off balances
 - Automated time collection
 - Visibility into labor tracking and accounting
 - Mitigation of Risk
- Automated accrual policies
- Efficient and accurate leave management
- Maximize automation of labor data collection
- Automated and data driven schedules
 - Alignment of labor to volume
 - Access to schedules and self-service workflows

Proposed Solution

Project Type(s)

Net New

Net New assumes a full deployment cycle, relying on calibration of recommended configuration, workflow and policy of an entitlement not previously purchased or subscribed to.

Enhanced Migration

Enhanced Migration assumes a full deployment cycle, relying on calibration of recommended configuration, workflow and policy.

Entitlement	Project Type
UKG Dimensions Timekeeping Hourly	Enhanced Migration
UKG Dimensions Accruals	Enhanced Migration
UKG Dimensions Leave	Enhanced Migration
UKG Dimensions Activities	Net New
UKG Dimensions Advanced Scheduling	Net New

Project duration is expected to be 52 working weeks, based upon our experience with our customers and solutions. UKG will be responsible for creating a project plan/timeline to review with the state and when mutual agreement is reached, the project will proceed. Depending upon the preparation and engagement of your organization, there may be opportunity to complete the project in a compressed duration. However, if project resources are unprepared or unavailable, the duration of the project may need to be extended, increasing the budget required to successfully complete this scope of work. If prolonged project delays are mutually determined to be caused by UKG, the State and the UKG Practice Manager will determine any remedy in the form of agreed upon credits or delays in payments due. Requests for additional scope or activities outside of this planned project scope may be accommodated through the change process. In this circumstance, Kronos may issue a change order to ensure the appropriate budget is available.

Kronos will deliver the scope of this project utilizing a blended approach. A blended approach combines onsite and remote resources.



Educational Services

Effective training is the key to high user adoption rates. Training that results in self-sufficient administrators, managers, and employees increases the efficiency of use of the Application(s) and Customer's business processes.

Kronos' training model includes a role-based learning plan. Each role within Customer's organization has a specific set of courses required at specific points in the deployment methodology. Having role-based training classes ensures Customer's team members are trained on the processes they will use in their day-to-day interactions with the system. The timing of this training is key. Kronos aims to provide the training with as little time between training delivery date and system usage as possible. This provides for Customer's users to have an opportunity to reinforce the training through real-life application before they begin to lose the skills gained in training. End users (i.e. Managers and Employees) use a train the trainer model for learning. Customer is responsible for train the trainer learning for their managers and employees.

Virtual Learning Environment Training

Kronos shall provide its live, hands-on classroom training, including a comprehensive agenda and facilitation by a trained and knowledgeable instructor, delivered to Customer's personnel via the Internet. Training is intended for the following audiences:

- Core Team training to help key functional and technical users make informed solution design and configuration decisions, and to provide fundamental product knowledge.
- Application & System Administrator to prepare functional and technical super users to perform their most common tasks in the solution

Self-Paced Training

Kronos shall provide self-paced product training.

Note: Kronos also offers fee-based consulting services that are not included under the terms of the Training Services referenced above.

User Adoption Consulting

UKG will provide Change Management – Advise consulting services that guide the customer through 6 touchpoints, focused on key change readiness activities. The UKG User Adoption Consultant, a Prosci® certified Change Management Practitioner, will leverage a set of tools and resources to help the Customer develop the change readiness strategy.

This engagement is delivered remotely and begins early in the project with a change planning touchpoint and change readiness assessments, where UKG will assess Customer's user adoption needs, define the timing for the rest of the touchpoints, and introduce the Customer to UKG tools and change methodology.

UKG will provide:

- User adoption strategy
- Leadership/Sponsorship action and coaching plans
- Day in the life user workflows
- Communication and training plans with tailored template materials
- Go Live checklists and reinforcement plan

User Adoption Tools

Kronos will develop user adoption tools to accelerate effective system use. The tools will incorporate configuration, business process, and terminology – allowing end users to quickly move from learning tasks to performing them in the live environment.



- Job Aid Customization - Entering Time Employees
- Job Aid Customization - Requesting Leave
- Job Aid Customization - Self-Scheduling for Employees

Project Approach

Kronos will complete a solution readiness review with the customer project team to confirm that the migration of agreed upon existing configuration can commence in non-production. Kronos will assess and deploy the approved Business Structure and other configuration unique to UKG Dimensions to complete validation of the migrated solution. Upon completion of customer user acceptance testing, Kronos will cut over the approved solution to production.

