

## Master Services Agreement

This Master Services Agreement (this “**Agreement**”) is made between the UKG entity (“**UKG**”) and the customer entity signing this Agreement (“**Customer**”) and sets forth the terms and conditions governing each Order or Statement of Work between the UKG and Customer that references this Agreement. CUSTOMER'S USE OF UKG'S SUBSCRIPTION SERVICES AND UKG'S PERFORMANCE OF PROFESSIONAL, TRAINING, AND SUPPORT SERVICES ARE SUBJECT TO AND GOVERNED EXCLUSIVELY BY THIS AGREEMENT AND ANY ADDITIONAL TERMS STATED IN THE ORDER OR STATEMENT OF WORK, INCLUDING ANY ATTACHMENTS THERETO. This Agreement is effective as of the date of the last Party to sign below (“**Effective Date**”). Capitalized terms used but not defined in this Agreement will have the meanings ascribed to them in the applicable Order or SOW.

### 1. Services

- 1.1 Subscription Services.** The Subscription Services will be identified in the Order. During the Initial Term and all applicable Renewal Terms defined in the Order, UKG will provide the Subscription Services to Customer and Customer may use such Subscription Services solely for its internal business purposes to manage the type and number of its employees (including those of its Affiliates) listed in the Order, subject to and conditioned on compliance with this Agreement, the Documentation, and the Order.
- 1.2 Support Services.** UKG shall maintain a trained and knowledgeable staff capable of providing support for the Subscription Services. UKG will use commercially reasonable diligence to correct reproducible errors when reported to UKG and provide phone, email, or online support 24 hours a day / 7 days a week as set forth in the UKG Support Policy located at <https://www.ukg.com/saas-support-policies-and-services>. UKG will also provide periodic enhancements and modifications to the Subscription Services, including bug fixes, to correct reproducible errors reported to UKG.
- 1.3 Professional Services.** UKG will provide the Professional Services listed in the Order, in accordance with the applicable Statement of Work or Services Description. If Customer requests additional Services that were not previously identified on an Order or Statement of Work, then the Parties may need to execute additional Orders or Statements of Work.
- 1.4 Training Services.** In connection with a Subscription Service, UKG will provide (a) live virtual training facilitated by a knowledgeable instructor and delivered remotely via a published schedule intended for (i) the core team to help key functional and technical users make informed solution design and configuration decisions and to provide fundamental product knowledge, and (ii) an application and system administrator to prepare functional and technical super users to perform their most common tasks in the solution; and (b) self-paced product training. Training services outside the scope of this section shall be provided by UKG as described in the Order.

### 2. Acknowledgements

- 2.1 Reservation of Rights.** The Subscription Services are provided with a limited right to use and are not sold, and UKG reserves and retains all rights not expressly granted in this Agreement. UKG has and shall maintain sole and exclusive ownership of all rights, title, and interests in the Services and Documentation, and all modifications and enhancements thereof (including ownership of all trade secrets, copyrights, trademarks, brands, and other intellectual property rights pertaining thereto). There will be no “work for hire” created as part of the Services or any deliverables owned by Customer, and all works, customizations, models, and developments created by UKG shall be considered a part of the Services.
- 2.2 Use Restrictions.** Except as expressly provided in this Agreement, no other use of the Subscription Services is permitted. Customer may not, and may not cause or permit others to: (a) reverse engineer, disassemble, adapt, translate, or decompile the Subscription Services, including, without limitation, any third party components, or otherwise attempt to derive source code, trade secrets, or knowhow from the Subscription Services; (b) license, sell, transfer, assign, distribute, or outsource use of the Subscription Services or Documentation, or provide service bureau, data processing, or time sharing access to the Subscription Services, or otherwise use the Subscription Services to provide payroll or human resource record keeping for third parties, other than Affiliates; (c) create Internet “links” to the Subscription Services or “frame” or “mirror” the Subscription Services on any other server, or wireless or Internet-based device; (d) access or use the Subscription Services or Documentation to build or support, directly or indirectly, products or services competitive to UKG; (e) interfere with or disrupt the integrity or performance of any Subscription Services or any data contained therein; (f) attempt to gain unauthorized access to any Subscription Services or its related data, systems, or networks; or (g) remove or alter any proprietary notices or marks on the Subscription Services or Documentation.
- 2.3 Customer Feedback.** Customer has no obligation to provide UKG with any suggestion, enhancement request, recommendation, evaluation, correction, or other feedback about the Services (“**Feedback**”), but if it does, Customer grants to UKG and its Affiliates a worldwide, perpetual, irrevocable, royalty-free license to use, copy, modify, distribute, disclose, create derivative works, and make and incorporate such Feedback into its Services for any purpose. UKG has no obligation to incorporate or apply any Feedback to the Services.

