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Enactment Date	10-8-14



OAKLAND UNIFIED  
SCHOOL DISTRICT

Community Schools, Thriving Students

# Memo

**To** Board of Education

**From** Antwan Wilson, Superintendent  
Brigitte Marshall, Chief Talent Officer

**Board Meeting Date** October 8, 2014

*(To be completed by Procurement)*

**Subject** **Approval of Resolution 1415-0087 Authorizing Piggyback Of County Of San Mateo Agreement With Workday Human Capital Management Subscription Service and Authorizing the District to Execute Agreements with Workday**

**Action Requested** **Approval of Resolution 1415-0087 Authorizing Piggyback Of County Of San Mateo Agreement With Workday Human Capital Management Subscription Service and Authorizing the District to Execute Agreements with Workday**

**Background**  
*A one paragraph explanation of why the consultant's services are needed.*

Workday is a SaaS (Software as a Service), cloud based solution that will enhance the District's human resources and performance management functions and, for human resources purposes, will replace the District's legacy HR system (IFAS). IFAS will continue to be used by Payroll and for business and fiscal functions within the District. The District is currently using software that is insufficient to support critical HR functions. Over the last few years, the system's functionality was augmented with various solutions and manual processes. This causes many problems, including duplication of work, increased chance of errors, inconsistent data definitions, untimely data updates, and additional complexity. HR conducted a Human Resources Information System needs assessment which identified areas of unmet need and prompted the release of a Request for Information. Through the RFI process, HR identified the Workday platform as the most viable system. As a result of an existing contract between the County of San Mateo and Workday with a "piggyback" provision, the District is able to contract with Workday without going through the RFP process. The Board is being asked to approve the Resolution authorizing the piggyback, the agreement with Workday and an agreement with Sierra-Cedar which will support the implementation of and training for the new system.

**Discussion**  
*One paragraph summary of the scope of work.*

The term of the Workday subscription agreement is October 31, 2014 to October 30, 2017 at a sum not to exceed \$622,147 for the first year and \$522,127 annually thereafter.



OAKLAND UNIFIED  
SCHOOL DISTRICT

*Community Schools, Thriving Students*

**Recommendation**

**Approval of Resolution 1415-0087 Authorizing Piggyback Of County Of San Mateo Agreement With Workday Human Capital System Subscription Service and Authorizing the District to Execute Agreements with Workday**

**Fiscal Impact**

\$622,147 through implementation and \$522,127 annually thereafter for the three year term

**Attachments**

- Resolution 1415-0087
- County of San Mateo by Resolution 20130910
- Workday Agreement with County of San Mateo
- Workday Agreement with OUSD

**Board Resolution 1415-0087**

**Attachment A**

**RESOLUTION 1415-0087  
OF THE  
BOARD OF EDUCATION OF  
OAKLAND UNIFIED SCHOOL DISTRICT**

**Authorizing Piggyback of County of San Mateo Agreement with Workday Human  
Capital System Subscription Service**

**WHEREAS**, the County of San Mateo by Resolution 20130910 approved by the County Board of Supervisors on September 10, 2013, entered into a Professional Services Agreement with Workday effective September 10, 2013 to provide subscription services for a Human Resources system for the term from September 10, 2013 to September 9, 2018, a copy of the County Resolution and the Agreement are attached to this Resolution as Attachment A;

**WHEREAS**, Paragraph 12.11 of the Agreement between the County of San Mateo and Workday authorizes "piggybacking" such that other public entities may procure the same services under substantially the same terms as the Agreement between the County of San Mateo and Workday;

**WHEREAS**, the California statutory authority which authorizes piggybacks is sections 20118 and 20652 of the California Public Contract Code, which provides that public agencies in the State of California, may utilize any resultant contract and purchase identical items at the same prices, and same terms and conditions;

**WHEREAS**, the District has determined that the terms and conditions in the Agreement between the County of San Mateo and Workday are favorable and desires procure the Workday services;

**WHEREAS**, Workday is a SaaS (Software as a Service, cloud based solution) system that will enhance the District's human resources and performance management functions and for human resources purposes will replace the District's legacy HR systems (IFAS);

**NOW THEREFORE**, the Board of Education of the Oakland Unified School District hereby authorizes the District, under the authority of sections 20118 and 20652 of the California Public Contract Code, to enter into Agreements with Workday to procure the Workday subscription software, implementation and training for the Human Resources information system, which are attached to this Resolution as Attachment B.

**PASSED AND ADOPTED** by the Board of Education of the Oakland Unified School District this 8<sup>th</sup> day of October, 2014, by the following vote, to wit:

**AYES:** Jody London, Jumoke Hinton Hodge, Christopher Dobbins,  
Vice President James Harris and President David Kakishiba

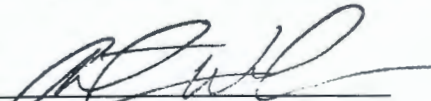
**NOES:** None

**ABSTAINED:** None

**ABSENT:** Roseann Torres and Anne Washington

#### **CERTIFICATION**

I, Antwan Wilson, Superintendent and Secretary of the Board of Education of the Oakland Unified School District, Alameda County, State of California, do hereby certify that the foregoing Resolution was duly approved and adopted by the Board of Education of said district at a meeting thereof held on the 8 day of October, 2014 with a copy of such Resolution being on file in the Administrative Office of said District.

  
\_\_\_\_\_  
Antwan Wilson

File ID Number: 14-1859  
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Bv:

**County of San Mateo by Resolution 20130910**

**Attachment B**

**RESOLUTION NO. \_\_\_\_\_**

**BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA**

\* \* \* \* \*

**RESOLUTION: A) AUTHORIZING AN AGREEMENT WITH WORKDAY TO PROVIDE SUBSCRIPTION SERVICES FOR A NEW HR/PAYROLL SYSTEM, FOR THE TERM OF SEPTEMBER 10, 2013 THROUGH SEPTEMBER 9, 2018, IN AN AMOUNT NOT TO EXCEED \$3,834,450; AND B) AUTHORIZING AN AGREEMENT WITH WORKDAY TO PROVIDE IMPLEMENTATION SERVICES FOR A NEW HR/PAYROLL SYSTEM, FOR THE TERM OF SEPTEMBER 10, 2013 THROUGH MAY 31, 2015, IN AN AMOUNT NOT TO EXCEED \$4,425,000; AND C) AUTHORIZING AN AGREEMENT WITH WORKDAY TO PROVIDE TRAINING SERVICES FOR A NEW HR/ PAYROLL SYSTEM, FOR THE TERM OF SEPTEMBER 10, 2013 THROUGH SEPTEMBER 9, 2016, IN AN AMOUNT NOT TO EXCEED \$177,680; AND D) AUTHORIZING AN AGREEMENT WITH EATON & ASSOCIATES TO PROVIDE PROJECT MANAGEMENT SERVICES FOR THE WORKDAY IMPLEMENTATION PROJECT, FOR THE TERM OF SEPTEMBER 10, 2013 THROUGH SEPTEMBER 9, 2015, IN AN AMOUNT NOT TO EXCEED \$998,400; AND E) AUTHORIZING AN AGREEMENT WITH STEELBRIDGE SOLUTIONS, INC. TO PROVIDE CHANGE MANAGEMENT SERVICES FOR A NEW HR/PAYROLL SYSTEM, FOR THE TERM OF SEPTEMBER 10, 2013 THROUGH SEPTEMBER 9, 2015, IN AN AMOUNT NOT TO EXCEED \$567,840; AND F) WAIVING THE REQUEST FOR PROPOSALS PROCESS AND AUTHORIZING AGREEMENTS WITH PEGGY JONES, ADRIAN CHI, AND CHRIS DONIGER TO PROVIDE TECHNICAL SERVICES IN THE IMPLEMENTATION OF THE WORKDAY SYSTEM, FOR THE TERM OF SEPTEMBER 10, 2013 THROUGH OCTOBER 10, 2015, IN AN AMOUNT NOT TO EXCEED \$310,000 EACH**

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**RESOLVED**, by the Board of Supervisors of the County of San Mateo, State of California, that

WHEREAS, a new HR/ payroll system was included as an IT initiative in the County's IT Strategic Plan that was presented to the Board on September 26, 2012. A new payroll system meets the goals of the Strategic Plan as it will increase access to and availability of County services, provide County staff with enabling technologies, and realize efficiencies and cost savings, and

**WHEREAS**, the County's Payroll Steering Committee launched a formal RFP

process in 2012 to select a vendor to provide a new HR/ Payroll system, and Workday ranked highest overall in each selection criteria, and is thus being recommended as the County's new HR/ Payroll System, and

**WHEREAS**, formal RFPs were also conducted for Project Manager and Change Manager, and both Eaton & Associates and Steelbridge Solutions were selected based on their Workday knowledge, HR and payroll expertise, and public sector experience, and

**WHEREAS**, there has been presented to this Board of Supervisors for its consideration and approval the form of Agreement with Workday to provide subscription services for a new HR/Payroll system for the term of September 10, 2013 through September 9, 2018, in an amount not to exceed \$3,834,450 ; and

**WHEREAS**, there has been presented to this Board of Supervisors for its consideration and approval the form of Agreement with Workday to provide implementation services for a new HR/Payroll system for the term of September 10, 2013 through May 31, 2015, in an amount not to exceed \$4,425,000; and

**WHEREAS**, this Board has been requested to waive strict adherence to the County's Equal Benefits Ordinance for Workday employees working in outside jurisdictions, and hereby does so; and

**WHEREAS**, there has been presented to this Board of Supervisors for its consideration and approval the form of Agreement with Workday to provide training services for a new HR/ Payroll system for the term of September 10, 2013 through September 9, 2016, in an amount not to exceed \$177,680; and



**WHEREAS**, there has been presented to this Board of Supervisors for its consideration and approval the form of Agreement with Eaton & Associates to provide project management services for the Workday implementation project for the term of September 10, 2013 through September 9, 2015, in an amount not to exceed \$998,400; and

**WHEREAS**, there has been presented to this Board of Supervisors for its consideration and approval the form of Agreement with Steelbridge Solutions, Inc. to provide change management services for a new HR/Payroll system for the term of September 10, 2013 through September 9, 2015, in an amount not to exceed \$567,840; and

**WHEREAS**, this Board has been requested to waive the Request for Proposals process for the Agreements with Adrian Chi, Peggy Jones and Christine Doniger, and hereby does so; and

**WHEREAS**, there has been presented to this Board of Supervisors for its consideration and approval the form of Agreements with Peggy Jones, Adrian Chi, and Chris Doniger to provide technical services in the implementation of the Workday system for the term of September 10, 2013 through October 10, 2015, in an amount not to exceed \$310,000 each; and

**WHEREAS**, this Board has been presented with a form of the Agreements, has examined and approved same as to both form and content, and desires to enter into same;

**NOW, THEREFORE, IT IS HEREBY DETERMINED AND ORDERED** that the

President of the Board of Supervisors be and is hereby authorized to execute said Agreements between Workday Inc., Eaton & Associates, SteelBridge Solutions, Inc., Peggy Jones, Adrian Chi and Christine Doniger for and on behalf of the County of San Mateo, and the Clerk of the Board shall attest the President's signature thereto.

**BE IT FURTHER RESOLVED** that the Chief Information Officer or designee is authorized to execute contract amendments which modify the County's maximum fiscal obligation by no more than \$25,000 (in aggregate) and/or modify the Contract term and/or services so long as the modified term or services is/are within the current or revised fiscal provisions.

\* \* \* \* \*

**Workday Agreement with County of San Mateo**

**Attachment C**



## MASTER SUBSCRIPTION AGREEMENT

This Master Subscription Agreement, effective as of September 10, 2013 ("Effective Date"), is by and between **Workday, Inc.** ("**Workday**") a Delaware corporation with offices at 6230 Stoneridge Mall Road, Pleasanton, CA 94588 and **County of San Mateo** ("**Customer**" or "**County**"), a California local government entity with offices at 455 County Center, 5th Floor, Redwood City, CA 94063. Whereas, Workday provides a subscription Service, Customer desires to subscribe to the Service, and this business relationship and the allocation of responsibilities regarding such Service are set forth in this Agreement. Therefore, the parties agree as follows:

### **1. Customer's Use of the Service.**

**1.1 Provision of the Service.** Workday shall: (i) make the Service available in accordance with the Documentation and the SLA to Customer during the Term pursuant to this Agreement; (ii) not use Customer Data except to provide the Service, or to prevent or address service or technical problems, in accordance with this Agreement and the Documentation, or in accordance with Customer's instructions; and (iii) not disclose Customer Data to anyone other than Authorized Parties.