The Kronos onboarding process is driven by value and enabling business outcomes. This approach, focused on accelerated time to value uses tools and techniques, such as industry and region-specific configuration, Kronos process recommendations, dynamic documentation, and accelerated testing processes. All project information is available online to allow project team members access to project status, contact information, issues log, test case tracking, training plan, etc. at any time.

The onboarding process will be completed in three iterative phases: Initiate, Collaborate, and Adopt.

Project Leadership

Kronos will provide guidance through the life cycle of the project and provide best practices to implement the solution. As the main point of contact, the Kronos Project Manager will partner with the customer project leadership to develop the project plan to ensure objectives are achieved. The Kronos Project Manager will also deliver a collaborative workspace, which will serve as the dashboard for all aspects of the onboarding process.

Initiate

This first phase of the project lays the foundation for the project.

During this phase, the Kronos team will work together with the customer team to review goals and success criteria and share project assumptions. Teams will set and understand expectations, share project plans and agree upon the process of working together. The Kronos team will stand up the tenant according to the customer's market segment. At this stage, the customer will select which aspects of existing Kronos Workforce Central solution will be migrated to UKG Dimensions. The Kronos Project Manager will also introduce the concepts of change management, testing, and user education.

Once these items are complete, the Collaborate phase will begin.

Collaborate

As the project moves into Collaborate, both teams will partner to create the best solution for the customers' organization. Kronos will recommend practices and configuration based on industry and geography and fine tune those recommendations iteratively, to meet customer-specific needs and desired outcomes. This approach helps to define and refine the final solution. During this phase, the Kronos team will share the solution in action, which better allows informed decisions about the processes to be instituted. In turn, there is a better understanding of the specific scenarios to include in testing and end user training. As the solution is being finalized, both teams will focus heavily on testing efforts to ensure that the solution is well-prepared for adoption.

The project transitions into acceptance testing leveraging the Accelerated Testing Process. Kronos will provide baseline standard test cases while the customer-side team creates test cases specific to the relevant use cases, integrations, and processes. The customer team will execute these test cases and record the result, reporting successes and issues. To maximize visibility into acceptance testing progress, the project teams will work collaboratively in the testing workspace which will provide up to date information and metrics on the status of testing.



Adopt

The final phase is Adopt – when both teams realize the outcomes of the previous phases. It is at this stage that the solution is measured against the goals and objectives this project set out to achieve. Here the goals, success criteria, change management, and risk management efforts culminate as both teams work collaboratively to deploy the solution to end users.

Kronos will oversee 1 deployment group(s). After which the Kronos project manager will transition the completed scope to Kronos Global Support for post-implementation support.

WFC Historical Access Setup Services with Upgrade

The customer's production database will become a historical reporting system. Workforce functionality will be limited to viewing and reporting.

Kronos will:

- Provide hardware recommendations to support the historical system.
- Modules such as Workforce Device Manager, Workforce Integration Manager, custom features, and Single Sign On will be omitted from the scope.
- The Workforce Central user interface will continue to be available to users accessing the historical access environment.

Assumptions:

- Customer will provide Hardware, Operating System and Microsoft SQL Server to support Historical system per Kronos compatibility matrix.
- Kronos will perform the upgrade, with current service release, mandatory patches and touch test of the historical system.
- Customer will perform User Acceptance Testing.
- Kronos will deliver the scope of this service utilizing a remote approach.

Once the service is completed, Kronos does not provide maintenance, full version upgrades, or service packs to the on-premise historical system unless mutually agreed at then current rates.

Project Team Responsibilities

Customer team participation is key to the success of the project. Early on, it is important to select a well-suited project team. Selecting the right project team and ensuring availability to work with various project team members and end users will ensure project success.

In the instance an organization is comprised of multiple businesses and/or locations, it will be important to select team members who are knowledgeable of the policies and practices utilized within each of those groups.

The following chart uses the common RACI Matrix format to identify project roles and responsibilities by team member (R = Responsible, A = Accountable, C = Consulted, I = Informed).