- 2.4 Consent to Subcontract.** Customer hereby consents to UKG subcontracting Services to persons or companies qualified by UKG to provide Services on UKG's behalf. UKG may also fulfill its obligations related to certain Services through its Affiliates. UKG shall be responsible for the actions of its subcontractors and Affiliates.
- 2.5 Compliance with Laws.** UKG shall comply with Applicable Laws in performing its obligations hereunder. Customer shall comply with Applicable Laws when using the Services and remains solely responsible for its compliance with Applicable Laws, including, but not limited to, with respect to the configuration and use of the Services and regardless of whether UKG provides assistance with Customer compliance matters. Customer acknowledges that the specific record retention requirements established under Applicable Laws relating to Customer are the responsibility of Customer and not UKG.
- 2.6 Upgrades.** Customer acknowledges that the Subscription Services may change at any time as required by changes to normal business conditions. It is further understood by Customer that any changes to the Subscription Services will be applicable to all UKG customers utilizing the Subscription Services and such changes will not materially diminish the functionality of the Subscription Services.
- 2.7 Acceptable Use.** Customer will use the Subscription Services in full compliance with the Acceptable Use Policy located at <https://www.ukg.com/acceptable-use-policy> ("**Acceptable Use Policy**"), which requires Customer not to (a) 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, (b) use the Services to violate the security or integrity of any network, computer or communications system, software application, or network or computing device, (c) interfere with or fail to cooperate with any UKG investigation of a security incident involving any UKG system, infrastructure or customer data, (d) make network connections to any users, hosts, or networks unless Customer has permission to communicate with them, and (e) use the Service to distribute, publish, send, or facilitate the sending of unsolicited mass e-mails or other messages. If Customer violates the Acceptable Use Policy, UKG may take immediate action without notice to prevent further harm, including suspending Customer's use of the Subscription Services and ceasing performance of any other Services.
- 2.8 Access Credentials.** Except as otherwise provided herein, Customer will not provide any third party with access credentials to the Subscription Services and will safeguard and compel all users to safeguard the access credentials. Customer will be responsible for all acts and omissions of its users. Customer will notify UKG promptly if it learns of any unauthorized use of any access credentials or any other known or suspected breach of security. If Customer allows use of the Subscription Services by any of its Affiliates without requiring such Affiliate to execute a separate Order with UKG to establish its own tenant environment, then Customer will be fully responsible and liable for all use and misuse of the Subscription Services by such Affiliate, and will fully cooperate with UKG in enforcing all of its rights to, interests in, and protection of the Services, including in seeking equitable remedies against any Affiliate that breaches this Agreement. Customer may also allow use of the Subscription Services by its legally bound contractors, provided such use is solely on Customer's behalf, is strictly in compliance with the terms and conditions of this Agreement, Customer at all times remains in control of and retains management over the Subscription Services, and Customer is liable for all breaches of this Agreement by such contractor.
- 2.9 Connectivity.** Customer is responsible for securing, paying for, and maintaining connectivity to the Subscription Services from Customer's location(s) via the internet, including any and all related hardware, software, third party services, and related equipment and components for such connectivity. Customer agrees that UKG will have no liability for such connectivity and Customer will not be excused from any of its obligations under the Agreement due to the quality, speed, or interruption of the communication lines from the Customer's location(s) to the internet.

### 3. Fees

- 3.1 Fees.** Customer will pay the fees on the payment terms and in the currency indicated in the Order. For each Order, the billing period of the fees will start on the Billing Start Date as set forth in the Order and will continue for the time period indicated as the Initial Term on the Order and all Renewal Terms. Customer is responsible to pay for the Services for the entire Initial Term and each Renewal Term. UKG may increase the fees as set forth in the Order. The increased fees will be set forth in the applicable invoice. Except as otherwise specified in the Order (a) subscription fees are based on Subscription Services purchased and not time of actual usage; (b) minimum quantities purchased cannot be decreased during the relevant subscription term; (c) additional quantities may be purchased; and (d) payment obligations are non-cancelable and fees paid are non-refundable.
- 3.2 Taxes.** The fees exclude, and Customer will be responsible for, all sales, use, excise, withholding, VAT, and any other similar taxes, duties and charges of any kind imposed by any governmental entity in connection with the Services (excluding taxes based solely on UKG's income).
- 3.3 Late Payment.** Any invoices not reasonably disputed in writing within thirty (30) days from the date of receipt will be deemed undisputed and due. All undisputed invoices not paid within thirty (30) days after the date such amounts are due and payable may accrue interest at a rate up to the maximum allowable by applicable law. Customer will reimburse UKG for any additional reasonable cost incurred by UKG in connection with collecting any amounts payable under this Agreement. If Customer is more than thirty (30) days overdue in its payment of an undisputed amount due, then UKG

reserves the right to suspend the Services provided under the applicable Order, but only until such payment is made to UKG and provided that UKG gives Customer at least ten (10) business days prior written notice of the overdue amount before UKG suspends the Services. Upon payment in full of all overdue amounts, UKG will restore the Services.