**1.2 Customer Obligations.** Customer may enable access of the Service for use only by Authorized Parties solely for the internal business purposes of Customer and its Affiliates in accordance with the Documentation and not for the benefit of any third parties. Customer is responsible for all Authorized Party use of the Service and compliance with this Agreement. Customer shall: (a) have sole responsibility for the accuracy, quality, and legality of all Customer Data; and (b) prevent unauthorized access to, or use of, the Service, and notify Workday promptly of any such unauthorized access or use. Customer shall not: (i) use the Service in violation of applicable Laws; (ii) in connection with the Service, send or store infringing, obscene, threatening, or otherwise unlawful or tortious material, including material that violates privacy rights; (iii) send or store Malicious Code in connection with the Service; (iv) interfere with or disrupt performance of the Service or the data contained therein; or (v) attempt to gain access to the Service or its related systems or networks in a manner not set forth in the Documentation. Customer shall designate a maximum number of named contacts as listed in the applicable Order Form to request and receive support services from Workday. Named Support Contacts must be trained on the Workday product(s) for which they initiate support requests. The Service is provided in U.S. English. Workday has translated portions of the Service into other languages. Customer and its Authorized Parties may only use the translated portions of the Service for the number of languages listed in the applicable Order Form. Customer shall be liable for the acts and omissions of all Customer Affiliates relating to this Agreement.

### **2. Fees.**

**2.1 Invoices & Payment.** Fees for the Service will be invoiced in accordance with the relevant Order Form. Except as otherwise set forth in an Order Form, all fees due hereunder (except fees subject to good faith dispute) shall be due and payable within thirty (30) days of invoice date. Except as otherwise stated in an Order Form, all fees are quoted and payable in United States dollars and are based on Service rights acquired and not actual usage. Customer shall provide Workday with complete and accurate billing and contact information including a valid email address for receipt of invoices.

**2.2 Non-cancelable & non-refundable.** Except as specifically set forth to the contrary under Section 6.2 "Warranty Remedies", Section 7.1 "Indemnification by Workday", Section 9.2 "Termination", and under the SLA, all payment obligations under any and all Order Forms are non-cancelable and all payments made are non-refundable except to the extent Customer is overcharged or inadvertently pays more than is due. The license rights for the number of Employees set forth on any respective Order Form cannot be decreased during the Term.

**2.3 Overdue Payments.** Any payment not received from Customer by the due date may accrue (except with respect to charges then under reasonable and good faith dispute), at Workday's discretion, late charges at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid.

**2.4 Non-Payment and Suspension of Service.** If Customer's account is more than thirty (30) days past due (except with respect to charges subject to a reasonable and good faith dispute), in addition to any other rights or remedies it may have under this Agreement or by law, Workday reserves the right to suspend the Service upon thirty (30) days written notice, without liability to Customer, until such amounts are paid in full.

**2.5 Budgetary Limit on Order Form.** An Order Form may state a budgetary limit. If one is on an Order Form, Workday will not charge fees in excess of the stated budgetary limit in the absence of a mutually executed change order or other similar document,



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but is not obligated to provide the Service beyond the budgetary limit. Customer is not entitled to any free use of the Service if the budgetary limit has been reached.

**2.6 Taxes.** Except as otherwise stated in an Order Form, Workday's fees do not include any direct or indirect local, state, federal or foreign taxes, levies, duties or similar governmental assessments of any nature, including value-added, excise, use or withholding taxes (collectively, "Taxes"). Customer is responsible for paying all Taxes associated with its acquisitions hereunder, this Agreement, and the Service, excluding U.S. income taxes on Workday. If Customer has an obligation to withhold any amounts under any law or tax regime (other than U.S. income tax law), Customer shall gross up the payments so that Workday receives the amount actually quoted and invoiced. If Workday has a legal obligation to pay or collect Taxes for which Customer is responsible under this section, the appropriate amount shall be invoiced to and paid by Customer, unless Customer provides Workday with a valid tax exemption certificate authorized by the appropriate taxing authority.

**2.7 Employee Count Verification.** Workday may periodically confirm the number of Employee records on its hosted servers and if the number of Employee records exceeds the number of permitted Employees on the relevant Order Form, the provisions in the Order Form for subscription fees for additional Employees will apply. In addition, upon Workday's request but not more frequently than quarterly, Customer will report to Workday the total number of Employees.

### **3. Proprietary Rights.**

**3.1 Ownership and Reservation of Rights to Workday Intellectual Property.** Workday and its licensors own all right, title and interest in and to the Service, Documentation, and other Workday Intellectual Property Rights. Subject to the limited rights expressly granted hereunder, Workday reserves all rights, title and interest in and to the Service, and Documentation, including all related Intellectual Property Rights. No rights are granted to Customer hereunder other than as expressly set forth herein.

**3.2 License Grant.** Workday hereby grants Customer a non-exclusive, non-transferable, right to use the Service and Documentation, solely for the internal business purposes of Customer and Affiliates and solely during the Term, subject to the terms and conditions of this Agreement within scope of use defined in the relevant Order Form.

**3.3 License Restrictions.** Customer shall not (i) modify, copy or create any derivative works based on the Service or Documentation; (ii) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share, offer in a service bureau, or otherwise make the Service or Documentation available to any third party, other than to Authorized Parties as permitted herein; (iii) reverse engineer or decompile any portion of the Service or Documentation, including but not limited to, any software utilized by Workday in the provision of the Service and Documentation, except to the extent required by Law; (iv) access the Service or Documentation in order to build any commercially available product or service; or (v) copy any features, functions, integrations, interfaces or graphics of the Service or Documentation.

**3.4 Ownership of Customer Data.** As between Workday and Customer, Customer owns its Customer Data.

**3.5 Customer Input.** Workday shall have a royalty-free, worldwide, transferable, sub-licensable, irrevocable, perpetual license to use or incorporate into the Service any Customer Input. Workday shall have no obligation to make Customer Input an Improvement. Customer shall have no obligation to provide Customer Input.

**3.6 Aggregated Data Use.** Workday owns the aggregated and statistical data derived from the operation of the Service, including, without limitation, the number of records in the Service, the number and types of transactions, configurations, and reports processed in the Service and the performance results for the Service (the "Aggregated Data"). Nothing herein shall be construed as prohibiting Workday from utilizing the Aggregated Data for purposes of operating Workday's business, provided that Workday's use of Aggregated Data will not reveal the identity, whether directly or indirectly, of any individual or specific data entered by any individual into the Service. In no event does the Aggregated Data include any personally identifiable information.

### **4. Confidentiality.**

**4.1 Confidentiality.** A party shall not disclose or use any Confidential Information of the other party except as reasonably necessary to perform its obligations or exercise its rights pursuant to this Agreement except with the other party's prior written permission.



## MASTER SUBSCRIPTION AGREEMENT

**4.2 Protection.** Each party agrees to protect the Confidential Information of the other party in the same manner that it protects its own Confidential Information of like kind except as specified in section 4.3, but in no event using less than a reasonable standard of care.