Responsibilities	UKG Roles		State of WV Roles		
	Project Manager	Project Team	Exec Sponsor	Project Manager	Project / UAT Team
Overall Project Success	R	R	A	R	R
Define project goals and success criteria; share with team	I	I	A	R	I
Corporate communications & Organizational Change Management	C/I	I	A	R	I
Risk Mitigation	A	R	C/I	R/A	C/I
Project Planning	A	R	I	R	I

Responsibilities	UKG Roles		State of WV Roles		
	Project Manager	Project Team	Exec Sponsor	Project Manager	Project / UAT Team
Project Kickoff	R/A	C/I	R	R/A	C/I
Attends and supports Phase Reviews, Authorizations to Proceed, and other quality-assurance measures throughout	A	I	R	R	I
Overall project team engagement and collaboration (for ea. team)	A	R		A	R
Defines and plans strategy for testing, change management, end user education	R	I		A	R
Executes planned strategy for testing, change management, end user education	I	I		A	R
Defines and plans strategy for integration and technical requirements	A	R		I	I
Executes planned strategy for integration and technical requirements	A	R		I	I
Identifies and supplies interface/integration information	I	I		A	R
Attends all UKG defined education	A			R	R
Gathering and defining business use cases and requirements	I	I		A	R
Develops UKG solution to meet business case requirements	A	R		I	C/I
Unit Tests UKG solution to ensure it meets requirements	A	R		C	C
Creates and executes testing plans to ensure successful deployment	I	C/I		A	R
Creates and distributes End User Education	I	C		A	R

State of West Virginia Project Team

Recommended Project Team

Various customer resources are required and are engaged as needed during your UKG deployment. Except for the Customer Project Manager who is fully engaged for the duration of the project, additional customer resources can expect to spend 20 to 80 percent of their time working on your UKG project. This level of effort varies depending on the project phase and their required role in the project. We expect that subject matter experts from IT, HR, Payroll, and operations will participate at various points throughout the project. The UKG and State Project Managers will further define the team structure and responsibilities as part of project planning and development of the Project Plan. General guidance on the State team members anticipated to participate in the project is defined below.

- Executive Sponsor – 1 resource
- Project Manager – 1 resource
- Subject Matter Experts - 2 resources per impacted department, typically a primary plus backup expert
- Technical Expert – 1 resource

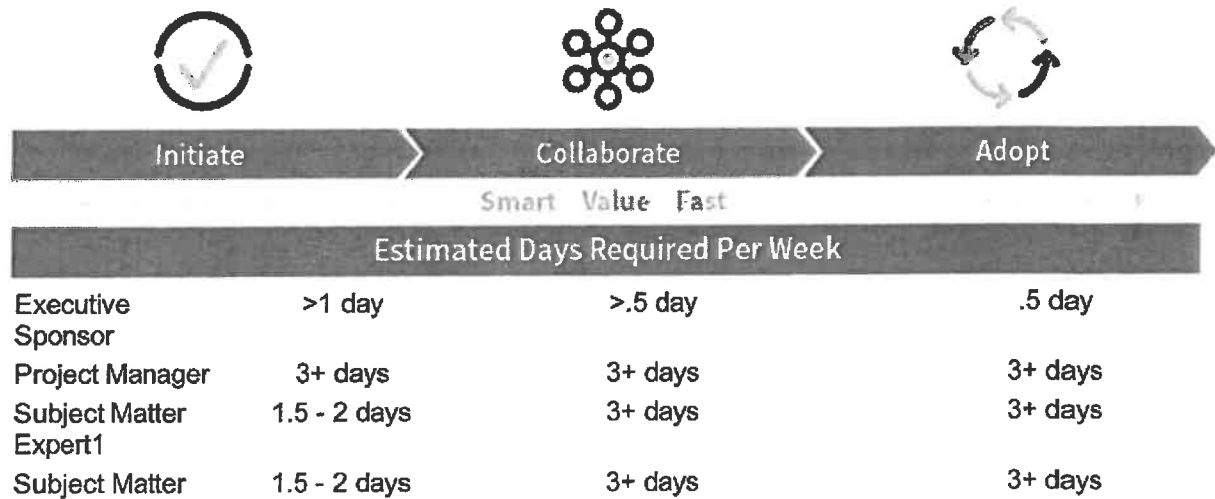
Project Team Availability

The chart below outlines the commitment for each of the customer team resources in the project. Keep in mind that more than one Subject Matter Expert may be needed, or there may be one Expert with experience in multiple areas. Customer resource requirements may need to be scaled based on the



size and complexity of the project.

There may also be occasion throughout the project to engage Subject Matter Experts from select businesses/locations as determined by the customer, as a supplement to the project team.