- 3.4 Not to Exceed Amount.** The total aggregate amount payable under this Agreement shall not exceed \$2,000,000 over the first five (5) years, unless a larger amount is agreed to by and between the parties in accordance with the amendment requirements of this Agreement.

#### 4. Data, Security and Privacy

- 4.1 Ownership of Customer Data.** Customer shall retain ownership of all rights, title, and interests in and to Customer Data. No ownership rights in Customer Data will transfer to UKG. Customer is responsible for maintaining backup copies of all Customer Data that Customer inputs into the Services or otherwise provides to UKG.
- 4.2 Use of Customer Data.** Customer grants to UKG a non-exclusive, perpetual, irrevocable, worldwide right to use, display, copy, modify, distribute, and create derivative works from Customer Data for the purposes of providing, operating, maintaining, customizing, and improving the Services, developing new or different products or services, and benchmarking, modeling, and training. Except as otherwise noted by UKG, Customer Data will be used for such purposes only in an aggregated, de-identified manner, that does not identify Customer, its users, employees, or Customer Confidential Information, and that is stripped of all persistent identifiers (e.g. device identifiers, IP addresses, and cookie ID's) such that Customer Data on its own cannot reasonably be identified as originating from Customer.
- 4.3 Collection of Personal Data.** Services may employ applications and tools that collect and process Personal Data that may be required by UKG to provide the requested Services or functionality included in or related to those Services. If Customer wishes to stop the collection and processing of Personal Data, Customer may need to uninstall or discontinue using certain Services.
- 4.4 Data Privacy and Security.** Each Party agrees to comply with Applicable Laws in its processing of Personal Data. UKG and its subprocessors will process Personal Data in accordance with UKG's Data Processing Addendum located at <https://www.ukg.com/ukg-unified-dpa>. All Customer Data will be secured and protected as set forth in the Technical and Organizational Measures of UKG's Data Processing Addendum. UKG has a list of its current subprocessors at <https://www.ukg.com/DPA-subprocessors>.

#### 5. Confidentiality

- 5.1 Definition. "Confidential Information"** is any non-public information relating to a Party that is disclosed pursuant to any Order or this Agreement, and which reasonably should be understood by the recipient of such information to be confidential because of (a) legends or other markings; (b) the circumstances of the disclosure; or (c) the nature of the information itself.
- 5.2 Exceptions.** Information will not be considered Confidential Information if the information was (a) in the public domain without any breach of this Agreement; (b) disclosed to the receiving Party on a non-confidential basis from a source 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; (c) released in writing from confidential treatment by disclosing Party; or (d) is independently developed by the receiving Party without use of or reference to the Confidential Information.
- 5.3 Nondisclosure.** Except as expressly permitted in this section, neither Party will disclose the other Party's Confidential Information to any third party.
- 5.4 Protection.** Each Party will secure and protect the Confidential Information of the other Party with a reasonable standard of care commensurate with the sensitivity of such Confidential Information and using precautions that are at least as stringent as it takes to protect its own Confidential Information of like nature, but no less than reasonable precautions.
- 5.5 Use.** Each Party will only use the Confidential Information of the other Party as expressly permitted by or as required to exercise their rights, duties, and obligations under this Agreement.
- 5.6 Disclosure Exceptions.** Confidential Information may be shared with and disclosed to (a) any Affiliate, subcontractor, or other third party who has a need to know to enable the receiving Party to exercise its rights or perform its obligations in connection with this Agreement and have non-disclosure obligations at least as stringent as the confidentiality provisions of this Agreement that apply to the Confidential Information; or (b) any court or governmental agency of competent jurisdiction, 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 disclosing Party as required by a legal process, including in connection with any proceeding to establish a Party's rights or obligations under this Agreement (provided however that, when permitted by Applicable Law, a Party will give the other reasonable prior written notice so that the disclosing Party has an opportunity to contest any disclosure required by a legal process). Nothing in this Agreement shall prohibit Customer from disclosing information that qualifies as a "public record" (as that term is

defined in the California Public Records Act, codified in California Government Code section 7920.000 et. seq.) and which is not otherwise exempt from release under the provisions of the California Public Records Act. Customer will notify UKG of any request to produce UKG information under the California Public Records Act so that UKG may, at its expense, contest whether such information constitutes a “public record” under the California Public Records Act.