**4.3 Compelled Disclosure.** A disclosure by one party of Confidential Information of the other party to the extent required by Law shall not be considered a breach of this Agreement, provided the party so compelled promptly provides the other party with prior notice of such compelled disclosure (to the extent legally permitted) and provides reasonable assistance, at the other party's cost, if the other party wishes to contest the disclosure. For purposes of this section, a request to Customer for documents or information pursuant to the California Public Records Act will be considered a compelled disclosure. All parties acknowledge that the County will not make any assertion of exemption on behalf of Workday in response to a Public Records Act request. However, if presented with a request for any document that Workday has clearly marked Confidential or Proprietary, the County will inform Workday of the document's imminent disclosure. The Service and its Documentation are claimed as Confidential and Proprietary by Workday, whether or not individual pages/screens are marked as such. It will then be the sole responsibility of Workday to timely seek a court order prohibiting the document from disclosure and Workday agrees to indemnify, defend and hold harmless the County in any subsequent proceeding by any outside party to obtain Workday's Confidential information from the County. The parties agree and acknowledge that while an Order Form may be considered Confidential Information, it may be disclosed by the County as required under this section 4.3. In addition, the County may disclose Order Forms and this Agreement in accordance with requirements for publication of items that will be on the County's Board agenda; such disclosure may take the form of a web site-accessible posting of the documents. After documents have been removed from the web site posting, they will be made available to third parties only through the compelled disclosure process.

**4.4 Special Access by Law Enforcement and for Oversight.** Customer is a public sector entity subject to oversight by other public sector entities and potentially by the federal government. The parties agree that to the extent that law enforcement officials or entities with oversight authority request access to the Service, whether in a "hands-on" manner or by watching a Customer employee use the Service, for the purpose of viewing or retrieving Customer Data or confirming how Customer processes Customer Data, Customer may grant such access.

**4.5 Remedies.** If a party discloses or uses (or threatens to disclose or use) any Confidential Information of the other party in breach of confidentiality protections hereunder, the other party shall have the right, in addition to any other remedies available, to injunctive relief to enjoin such acts, it being acknowledged by the parties that any other available remedies are inadequate.

**4.6 Exclusions.** Confidential Information shall not include any information that: (i) is or becomes generally known to the public without breach of any obligation owed to the other party; (ii) was known to a party prior to its disclosure by the other party without breach of any obligation owed to the other party; (iii) was independently developed by a party without breach of any obligation owed to the other party; or (iv) is received from a third party without breach of any obligation owed to the other party. Customer Data shall not be subject to the exclusions set forth in this Section.

### **5. Customer Data.**

**5.1 Protection and Security.** During the Term of this Agreement, Workday shall maintain a formal security program materially in accordance with industry standards that is designed to: (i) ensure the security and integrity of Customer Data; (ii) protect against threats or hazards to the security or integrity of Customer Data; and (iii) prevent unauthorized access to Customer Data. Such security program will conform to the Workday Security Exhibit attached hereto, and is further described in Workday's most recently completed SSAE 16 (SOC1) audit report or industry-standard successor report. The most recently completed, as of the Effective Date, SOC1 audit report is referred to as the "Current Audit Report". In no event during the Term shall Workday's security program use controls materially less protective than those provided in Workday's Security Exhibit and the Current Audit Report. During the Term, Workday will maintain a current certification with the U.S. Department of Commerce under the U.S.-European Union and U.S.-Switzerland Safe Harbor Frameworks. Workday designs its Service to allow Customers to achieve differentiated configurations, enforce user access controls, and manage data categories that may be populated and/or made accessible on a country-by-country basis. Customer understands that its use of the Service and compliance with any terms hereunder does not constitute compliance with any Law. Customer understands that it has an independent duty to comply with any and all Laws applicable to it.

**5.2 Unauthorized Disclosure.** If either party believes that there has been a disclosure of Customer Data to anyone other than an Authorized Party or Workday, such party must promptly notify the other party. Additionally, each party will reasonably assist the



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other party in remediating or mitigating any potential damage, including any notification which should be sent to individuals impacted or potentially impacted, or the provision of credit reporting services to such individuals. Each party shall bear the costs of such remediation or mitigation to the extent the breach or security incident was caused by it.

### **6. Warranties & Disclaimers.**

**6.1 Warranties.** Each party warrants that it has the authority to enter into this Agreement and, in connection with its performance of this Agreement, shall comply with all Laws applicable to it related to data privacy, international communications and the transmission of technical or personal data. Workday warrants that during the Term (i) the Service shall perform materially in accordance with the Documentation; and (ii) the functionality of the Service will not be materially decreased during the Term.

**6.2 Warranty Remedies.** As Customer's exclusive remedy and Workday's sole liability for breach of the warranty set forth in Section 6.1 (i) and (ii), (a) Workday shall correct the non-conforming Service at no additional charge to Customer, or (b) in the event Workday is unable to correct such deficiencies after good-faith efforts, Workday shall refund Customer amounts paid that are attributable to the defective Service from the date Workday received such notice. To receive warranty remedies, Customer must promptly report deficiencies in writing to Workday, but no later than thirty (30) days of the first date the deficiency is identified by Customer.

**6.3 DISCLAIMER.** EXCEPT AS EXPRESSLY PROVIDED HEREIN AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WORKDAY MAKES NO WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE SERVICE AND/OR RELATED DOCUMENTATION. WORKDAY DOES NOT WARRANT THAT THE SERVICE WILL BE ERROR FREE OR UNINTERRUPTED. THE LIMITED WARRANTIES PROVIDED HEREIN ARE THE SOLE AND EXCLUSIVE WARRANTIES PROVIDED TO CUSTOMER IN CONNECTION WITH THE PROVISION OF THE SERVICE.

### **7. Mutual Indemnification.**

**7.1 Indemnification by Workday.** Workday shall defend, indemnify and hold Customer harmless against any loss, damage or costs (including reasonable attorneys' fees) in connection with claims, demands, suits, or proceedings ("Claims") made or brought against Customer by a third party alleging that the use of the Service as contemplated hereunder infringes a copyright, a U.S. patent issued as of the Effective Date, or a trademark of a third party; provided, however, that Customer: (a) promptly gives written notice of the Claim to Workday; (b) gives Workday sole control of the defense and settlement of the Claim (provided that Workday may not settle any Claim unless it unconditionally releases Customer of all liability); and (c) provides to Workday, at Workday's cost, all reasonable assistance. Workday shall not be required to indemnify Customer in the event of: (w) modification of the Service by Customer, its Employees, or Authorized Parties in conflict with Customer's obligations or as a result of any prohibited activity as set forth herein; (x) use of the Service in a manner inconsistent with the Documentation; (y) use of the Service in combination with any other product or service not provided by Workday; or (z) use of the Service in a manner not otherwise contemplated by this Agreement. If Customer is enjoined from using the Service or Workday reasonably believes it will be enjoined, Workday shall have the right, at its sole option, to obtain for Customer the right to continue use of the Service or to replace or modify the Service so that it is no longer infringing. If neither of the foregoing options is reasonably available to Workday, and the parties are unable to agree upon any other solution, then use of the Service shall be terminated and Workday's sole liability shall be to refund any prepaid fees for the Service that were to be provided after the effective date of termination as well as any fees paid by Customer attributable to the enjoined portions of the Service for the period of time Customer was enjoined from use of the Service.