Expert2

Technical Expert

> .5 day

> .5 day

1 day

Solution Assumptions

UKG Dimensions

- 3 tenants included in this deployment (1 Production + 2 Non-Production)
- Customer is migrating from Workforce Central SQL Database
- 5 Timeclock(s) with TouchID will be migrated to current firmware version. The State will update any remaining clocks.
- Number of Solution Development Workshops - the UKG Consultant will introduce the Customer to their baseline solution through persona walkthroughs in Dimensions. This enables the Customer to 1) visualize a day in the life of their users, 2) identify specific scenarios to include in testing and end user training and 3) participate in additional discovery. UKG will iteratively fine tune and unit test the configuration to meet the State's specific requirements. The workshops are anticipated to be completed over the course of 8-9 weeks.
 - 1 Business Structure
 - 1 Timekeeping Hourly
 - 1 Accruals
 - 1 Leave
 - 1 Advanced Scheduling
 - 1 Activities

UKG Dimensions Timekeeping Hourly

- Number of Employee Groups (A group of employees who are governed by a set of similar workforce management policy rules.)
 - 14 for Timekeeping Hourly
- 1 standard attestation workflows

UKG Dimensions Accruals

- Becomes the system of record for accruals
- 54 Accrual policies

UKG Dimensions Leave

- 3 Leave Pay Group(s) included
- 1 State Leave Group(s) included

UKG Dimensions Advanced Scheduling

- 7 Scheduling Group(s) included
 - Hospitals
 - Mildred Mitchell Bateman Hospital (psych)
 - William R. Sharpe, Jr. Hospital (psych)
 - Welch Community Hospital (acute care)
 - Long Term Care
 - Lakin Hospital
 - Jackie Withrow Hospital
 - Hopemont Hospital
 - John Manchin, Sr. Health Care Center

UKG Dimensions Activities

- Up to 2 Results Templates included
- Up to 9 Offline Form Types included



- Up to 4 Dynamic Form Types included: Start, Stop, Duration, Results

Kronos Integration Services

Kronos will deliver the following integrations using the Boomi™ UKG Dimensions Integration Platform. All integrations listed in this section are assumed to be low to medium complexity. Interfaces are scheduled via UKG Dimensions and transferred to the UKG Dimensions secure FTP (SFTP) environment.

- **Business Data Automation:** Kronos provides the ability to keep your Workforce Management systems' business structure refreshed as your business organization changes to support new business goals, reorganizations, new locations, acquisitions, divestures, etc. Business Data Automation includes recurring and fully automated integrations to help eliminate costly and time-consuming manual entries. Integration includes automation of:
 - Labor Categories
 - Labor Category Lists
 - Labor Category Profiles
 - Organizational Sets
 - Employee Groups
 - Business Structure
 - Employee Data
- The interfaces described in this section replace the following existing Workforce Central interfaces
 - HK2-Department-Unit
 - HK2-Title Subtitle
 - HK1-Person Import
 - HK1-Person Import - Run every other Wednesday
 - HK1-Person Import Data Validation

Flat-File Integration Templates

Integrations listed in this section are delivered via encrypted flat-file via Kronos Secure FTP site and process as a scheduled event.

- KH4-Prev PPD (Payroll Export with Leave)
- KH4-Prev PPD – with Date Selection (Payroll Export with Leave)
- WTKonly-KH4-PREV-PPD (Payroll Export with Leave)
- Punch Report (Punch Data Export)
- HK5-Employee License and Certifications (Skills and Certification Import)
- HK5-Employee Skills (Skills and Certification Import)
- HK2-Skills List (Skills Creation Import)
- HK2-Certification List (Certifications Creation Import)
- FK1-WFA_Result-Report (Activities Result Export)
- KA2-Leave Requests (Custom Leave Request Export)
- KH2-Leave Accrual Balances (Accrual Export)

UKG Dimensions Activities Integration Package

Kronos provides the ability to implement recurring and fully automated integrations to help eliminate costly and time-consuming manual entries as part of the Activities module ongoing configuration. These integrations allow automated setup with an import for your activity definitions and result codes for tracking labor allocation across projects. Included is a file export of activities transaction data for your ERP or Cost accounting system. Integration includes:

- Activities Labor Category Import
- Activities Definitions Import
- Activities Result Codes Import
- Activities Transactions Export to ERP



The interfaces described in this section replace the following existing Workforce Central interfaces

- FK1-WFA_Result Import
- HK4-WFA_Result-Import
- KA3_Vehicle_Usage

Services Investment Summary

This SOW represents a not-to-exceed engagement. Travel expenses are not included and will be invoiced separately as incurred. Travel must be pre-approved by the State and expenses will not exceed 10% of the amount estimated and approved.