## 6. Warranty

- 6.1 Mutual Warranties.** Each Party hereby warrants that (a) it has the full right and authority to enter into this Agreement; and (b) the performance of its obligations and duties under this Agreement does not conflict with or result in a breach of any other agreement of such Party or any judgment, order, or decree by which such Party is bound.
- 6.2 Subscription Services Warranty.** UKG warrants that the Subscription Services will substantially conform with the Documentation and that the functionality of the Subscription Services will not be materially diminished or adversely modified. In the event of a breach of the warranty described in this Section, as Customer’s exclusive remedy and UKG’s sole obligation, at UKG’s cost, UKG will make commercially reasonable efforts to remedy such breach, provided that if UKG cannot substantially remedy such breach, then Customer may terminate the affected Subscription Services in accordance with Section 7.2.2. Customer agrees to report any non-conformance of the Subscription Services within thirty (30) days of its discovery and provide UKG with reasonable information and assistance to enable UKG to reproduce or verify the non-conforming aspect of the Subscription Services.
- 6.3 Professional, Support, and Training Services Warranty.** UKG warrants that the Professional Services, Support Services, and Training Services will be performed by qualified personnel in a good and professional manner. In the event UKG breaches the warranty described in this Section, as Customer’s exclusive remedy and UKG’s sole obligation, UKG will reperform the deficient Professional, Support, or Training Service, at UKG’s cost, provided that if UKG cannot substantially remedy such breach, then UKG will refund any fees prepaid by Customer for the affected Services. Customer must report any deficiencies in such Services, including Professional Services, within thirty (30) days of the completion of the Services.
- 6.4 Disclaimer.** TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, UKG DISCLAIMS ALL OTHER WARRANTIES NOT SET FORTH IN THIS AGREEMENT, EITHER EXPRESS OR IMPLIED, INCLUDING ALL WARRANTIES OF MERCHANTABILITY, QUALITY, PERFORMANCE, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, TITLE, AND ANY WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE, IN CONNECTION WITH THIS AGREEMENT, THE SERVICES, AND ANY PRODUCTS PROVIDED BY UKG. UKG DOES NOT REPRESENT, WARRANT, OR COVENANT THAT THE SERVICES OR ANY OTHER PRODUCT OR SERVICE PROVIDED HEREUNDER WILL BE UNINTERRUPTED, ERROR-FREE, VIRUS-FREE, OR SECURE. THIS DISCLAIMER OF WARRANTY MAY NOT BE VALID IN SOME JURISDICTIONS AND CUSTOMER MAY HAVE WARRANTY RIGHTS UNDER LAW WHICH MAY NOT BE WAIVED OR DISCLAIMED; HOWEVER, ANY SUCH WARRANTY RIGHTS EXTEND ONLY FOR THIRTY (30) DAYS FROM THE EFFECTIVE DATE OF THIS AGREEMENT (UNLESS AND ONLY TO THE EXTENT SUCH LAW PROVIDES OTHERWISE).
- 6.5 Customer Warranty.** Customer warrants that it has all rights and required consents to provide to UKG Customer Data.

## 7. Term & Termination

- 7.1 Term of the Agreement.** The term of this Agreement commences on the Effective Date and continues until the stated term in each applicable Order or as otherwise terminated as permitted in this Agreement. At the expiration of the Initial Term, and at the expiration of each Renewal Term, each as indicated on the Order, the Services will automatically renew for the duration indicated on the Order as the Renewal Term. In no event shall the term of this Agreement exceed five (5) years without approval of the City of San Diego Council by Ordinance.
- 7.2 Types of Termination**
- 7.2.1 Non-renewal.** Either Party may terminate any Service identified in an Order upon at least sixty (60) days prior written notice to be effective at the expiration of the Initial Term or a Renewal Term (as such terms are defined in the Order).
- 7.2.2 For Cause.** Either Party may terminate this Agreement, or any Service identified in an Order, if the other Party fails to perform any material obligation under this Agreement, and such Party is not able to cure the non-performance within thirty (30) days of written notice of such default with reasonably sufficient detail regarding the alleged breach, provided that UKG may immediately terminate or suspend Customer’s access to the Services if Customer is in breach of the “Use Restrictions” or “Confidentiality” sections of this Agreement, or the Acceptable Use Policy. Either Party may immediately terminate this Agreement and all Orders if the other Party has a receiver or similar party appointed for its property, becomes insolvent, acknowledges its insolvency in any manner, ceases to do business, makes an assignment for the benefit of its creditors, or files a petition in bankruptcy. Other than

as expressly permitted in this Agreement, or an Order, SOW, or Services Description, neither Party may terminate this Agreement and each Party remains fully obligated to the terms and conditions herein.

**7.3 Effects of Termination.** The following terms apply if an Order is terminated for any reason:

**7.3.1 Fees.** All fees will be paid by Customer for amounts owed through the effective date of termination, and, if the Order is terminated for UKG's breach of the Agreement, any fees prepaid by Customer for the Service not rendered prior to the effective date of termination will be credited against Customer's account, with any remaining amounts refunded to Customer within thirty (30) days of the effective date of termination.

**7.3.2 Cessation of Services.** UKG will cease to provide the Services to Customer and Customer's right to use and access the Subscription Services will end as of the effective date of termination. If Customer requires access to the Subscription Services after the effective date of termination or transition assistance, such access and assistance will be subject to mutual agreement and additional fees under a separate Order or SOW, and will be subject to the terms and conditions of this Agreement.