**7.2 Indemnification by Customer.** Customer shall defend, indemnify and hold Workday harmless from any Claims made or brought by a third party alleging that the Customer Data infringes the rights of, or has caused harm to, a third party or violates any Law; provided, however, that Workday: (a) promptly gives written notice of the Claim to Customer; (b) gives Customer sole control of the defense and settlement of the Claim (provided that Customer may not settle any Claim unless it unconditionally releases Workday of all liability); and (c) provides to Customer, all reasonable assistance, at Customer's cost for any requested assistance which does not fall within the scope of what is included in the Service fee.

### **8. Limitation of Liability.**

**8.1 Limitation of Liability.** TO THE MAXIMUM EXTENT PERMITTED BY LAW AND EXCEPT WITH RESPECT TO EITHER PARTY'S INDEMNIFICATION OBLIGATIONS AND/OR CUSTOMER'S PAYMENT OBLIGATIONS AND AS SET



## MASTER SUBSCRIPTION AGREEMENT

FORTH IN SECTION 8.3 BELOW, IN NO EVENT SHALL EITHER PARTY'S (OR WORKDAY'S THIRD PARTY LICENSORS') AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR OTHERWISE, EXCEED THE SUBSCRIPTION FEES ACTUALLY PAID BY CUSTOMER IN CONSIDERATION FOR WORKDAY'S SERVICE DELIVERY DURING THE IMMEDIATELY PRECEDING TWELVE (12) MONTH PERIOD FOR THE SERVICE FROM WHICH THE CLAIM AROSE (OR, FOR A CLAIM ARISING BEFORE THE FIRST ANNIVERSARY OF THE EFFECTIVE DATE, THE AMOUNT PAID FOR THE FIRST TWELVE MONTH PERIOD).

**8.2 Exclusion of Damages.** EXCEPT WITH RESPECT TO CUSTOMER'S PAYMENT OBLIGATIONS, IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, HOWEVER CAUSED, OR FOR ANY LOST PROFITS, LOSS OF USE, COST OF DATA RECONSTRUCTION, COST OR PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, WHETHER IN CONTRACT, TORT OR OTHERWISE, ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THE SERVICE, INCLUDING BUT NOT LIMITED TO THE USE OR INABILITY TO USE THE SERVICE, ANY INTERRUPTION, INACCURACY, ERROR OR OMISSION, EVEN IF THE PARTY FROM WHICH DAMAGES ARE BEING SOUGHT OR SUCH PARTY'S LICENSORS OR SUBCONTRACTORS HAVE BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES.

**8.3 SPECIAL LIMITATION FOR UNAUTHORIZED DISCLOSURE OF CUSTOMER DATA.** WORKDAY'S AGGREGATE LIABILITY FOR ITS BREACH OF THIS AGREEMENT RESULTING IN THE UNAUTHORIZED DISCLOSURE OF CUSTOMER DATA (INCLUDING THE COST TO DEFEND THIRD PARTY CLAIMS CAUSED BY SUCH BREACH) SHALL NOT EXCEED THE SUBSCRIPTION FEES ACTUALLY PAID BY CUSTOMER IN CONSIDERATION FOR WORKDAY'S SERVICE DELIVERY DURING THE IMMEDIATELY PRECEDING EIGHTEEN (18) MONTH PERIOD FOR THE SERVICE FROM WHICH THE CLAIM AROSE (OR, FOR A CLAIM ARISING BEFORE COMPLETION OF THE FIRST EIGHTEEN MONTHS OF THE APPLICABLE ORDER FORM, THE AMOUNT PAID FOR THE FIRST EIGHTEEN MONTH PERIOD).

### **9. Term & Termination.**

**9.1 Term of Agreement.** The term of this Agreement commences on the Effective Date and continues until the stated term in all Order Forms has expired or has otherwise been terminated, unless otherwise extended pursuant to the written agreement of the parties. Subscriptions to the Service commence on the date, and are for a period, as set forth in the applicable Order Form.

**9.2 Termination.** Either party may terminate this Agreement: (i) upon thirty (30) days prior written notice to the other party of a material breach by the other party if such breach remains uncured at the expiration of such notice period; or (ii) immediately in the event the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors. In the event the Agreement is terminated, all Order Forms are simultaneously terminated. Upon any termination by Customer pursuant to this section, Workday shall refund Customer any prepaid fees for the affected Service that were to be provided after the effective date of termination.

**9.3 Effect of Termination.** Upon any termination of this Agreement, Customer shall, as of the date of such termination, immediately cease accessing and otherwise utilizing the applicable Service (except as permitted under the section entitled "Retrieval of Customer Data") and Workday Confidential Information. Termination for any reason shall not relieve Customer of the obligation to pay any fees accrued or due and payable to Workday prior to the effective date of termination. Upon termination for cause by Workday, any collection action brought by Workday may seek all fees that were not cancelable by Customer under any terminated Order Form, regardless of whether they were due to be paid before or after the date of the collection action, and Customer agrees that it shall not claim that such action is premature. Following termination, the parties shall make reasonable and good faith attempts to resolve any outstanding fee disputes.

**9.4 Retrieval of Customer Data.** Upon request by Customer made within thirty (30) days after any expiration or termination of this Agreement, Workday will make Customer Data as well as configuration data available to Customer through the Service on a limited basis solely for purposes of Customer retrieving Customer Data and configuration data for a period of up to thirty(30) days after such request is received by Workday. After such thirty (30) day period, Workday will have no obligation to maintain or provide any Customer Data or configuration data and may thereafter, unless legally prohibited, delete all Customer Data and configuration data. Workday will not unreasonably deny a request to extend the access period to up to sixty (60) days total if such request is made





## MASTER SUBSCRIPTION AGREEMENT

in writing before the end of the initial thirty (30) day period. Additionally, during the Term of the Agreement, Customers can extract data using Workday's standard web services. If Customer requires Workday's assistance, Customer may acquire Workday professional services at Workday's then-current billing rates pursuant to a separately executed Statement of Work and Professional Services Agreement. Customer will determine the scope of the professional services engaged to extract data from the Workday system and as such may increase or decrease Workday's professional services involvement in order to control costs.