Service Type	
Professional Services [not to exceed]	\$919,100.00
Educational Services [not to exceed]	\$25,125.00
	\$944,225.00

Signatures and Approvals

SUBMITTED AND APPROVED BY KRONOS REPRESENTATIVE

By: Scott Kopco Date: 4/17/2023 | 3:58 PM EDT
Title: Global Engagement Services Market Advisor

This Statement of Work is subject to the State of West Virginia's UKG Dimensions agreement with Kronos governing Professional and Education Services. By signing below, the authorized State of West Virginia's representative agrees to purchase the services described herein.

ACCEPTED AND AGREED

State of West Virginia

By: S. K. Hartman Date: 4.27.2023
Title: Director

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State of West Virginia
Contractual Liability Limitation Request
Risk Assessment & Constitutional Compliance Check

WV-114
Created 8/28/2019

Overview: The Constitution of the State of West Virginia prohibits State agencies from taking on debt, and extending the State's credit to third parties. W. Va. Const. art. X, §§ 4 and 6. The State has also long held the position that these limits prohibit a state agency from contractually agreeing to limit a vendor's liability at a level less than the potential risk.

This risk assessment is intended to assist State agencies in determining whether a Vendor's proposed liability limit complies with the Constitutional mandate above. *This assessment should not be used to determine appropriate insurance limits. Agencies concerned about appropriate insurance should contact BRIM for more details.*

Instructions

Agencies should carefully consider each of the five categories identified and provide the information requested. Each of the categories should be treated as mutually exclusive. This means that a cost identified in one category should not be repeated in another.

Agencies must provide the "Estimated Cost to the State" and the "Probability of Occurrence" for each item. Those values are then multiplied to obtain the "Probability Adjusted Cost".

Ex: $\$50,000 \times 10\% = \$5,000$

The Probability Adjusted Cost for each item is then added to obtain a total Probability Adjusted Cost for that category. The total Probability Adjusted Cost for each of the 5 categories is then added to arrive at a "Total Risk Valuation". If the agency identifies other areas of risk that are not covered by this form, the agency can add additional categories to account for those risks and then add the costs to the Total Risk Valuation.

That Total Risk Valuation is then compared to the proposed dollar value of the liability limit. If the Total Risk Valuation is lower than the liability limit then the liability limit can be included in the contract if the agency so desires.

Note: The agency is not required to agree to a Vendor's proposed liability limit and is permitted to reject a proposed limit without completing this form.

State of West Virginia
Contractual Liability Limitation Request
Risk Assessment & Constitutional Compliance Check

Contract Information:

Solicitation/Contract Number: CSSD ERP2300000001
Commodity/Service Contracted For: Timekeeping Services
Vendor: UKG, Inc.
Agency: West Virginia Enterprise Resource Planning Board

Proposed Liability Limit:

Please quote below the proposed contract language that would establish the vendor's proposed liability limit.

"The Agency, as a State entity, cannot agree to assume the potential liability of a Vendor. Accordingly, any provision limiting the Vendor's liability for direct damages is hereby deleted. Vendor's liability under the agreement shall not exceed three times the total value of the agreement."

Assessment:

1. Risk of Temporary Interruption

- a. Identify the types of temporary interruption that could occur in this contract and the consequences associated with them.

Service Interruption – State employees would be unable to adjust their timecards and payroll could be delayed or result in manual processes to complete payroll on time.

Loss of Data – History of employee timecards and leave balances could be disturbed. Manual input or a reverse integration from the wvOASIS platform would be necessary.

- b. Complete the chart below to provide an estimate of the cost of the risk associated with a Temporary Interruption.