**7.3.3 Deletion of Customer Data.** UKG will delete Customer Data after Customer's rights to access the Subscription Services and retrieve Customer Data have ended, unless otherwise provided under this Agreement, a Services Description, Order, SOW, or another document. UKG will delete Customer Data in a series of steps and in accordance with UKG's standard business practices for destruction of Customer Data and system backups. UKG has no obligation to retain Customer Data and Customer Data may be permanently deleted as part of UKG's data management program(s) or practice(s), and in accordance with Applicable Laws.

**7.3.4 Confidential Information.** UKG and Customer will each return or destroy any Confidential Information of the other Party, with any retained Confidential Information remaining subject to this Agreement.

**8. Indemnification**

**8.1 Claims Against Customer.** UKG will defend Customer and Customer's respective directors, officers, and employees, who are acting on behalf of Customer ("**Customer Indemnified Parties**"), from and against any and all third party Claims to the extent the Subscription Services infringe or misappropriate any legitimate copyright or patent. UKG will indemnify and hold harmless the Customer Indemnified Parties against any liabilities, damages, costs, or expenses (including, without limitation, reasonable attorneys' fees) actually awarded by a court of applicable jurisdiction to the extent resulting from such third party Claim, or as a result of UKG's settlement of such third party Claim.

**8.2 Mitigation.** In the event that a final injunction is obtained against Customer's use of the Subscription Services by reason of infringement or misappropriation, or if in UKG's opinion, the use of the Subscription Services is likely to become the subject of a successful Claim of infringement or misappropriation, UKG (at its option and expense) will use commercially reasonable efforts to either (a) procure for Customer the right to continue using the Subscription Services as provided in the Agreement; or (b) replace or modify the Subscription Services so that they become non-infringing but remain substantively similar to the affected Subscription Services. Should neither (a) nor (b) be commercially reasonable, either Party may terminate the Agreement and the rights granted hereunder upon written notice, at which time UKG will provide a refund to Customer of any fees paid by Customer for the infringing elements covering the period of their unavailability.

**8.3 Exceptions.** UKG will have no liability to indemnify or defend Customer to the extent the alleged infringement or misappropriation of the Subscription Services is based on (a) a modification undertaken by Customer, or on behalf of Customer; (b) use other than as authorized by this Agreement; or (c) use in conjunction with any equipment, service, or software not provided by UKG, where the Subscription Services would not otherwise infringe, misappropriate, or become the subject of the third party Claim.

**8.4 Qualifications.** Customer will provide written notice to UKG promptly after receiving notice of a third party Claim. If defense of such third party Claim is materially prejudiced by a delay in providing notice, UKG will be relieved from providing such indemnity to the extent of the delay's impact on the defense. UKG will have sole control of the defense of any indemnified third party Claim and all negotiations for its settlement or compromise, provided that UKG will not enter into any settlement which imposes any obligations on Customer without the prior written consent of Customer. UKG agrees and acknowledges that any settlement which imposes a payment obligation on Customer above certain dollar limits may require the approval of Customer's City Council pursuant to the provisions of Council Policy 000-09. Customer will cooperate fully (at UKG's request and expense) with UKG in the defense, settlement, and compromise of any such action. Customer may retain its own counsel at its own expense, subject to UKG's rights above.

**8.5** This "Indemnification" section states UKG's sole liability and Customer's exclusive remedy for all third party Claims and damages.

**9. Limitations of Liability**

**9.1 General Monetary Cap.** DURING ANY TWELVE (12) MONTH CONTRACT TERM (BEGINNING ON THE EFFECTIVE

DATE OF THE APPLICABLE ORDER), UKG'S TOTAL AGGREGATE LIABILITY FOR ANY AND ALL CLAIMS IN CONNECTION WITH ANY SERVICE SHALL IN NO EVENT EXCEED THE AGGREGATE AMOUNT PAID OR PAYABLE BY CUSTOMER TO UKG DURING SUCH TWELVE (12) MONTH CONTRACT TERM FOR THE SERVICE GIVING RISE TO SUCH CLAIM(S) UNDER THIS AGREEMENT.