**9.5 Surviving Provisions.** The following provisions of this Agreement shall not survive and will have no further force or effect following any termination or expiration of this Agreement: (i) subsection (i) of Section 1.1 "Provision of the Service"; (ii) Section 3.2 "License Grant"; and (iii) any Order Form(s). All other provisions of this Agreement shall survive any termination or expiration of this Agreement.

### **10. General Provisions.**

**10.1 Relationship of the Parties.** The parties are independent contractors. This Agreement does not create nor is it intended to create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties. There are no third-party beneficiaries to this Agreement.

**10.2 Notices.** All notices under this Agreement shall be in writing and shall be deemed to have been given upon: (i) personal delivery; (ii) the third business day after first class mailing; or (iii) the second business day after sending by facsimile with telephonic confirmation of receipt. Notices to Workday shall be addressed to the attention of its Vice President, Legal. Notices to Customer shall be addressed to Customer's signatory of this Agreement. Each party may modify its recipient of notices by providing notice pursuant to this Agreement.

**10.3 Waiver and Cumulative Remedies.** No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right or any other right. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity.

**10.4 Force Majeure.** Neither party shall be liable for any failure or delay in performance under this Agreement (other than for delay in the payment of money due and payable hereunder) for causes beyond that party's reasonable control and occurring without that party's fault or negligence, including, but not limited to, acts of God, acts of government, flood, fire, civil unrest, acts of terror, strikes or other labor problems (other than those involving Workday or Customer employees, respectively), computer attacks or malicious acts, such as attacks on or through the Internet, any Internet service provider, telecommunications or hosting facility. Dates by which performance obligations are scheduled to be met will be extended for a period of time equal to the time lost due to any delay so caused.

**10.5 Assignment.** Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other party (which consent shall not be unreasonably withheld). Notwithstanding the foregoing, either party may assign this Agreement in its entirety (including all Order Forms) without consent of the other party in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets provided the assignee has agreed to be bound by all of the terms of this Agreement and all past due fees are paid in full, except that Customer shall have no right to assign this Agreement to a direct Competitor of Workday. Any attempt by a party to assign its rights or obligations under this Agreement in breach of this section shall be void and of no effect. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

**10.6 Governing Law.** This Agreement shall be governed exclusively by the internal laws of the State of California, without regard to its conflicts of laws rules. The Parties agree the venue of any dispute will be the Superior Court for the County of San Mateo, California or the federal district court for the County of San Mateo, California.

**10.7 Export.** Each party shall comply with the export laws and regulations of the United States and other applicable jurisdictions in providing and using the Service. Without limiting the generality of the foregoing, Customer shall not make the Service available to any person or entity that: (i) is located in a country that is subject to a U.S. government embargo; (ii) is listed on any U.S. government list of prohibited or restricted parties; or (iii) is engaged in activities directly or indirectly related to the proliferation of weapons of mass destruction.



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**10.8 Miscellaneous.** This Agreement, including all exhibits and addenda hereto and all Order Forms, constitutes the entire agreement between the parties with respect to the subject matter hereof. In the event of a conflict, the provisions of an Order Form shall take precedence over provisions in the body of this Agreement, any other exhibits, or attachments, provided, however, that the Agreement shall take precedence with respect to all sections unless the Order Form clearly states that it shall take priority and the Order Form was signed by Customer's Director of ISD and the line immediately preceding his or her signature must acknowledge an intent to override a specific Section of this Agreement. This Agreement supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. Notwithstanding the foregoing, the parties agree that Workday's responses to the requirements matrix found in Attachment B of its Proposal dated May 10, 2012, as modified in its Best and Final Offer, may be used solely for the purpose of evidence in a claim for fraud in the inducement of this Agreement. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and signed by the party against whom the modification, amendment or waiver is to be asserted. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect. Notwithstanding any language to the contrary therein, no terms or conditions stated in a Customer purchase order or in any other Customer order documentation shall be incorporated into or form any part of this Agreement, and all such terms or conditions shall be null and void. Workday may use Customer's name and logo in lists of customers, on marketing materials and on its website. This Agreement may be executed electronically, by facsimile and in counterparts, which taken together shall form one binding legal instrument.

**10.9 Availability of Funds.** Customer may terminate this Agreement or a portion of the services referenced in an Order Form to the extent funds are not budgeted or allocated to this project in a future fiscal year, by providing written notice to Workday as soon as is reasonably possible after Customer learns of said unavailability of funding.

**10.10 Retention of Records, Right to Monitor and Audit**

(a) Workday shall maintain all records required by laws applicable to Workday for the period set forth in such laws and shall be subject to examination and/or audit to the extent set forth in such laws.

(b) Reporting and Record Keeping: Workday shall comply with all program and fiscal reporting requirements set forth by law with respect to the way it operates its own business and shall assist the Customer in responding to any Federal or State Department having monitoring or review authority over the Customer.

**10.11 Use by other Public Sector Entities.** The parties agree that other public sector entities, including state agencies, local governments, local school systems, courts, and public institutions of higher education may utilize the terms of this Agreement to purchase services from Workday. The parties understand that pricing is specific to utilization metrics and the choice of Workday Service components and that other entities will not pay the same price as Customer. Customer will in no way whatsoever incur any liability to Workday, such entities, or others in relation to specifications, delivery, payment, or any other aspect of actions or omissions by such entities. An entity wishing to utilize this Agreement will execute its own Order Form which references this Agreement and incorporates it by reference.

**10.12 Non-Discrimination and Other Requirements**

- A. *General non-discrimination.* No person shall be denied any services provided pursuant to this Agreement (except as limited by the scope of services) on the grounds of race, color, national origin, ancestry, age, disability (physical or mental), sex, sexual orientation, gender identity, marital or domestic partner status, religion, political beliefs or affiliation, familial or parental status (including pregnancy), medical condition (cancer-related), military service, or genetic information.
- B. *Equal employment opportunity.* Workday shall ensure equal employment opportunity based on objective standards of recruitment, classification, selection, promotion, compensation, performance evaluation, and management relations for all employees under this Agreement. Workday's equal employment policies shall be made available to County upon request.
- C. *Section 504 of the Rehabilitation Act of 1973.* Workday shall comply with Section 504 of the Rehabilitation Act of 1973, as amended, which provides that no otherwise qualified handicapped individual shall, solely by reason of a disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination in the performance of this



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Agreement. This Section applies only to contractors who are providing services to members of the public under this Agreement.