State of West Virginia
Contractual Liability Limitation Request
Risk Assessment & Constitutional Compliance Check

Potential Costs	Estimated Cost to the State	Probability of Occurrence	Probability Adjusted Cost
Lost Revenue			
Cost of Replacement	\$10,000,000	5%	\$500,000
Loss of Funding			
Cost of Inability to Perform Mission	\$4,000,000	5%	\$200,000
Penalties or Fines Against Agency	\$1,000,000	5%	\$50,000
Potential Litigation	\$3,000,000	5%	\$150,000
Other Mitigation Costs	\$1,000,000	5%	\$50,000
Other Costs	\$250,000	5%	\$12,500
Total			\$962,500

2. Permanent Contract Interruption (vendor bankruptcy, service termination, etc.)

- a. Identify the types of permanent interruption that could occur in this contract and the consequences associated with them.

Vendor Bankruptcy – The State would need to find a replacement to track time and leave, inclusive of implementation and integration with existing systems.

Contract Termination - The State would need to find a replacement to track time and leave, inclusive of implementation and integration with existing systems.

- b. Complete the chart below to provide an estimate of the cost of the risk associated with a Permanent Interruption.

Potential Costs	Estimated Cost to the State	Probability of Occurrence	Probability Adjusted Cost
Lost Revenue			
Cost of Replacement	\$10,000,000	1%	\$100,000
Loss of Funding			
Cost of Inability to Perform Mission	\$4,000,000	1%	\$40,000
Penalties or Fines Against Agency	\$2,000,000	1%	\$20,000
Potential Litigation	\$3,000,000	1%	\$30,000
Other Mitigation Costs	\$5,000,000	1%	\$50,000

State of West Virginia
Contractual Liability Limitation Request
Risk Assessment & Constitutional Compliance Check

Other Costs	\$1,000,000	1%	\$10,000
Total			\$250,000

3. Consequences and Cost of System/Data breach

- a. Identify the types of system/data breach that could occur in this contract and the consequences associated with them. This analysis should include the number of potential records that could be compromised and the privacy implications of disclosure of those records. The State's Chief Privacy Office has developed a Privacy Impact Assessment to assist with this.

There is no Personally Identifiable Information (PII) loaded into the timekeeping system.

- b. Complete the chart below to provide an estimate of the cost of the risk associated with a Systems/Data breach.

Potential Costs	Estimated Cost to the State	Probability of Occurrence	Probability Adjusted Cost
Lost Revenue			
Cost of Replacement			
Loss of Funding			
Cost of Inability to Perform Mission			
Penalties or Fines Against Agency			
Potential Litigation			
Other Mitigation Costs			
Other Costs			
Total			

4. Damage to Existing State Assets

- a. Identify any existing state assets that could be damaged by a failure of the product or service being received and how that damage could occur.

None.

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Risk Assessment & Constitutional Compliance Check

- b. Complete the chart below to provide an estimate of the cost of the risk associated with a failure.

Potential Costs	Estimated Cost to the State	Probability of Occurrence	Probability Adjusted Cost
Lost Revenue			
Cost of Replacement			
Loss of Funding			
Cost of Inability to Perform Mission			
Penalties or Fines Against Agency			
Potential Litigation			
Other Mitigation Costs			
Other Costs			
Total			

5. Damage to Third Parties

- a. Identify any third parties that could be damaged by a failure of the product or service being received and how that damage could occur.

None.

- b. Complete the chart below to provide an estimate of the cost of the risk associated to third parties with a failure.

Potential Costs	Estimated Cost to the State	Probability of Occurrence	Probability Adjusted Cost
Lost Revenue			
Cost of Replacement			
Loss of Funding			
Cost of Inability to Perform Mission			
Penalties or Fines Against Agency			
Potential Litigation			
Other Mitigation Costs			

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Other Costs			
Total			

Total Risk Valuation (add totals from items 1 through 5 above)

\$ 1,212,500

Liability Limit v. Risk Comparison:

1. **Liability Limit** – The Vendor's liability limit language quoted above would limit the vendor's total liability under the proposed contract to \$ 18,730,275
2. **Total Risk Valuation** – As noted above, the total risk valuation is \$ 1,212,500.

Conclusion:


As shown herein, the Total Risk Valuation of \$ 1,212,500 is lower than the contractual liability limit of \$ 18,730,275 that the vendor has requested. For this reason, the Agency is requesting that the contractual liability limit be accepted.

Or

As shown herein, the Total Risk Valuation of \$ _____ is higher than the contractual liability limit of \$ _____ that the vendor has requested. For this reason, the Agency understands that the requested contractual liability limit must be either revised to an amount lower than the Total Risk Valuation or rejected entirely.

Agency Authorized Signature:

Name: EVAN PAULEY

Signature: 

Date: 04/27/2023