- 9.2 Monetary Cap for Data Protection Claims.** SECTION 9.1 DOES NOT APPLY TO BREACH OF SECTIONS 4 (DATA, SECURITY AND PRIVACY AND 5 (CONFIDENTIALITY) TO THE EXTENT RESULTING IN THE UNAUTHORIZED DISCLOSURE OF CUSTOMER DATA (REFERRED TO AS "DATA PROTECTION CLAIMS). UKG'S LIABILITY ARISING OUT OF OR RELATED TO DATA PROTECTION CLAIMS WILL NOT EXCEED FIVE (5) TIMES THE LIMIT OF LIABILITY SET FORTH IN SECTION 9.1.
- 9.3 Exclusion of Damages.** UKG WILL NOT BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL, OR PUNITIVE DAMAGES; FOR THE COST OF ACQUIRING SUBSTITUTE OR REPLACEMENT SERVICES; OR FOR ANY LOST OR IMPUTED PROFITS OR REVENUES, BUSINESS INTERRUPTION, LOST GOODWILL, OR LOST DATA RESULTING FROM OR RELATED TO THE SERVICES OR THIS AGREEMENT, HOWEVER CAUSED; OR ANY DAMAGES TO THE EXTENT CAUSED BY CUSTOMER'S DATA OR APPLICATIONS, CUSTOMER'S ALLOWANCE OF UNAUTHORIZED THIRD PARTY ACCESS, OR CUSTOMER'S INTRODUCTION OF MALICIOUS CODE.
- 9.4 Applicability of Limitations.** THESE LIMITATIONS APPLY FOR ANY REASON, REGARDLESS OF LEGAL THEORY AND THE REASON LIABILITY IS ASSERTED, EVEN IF UKG HAS KNOWLEDGE OF THE POSSIBILITY OF SUCH DAMAGES AND WHETHER OR NOT SUCH DAMAGES ARE FORESEEABLE. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, NOTHING IN THIS SECTION OR ELSEWHERE IN THIS AGREEMENT SHALL OPERATE TO EXCLUDE OR LIMIT THE LIABILITY OF ANY PARTY TO THE EXTENT SUCH LIABILITY CANNOT LAWFULLY BE SO LIMITED OR EXCLUDED UNDER APPLICABLE LAW. INsofar AS APPLICABLE LAW PROHIBITS ANY LIMITATION ON LIABILITY HEREIN, THE PARTIES AGREE THAT SUCH LIMITATION WILL BE AUTOMATICALLY MODIFIED, BUT ONLY TO THE EXTENT SO AS TO MAKE THE LIMITATION COMPLIANT WITH APPLICABLE LAW. THE PARTIES AGREE THAT THE LIMITATIONS ON LIABILITIES SET FORTH HEREIN ARE AGREED ALLOCATIONS OF RISK AND SUCH LIMITATIONS WILL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

## 10. General

- 10.1 Jurisdiction & Dispute Resolution.** The parties agree to remain silent on governing law and jurisdiction. IF NOT OTHERWISE PROHIBITED BY APPLICABLE LAW, EACH PARTY AGREES THAT ANY CLAIM RELATED TO THIS AGREEMENT WILL BE RESOLVED ONLY ON AN INDIVIDUAL BASIS AND NOT IN A CLASS, CONSOLIDATED, OR REPRESENTATIVE ACTION, SUIT, OR OTHER SIMILAR PROCESS. The United Nations Commission on International Trade Law, the United Nations Convention on Contracts for the International Sale of Goods, and the Uniform Computer Information Transactions Act (UCITA) will not apply to this Agreement.
- 10.2 Government Use Provision.** If Customer is a U.S. government entity, then it acknowledges that the Subscription Services and Documentation consist of "commercial items," as defined in FAR 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as these terms are used in FAR 12.212 and in DFARS 227.7202, as applicable. All such Customers will comply with this Agreement while using Subscription Services and Documentation, and if such Customer needs any additional rights, it agrees that it will be subject to a mutually agreed addendum to this Agreement.
- 10.3 Export.** Each Party shall comply with the export laws and regulations of the United States and other applicable jurisdictions in providing and using the Services. Without limiting the generality of the foregoing, Customer represents that it is not on any U.S. government denied- party list and it shall not make the Services available to any person or entity that (a) is located in a country that is subject to a U.S. government embargo; (b) is listed on any U.S. government list of prohibited or restricted parties; or (c) is engaged in activities directly or indirectly related to proliferation of weapons of mass destruction.
- 10.4 Severability & Waiver.** The invalidity or illegality of any provision in this Agreement will not affect the validity of any other provision. All unaffected provisions remain in full force and effect. The waiver of any breach of this Agreement will not constitute a waiver of any subsequent breach or default and will not negate the rights of the waiving Party.
- 10.5 Surviving Provisions.** Provisions in this Agreement which by their nature are intended to survive in the event of a dispute or because their obligations continue past termination of the Agreement, including provisions relating to acknowledgements, reservation of rights, use restrictions, fees, confidentiality, limits of liability, indemnification, and termination, will so survive.
- 10.6 Assignment.** This Agreement cannot be assigned by a Party, whether by operation of law or otherwise, without the prior written consent of the other Party; provided, however, that either Party may assign this Agreement in its entirety (including all Orders and Statements of Work) as part of a merger, acquisition, transfer, or sale of all or substantially all of its assets,



stock or business, including to an Affiliate, so long as the assignee agrees to be bound by all of the terms and conditions of this Agreement, the Orders, and Statements of Work. This Agreement shall be binding on and inure to the benefit of all permitted predecessors, successors, and assigns of each Party.