- D. *Compliance with County's Equal Benefits Ordinance.* With respect to the provision of benefits to its employees, Workday shall comply with Chapter 2.84 of the County Ordinance Code, which prohibits contractors from discriminating in the provision of employee benefits between an employee with a domestic partner and an employee with a spouse. As stated in Chapter 2.84.030, the requirements of this chapter shall only apply to those portions of a contractor's operations that occur: (a) within the County; (b) on real property outside of the County if the property is owned by the County or if the County has a right to occupy the property, and if the contractor's presence at that location is connected to a contract with the County; and (c) elsewhere in the United States where work related to a County contract is being performed. The requirements of this chapter shall not apply to subcontracts or subcontractors of any contract or contractor. In order to meet the requirements of Chapter 2.84, Workday must certify which of the following statements is/are accurate:

Workday complies with Chapter 2.84 by:

offering the same benefits to its employees with spouses and its employees with domestic partners for portions of Workday's operations that occur in accordance with subparts (a) and (b) of Chapter 2.84.030 of the County Ordinance Code, and in accordance with subpart (c) of Chapter 2.84.030 of the County Ordinance Code except where prohibited by State or local law, regulation, or ordinance.

offering, in the case where the same benefits are not offered to its employees with spouses and its employees with domestic partners, a cash payment to an employee with a domestic partner that is equal to Workday's cost of providing the benefit to an employee with a spouse.

Workday is exempt from having to comply with Chapter 2.84 because it has no employees or does not provide benefits to employees' spouses.

Workday does not comply with Chapter 2.84, and a waiver must be sought.

- E. *Discrimination Against Individuals with Disabilities.* Workday shall comply fully with the nondiscrimination requirements of 41 C.F.R. 60-741.5(a), which is incorporated herein as if fully set forth.

- F. *History of Discrimination.* Workday must check one of the two following options, and by executing this Agreement, Workday certifies that the option selected is accurate:

No finding of discrimination has been issued in the past 365 days against Workday by the Equal Employment Opportunity Commission, Fair Employment and Housing Commission, or any other investigative entity.

Finding(s) of discrimination have been issued against Workday within the past 365 days by the Equal Employment Opportunity Commission, Fair Employment and Housing Commission, or other investigative entity. If this box is checked, Workday shall provide County with a written explanation of the outcome(s) or remedy for the discrimination.

- G. *Violation of Non-discrimination provisions.* Violation of the non-discrimination provisions of this Agreement shall be considered a breach of this Agreement and subject Workday to penalties, to be determined by the County Manager, including but not limited to the following:

- i) termination of this Agreement;
- ii) disqualification of Workday from bidding on or being awarded a County contract for a period of up to 3 years;
- iii) liquidated damages of \$2,500 per violation; and/or
- iv) imposition of other appropriate contractual and civil remedies and sanctions, as determined by the County Manager.



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To effectuate the provisions of this Section, Customer's County Manager shall have the authority to examine Workday's employment records with respect to compliance with this Section and/or to set off all or any portion of the amount described in this Section against amounts due to Workday under this Agreement or any other agreement between Workday and County.

Workday shall report to Customer's County Manager the filing by any person in any court of any complaint of discrimination or the filing by any person of any and all charges with the Equal Employment Opportunity Commission, the Fair Employment and Housing Commission, or any other entity charged with the investigation of allegations within 30 days of such filing, provided that within such 30 days such entity has not notified Workday that such charges are dismissed or otherwise unfounded. Such notification shall include the name of the complainant, a copy of such complaint, and a description of the circumstance. Workday shall provide County with a copy of their response to the Complaint when filed.

### **10.13 Compliance with County Employee Jury Service Ordinance**

Workday shall comply with Chapter 2.85 of the County's Ordinance Code, which states that a contractor shall have and adhere to a written policy providing that its employees, to the extent they live in San Mateo County, shall receive from the contractor, on an annual basis, no fewer than five days of regular pay for jury service in San Mateo County, with jury pay being provided only for each day of actual jury service. The policy may provide that such employees deposit any fees received for such jury service with Contractor or that Workday may deduct from an employee's regular pay the fees received for jury service in San Mateo County. By signing this Agreement, Workday certifies that it has and adheres to a policy consistent with Chapter 2.85. For purposes of this Section, if Workday has no employees in San Mateo County, it is sufficient for Workday to provide the following written statement to County: "For purposes of San Mateo County's jury service ordinance, Workday certifies that it has no employees who live in San Mateo County. To the extent that it hires any such employees during the term of its Agreement with San Mateo County, Workday shall adopt a policy that complies with Chapter 2.85 of the County's Ordinance Code."

### **11. Definitions.**

**"Affiliate"** means any entity which directly or indirectly controls, is controlled by, or is under common control by either party or in the case of Customer, affiliate also means any special district or local government entity to which Customer provides payroll or human resources services. For purposes of the preceding sentence, "control" means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

**"Agreement"** means this Master Agreement, including the Workday Production Support and Service Level Availability Policy (as may be updated from time to time), any exhibits or attachments hereto, and any fully executed Order Form.

**"Authorized Parties"** means Customer's Employees, employees of special districts or local government entities to which Customer provides payroll and human resource services and third party providers authorized to access or receive Customer Data by Customer (i) in writing, (ii) through the Service's security designation, or (iii) by system integration or other data exchange process.

**"Competitor"** means any entity that may be reasonably construed as offering competitive functionality or services to those offered by Workday. If the parties cannot agree on whether an entity is a Competitor, then the opinion of three (3) financial analysts with adequate knowledge of the human resources and/or financials software and services industry (chosen by mutual agreement of the parties) commissioned at Workday's sole expense, shall determine such.

**"Confidential Information"** means (a) any software utilized by Workday in the provision of the Service and its respective source code; (b) Customer Data; and (c) each party's business or technical information, including but not limited to the Documentation, training materials, any information relating to software plans, designs, costs, prices (other than pricing in an executed Order Form or other contract document) and names, finances, marketing plans, business opportunities, personnel, research, development or know-how that is designated by the disclosing party as "confidential" or "proprietary" or the receiving party knows or should reasonably know is confidential or proprietary; and (d) the terms, conditions, and pricing of any Order Form to this Agreement (but not its existence or parties).



## MASTER SUBSCRIPTION AGREEMENT

"**Customer Data**" means the electronic data or information submitted by Customer or Authorized Parties to the Service.

"**Customer Input**" means suggestions, enhancement requests, recommendations or other feedback provided by Customer or its Employees and Authorized Parties relating to the operation or functionality of the Service, excluding Customer Data.

"**Documentation**" means Workday's electronic and hardcopy user guide for the Service, which may be updated by Workday from time to time.