- 10.7 Force Majeure.** If an unforeseeable event reasonably beyond the control of either of the Parties arises to prevent a Party from performing its obligations under this Agreement, including, but not limited to, acts of war, terrorism, uprising, acts of nature like earthquakes or floods, outbreak of infectious disease, civil unrest, embargoes, riots, sabotage, labor shortages, changes in laws or regulations, the failure of the internet or communications via common networks, power or system failure, or a delay in transportation (collectively “**Force Majeure**”), each Party will be excused from performance of its obligations under this Agreement, except payment of fees, for the duration of the Force Majeure affecting such Party, provided that the affected Party will use reasonable efforts to mitigate the impact of the Force Majeure. Notwithstanding the foregoing, UKG remains obligated to provide disaster recovery portions of the Services to the extent not also prevented by the Force Majeure.
- 10.8 Publicity.** UKG must comply with City of San Diego Council Policy 000-41 which requires that other than listing Customer as a client and other limited endorsements, any advertisements, social media, promotions or other marketing referring to the Customer as a user of a product or service will require prior written approval of the City of San Diego Mayor or designee. Use of the City of San Diego Seal or City of San Diego logos is prohibited.
- 10.9 Notice.** When either Party needs to provide notification or consent under this Agreement, those notices and consents must be in writing and considered delivered upon actual receipt. All notices to UKG must be sent to the following: [UKGLegal@ukg.com](mailto:UKGLegal@ukg.com) with a copy to EVP Chief Legal Officer, UKG Inc., 900 Chelmsford Street, Lowell, MA 01851. All notices to Customer will be sent to the contact listed on the applicable Order. Any cure period required under this Agreement will begin on the date the notice is received.
- 10.10 eSignature.** Each Party agrees that an eSignature (or a facsimile signature by the authorized representative) is evidence of acceptance of a valid and enforceable agreement.
- 10.11 No Third Party Beneficiaries.** The provisions of this Agreement are for the sole benefit of the Parties and they will not be construed as conferring any rights on any third party nor are there any third party beneficiaries to this Agreement.
- 10.12 Relationship of the Parties.** The Parties are independent contractors. Nothing in this Agreement shall be deemed to constitute a partnership or joint venture between the Parties or constitute any Party to be the agent of the other Party for any purpose.
- 10.13 Entire Agreement.** This Agreement (and any information in referenced herein, including in an exhibit, schedule, attachment, annex, or at any URL) along with any corresponding Order, SOW, and Services Description constitute the entire agreement between the Parties pertaining to each Order. This Agreement supersedes all prior and contemporaneous representations, negotiations, and communications between the Parties relating to the Services and its subject matter. Customer acknowledges that it has not relied upon any such representations, negotiations, and communications, and waives any rights or claims arising from such representations, negotiations, and communications, including any claims for fraud or misrepresentation. This Agreement may only be amended in writing signed by each of the Parties. If Customer uses its own purchase order or similar document, any terms or conditions in such purchase order are null and void. In the event of a conflict between the provisions contained in this Agreement and those contained in an Order, SOW, or Services Description, the following order of precedence shall apply: (1) the Order, (2) this Agreement, (3) Services Description, and (4) the SOW.
- 10.14 City of San Diego Mandated Clauses and Requirements:**
- 10.14.1** UKG agrees to comply with the Contractor Standards provisions codified in Section 22.3004(d) of the San Diego Municipal Code. UKG understands and agrees that violation of the Contractor Standards may be considered a material breach of the Agreement and may result in termination of the Agreement, debarment, and other sanctions as available under the San Diego Municipal Code. Nothing in this Section shall be interpreted to hold UKG liable for subcontractors that do not provide Professional Services or Training Services to UKG for the benefit of Customer.
- 10.14.2** Equal Employment Opportunity Compliance: UKG shall comply with the requirements of 41 CFR §§ 60-300.5 and 60-741.5. UKG shall not discriminate against any employee or applicant for employment on any basis prohibited by law. UKG shall provide equal opportunity in all employment practices. Nothing in this Section shall be interpreted to hold UKG liable for any discriminatory practice of its subcontractors.
- 10.14.3** Americans with Disabilities Act: UKG shall comply with Customer's Council Policy 100-04. Nothing in this Section shall be interpreted to require UKG to ensure that its subcontractors comply with anything more than UKG's Third Party Code of Conduct (located here: <https://www.ukg.com/third-party-code-of-conduct> ) with respect to the obligations of Customer's Council Policy 100-04.

**10.14.4 Business Tax Certificate.** Unless the City Treasurer determines in writing that a contractor is exempt from the payment of business tax, any contractor doing business with the City of San Diego (Customer) is required to obtain a Business Tax Certificate (BTC) and to provide a copy of its BTC to the City before a Contract is executed.

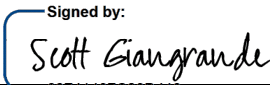
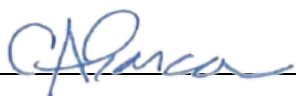
## 11. Definitions

- 11.1 “Affiliates”** means, as to UKG, those entities that are directly or indirectly controlled by UKG Inc.; and as to Customer, those Customer entities that directly or indirectly control, are controlled by, or are under common control with Customer. “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, or otherwise.
- 11.2 “Applicable Law(s)”** means all laws, codes, legislative acts, regulations, ordinances, administrative rules, rules of court, and court orders applicable to a Party’s respective business.
- 11.3 “Claim(s)”** means any and all notices, charges, claims, proceedings, actions, causes of action and suits.
- 11.4 “Customer Data”** means all content, information, and data Customer inputs into the Subscription Services, including but not limited to Personal Data.
- 11.5 “Documentation”** means the written specifications for the Subscription Services or published online by UKG on its community pages accessible at <https://www.ukg.com/support> and <https://library.ukg.com/>, such as user manuals and administrator guides, as well as the Services Descriptions.
- 11.6 “Order”** means an order form agreed by both Parties, which is subject to this Agreement or otherwise references this Agreement, setting out, among other things, the type and quantity of employees that may be managed in the Subscription Services, the term of the Order, price and payment terms of the Services to be provided by UKG, and the fees to be paid by Customer.
- 11.7 “Party”** or **“Parties”** means UKG or Customer, or both, as the context dictates.
- 11.8 “Personal Data”** means data related to a natural person or particular individual as defined under Applicable Laws, including “personal data” as defined under the EU General Data Protection Regulation (“GDPR”); “personal information” as defined under the California Consumer Privacy Act (“CCPA”); and any similar terms, such as “personally identifiable information” defined under applicable privacy laws.
- 11.9 “Professional Services”** means the deployment, launch, configuration, implementation, integration, delivery, consulting, managed, and other similar services provided hereunder.
- 11.10 “Services”** means the (a) Subscription Services; (b) Support Services; (c) Professional Services; (d) Training Services; and (e) other services or offerings as set forth in an Order.
- 11.11 “Services Description”** means the supplemental terms applicable to a Subscription Service or other offerings located at <http://www.ukg.com/services-descriptions>.
- 11.12 “Statement of Work”** or **“SOW”** means a document executed by both Parties, which is subject to this Agreement and the applicable Order or otherwise references this Agreement, detailing the scope of Professional Services or Training Services, the associated fees, and other applicable terms.
- 11.13 “Subscription Services”** means those UKG software-as-a-service (“SaaS”) applications set forth on the Order, including the UKG data accessible therein, and made available to Customer via a hosted multi-tenant environment to use on a subscription basis.
- 11.14 “Support Services”** means support and maintenance services provided by UKG for the Subscription Services, as described in this Agreement.
- 11.15 “Training Services”** means in person and virtual instructor-led training and courses, including online, on-demand, in-product, and on-site courses provided by UKG.


SIGNATURES ON NEXT PAGE



IN WITNESS WHEREOF, the Parties through their duly authorized representatives have read the foregoing and all documents incorporated herein and agree and accept such terms effective as of the date of the last signature below.

|  |  |
|--|--|
| UKG Kronos Systems, LLC  | City of San Diego on behalf of San Diego Fire-Rescue Department                        |
| Dated: 9/23/2024   2:54 PM EDT   | Dated: October 31, 2024  |
| By: <div>Signed by:<br/><br/>69741407C20D419...</div> | By:  |
| Name: Scott Giangrande   | Name: Claudia C. Abarca  |
| Title: Lead Order Processing Analyst   | Title: Director, Purchasing & Contracting  |

Approved as to form this <sup>Oct 31, 2024</sup> day of  
<sup>Oct 31, 2024</sup>, 20<sup>Oct 31,</sup>  
MARA W. ELLIOTT, City Attorney

  
By: Daniel Orloff (Oct 31, 2024 16:56 PDT)  
Deputy City Attorney

Daniel Orloff  
Print Name






# Kronos agreement

Final Audit Report

2024-10-31

|                 |   |
|-----------------|---|
| Created:        | 2024-10-31                                    |
| By:             | Kristine E Kallek (kkallek@sandiego.gov)      |
| Status:         | Signed  |
| Transaction ID: | CBJCHBCAABAA3cgNYVGoUlt10T5MMEEEX9uPTEUehhego |

## "Kronos agreement" History

-  Document created by Kristine E Kallek (kkallek@sandiego.gov)  
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-  Document emailed to dorloff@sandiego.gov for signature  
2024-10-31 - 11:55:18 PM GMT
-  Email viewed by dorloff@sandiego.gov  
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-  Signer dorloff@sandiego.gov entered name at signing as Daniel Orloff  
2024-10-31 - 11:56:45 PM GMT- IP address: 174.195.133.82
-  Document e-signed by Daniel Orloff (dorloff@sandiego.gov)  
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-  Agreement completed.  
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