"**Employee**" means employees, consultants, contingent workers, independent contractors, and retirees of Customer and its Affiliates whose active business record(s) are or may be managed by the Service and for which a subscription to the Service has been purchased pursuant to an Order Form. The number of permitted Employees will be as set forth in the applicable Order Form. Information related to former employees, consultants, contingent workers, independent contractors and retirees in the form of static, historical records may be maintained in the system but shall be excluded from the calculation of Employees unless self-service access to the record through the Service is provided to the individual.

"**Improvements**" means all improvements, updates, enhancements, error corrections, bug fixes, release notes, upgrades and changes to the Service and Documentation, as developed by Workday and made generally available for Production use without a separate charge to Customers.

"**Intellectual Property Rights**" means any and all common law, statutory and other industrial property rights and intellectual property rights, including copyrights, trademarks, trade secrets, patents and other proprietary rights issued, honored or enforceable under any applicable laws anywhere in the world, and all moral rights related thereto.

"**Law**" means any local, state, national and/or foreign law, treaties, and/or regulations applicable to a respective party.

"**Malicious Code**" means viruses, worms, time bombs, Trojan horses and other malicious code, files, scripts, agents or programs.

"**Order Form**" means the separate ordering documents under which Customer subscribes to the Workday Service pursuant to this Agreement that have been fully executed by the parties.

"**Production**" means the Customer's or an Employee's use of or Workday's written verification of the availability of the Service (i) to administer Employees; (ii) to generate data for Customer's books/records; or (iii) in any decision support capacity.

"**Service**" means Workday's software-as-a-service applications as described in the Documentation and subscribed to under an Order Form.

"**SLA**" means the Workday Production Support and Service Level Availability Policy, which may be updated by Workday from time to time.

"**Tenant**" means a unique instance of the Service, with a separate set of customer data held by Workday in a logically separated database (i.e., a database segregated through password-controlled access).



**MASTER SUBSCRIPTION AGREEMENT**

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have affixed their hands.

COUNTY OF SAN MATEO

By: \_\_\_\_\_  
Don Horsley, President, Board of Supervisors,  
San Mateo County

Date: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Clerk of Said Board

Workday, Inc.

Michael A. Stankov  
Michael A. Stankov (Aug 29, 2013)

Contractor's Signature

Date: Aug 29, 2013

Approved as to Legal Form by:

Paula Goldman (Workday)  
Paula Goldman (Workday) (Aug 29, 2013)



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## SECURITY EXHIBIT

Workday maintains a comprehensive, written information security program that contains administrative, technical, and physical safeguards that are appropriate to (a) the size, scope and type of Workday's business; (b) the amount of resources available to Workday; (c) the type of information that Workday will store; and (d) the need for security and confidentiality of such information.

Workday's security program is designed to:

- Protect the confidentiality, integrity, and availability of Customer Data in Workday's possession or control or to which Workday has access;
- Protect against any anticipated threats or hazards to the confidentiality, integrity, and availability of Customer Data;
- Protect against unauthorized or unlawful access, use, disclosure, alteration, or destruction of Customer Data;
- Protect against accidental loss or destruction of, or damage to, Customer Data; and
- Safeguard information as set forth in any local, state or federal regulations by which Workday may be regulated.

Without limiting the generality of the foregoing, Workday's security program includes:

- 1) Security Awareness and Training – A mandatory security awareness and training program for all members of Workday's workforce (including management), which includes:
  - a) Training on how to implement and comply with its Information Security Program;
  - b) Promoting a culture of security awareness through periodic communications from senior management with employees.
- 2) Access Controls - Policies, procedures, and logical controls:
  - a) To limit access to its information systems and the facility or facilities in which they are housed to properly authorized persons;
  - b) To prevent those workforce members and others who should not have access from obtaining access; and
  - c) To remove access in a timely basis in the event of a change in job responsibilities or job status.
- 3) Physical and Environmental Security – Controls that provide reasonable assurance that access to physical servers at the production data center is limited to properly authorized individuals and that environmental controls are established to detect, prevent and control destruction due to environmental extremes.

These controls include:

- a) Logging and monitoring of unauthorized access attempts to the data center by the data center security personnel;
  - b) Camera surveillance systems at critical internal and external entry points to the data center;
  - c) Systems that monitor and control the air temperature and humidity at appropriate levels for the computing equipment; and
  - d) Uninterruptible Power Supply (UPS) modules and backup generators that provide back-up power in the event of an electrical failure.
- 4) Security Incident Procedures – A security incident response plan that includes procedures to be followed in the event of any security breach of Customer Data or any security breach of any application or system directly associated with the accessing, processing, storage, communication or transmission of Customer Data.

Such procedures include:



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## SECURITY EXHIBIT

- a) Roles and responsibilities: formation of an internal incident response team with a response leader;
  - b) Investigation: assessing the risk the incident poses and determining who may be affected;
  - c) Communication: internal reporting as well as a notification process in the event of unauthorized disclosure of Customer Data in accordance with the Master Agreement;
  - d) Recordkeeping: keeping a permanent record of what was done and by whom to help in later analysis and possible legal action; and
  - e) Audit: conducting and documenting root cause analysis and remediation plan.
- 5) Contingency Planning/Disaster Recovery – Policies and procedures for responding to an emergency or other occurrence (for example, fire, vandalism, system failure, pandemic flu, and natural disaster) that could damage Customer Data or production systems that contain Customer Data.

Such procedures include:

- a) Data Backups: A policy for performing periodic backups of production file systems and databases according to a defined schedule;
  - b) Disaster Recovery: A formal disaster recovery plan for the production data center, including:
    - i) Requirements for the disaster plan to be tested on a regular basis, currently twice a year; and
    - ii) A documented executive summary of the Disaster Recovery testing, at least annually, which is available upon request to customers.
  - c) Business Continuity Plan: A formal process to address the framework by which an unplanned event might be managed in order to minimize the loss of vital resources.
- 6) Audit Controls –Hardware, software, and/or procedural mechanisms that record and examine activity in information systems that contain or use electronic information, including appropriate logs and reports concerning these security requirements.
- 7) Data Integrity – Policies and procedures to ensure the confidentiality, integrity, and availability of Customer Data and protect it from disclosure, improper alteration, or destruction.
- 8) Storage and Transmission Security – Technical security measures to guard against unauthorized access to Customer Data that is being transmitted over a public electronic communications network or stored electronically. Such measures include requiring encryption of any Customer Data stored on desktops, laptops or other removable storage devices.
- 9) Secure Disposal – Policies and procedures regarding the disposal of tangible property containing Customer Data, taking into account available technology so that Customer Data cannot be practicably read or reconstructed.
- 10) Assigned Security Responsibility – Assigning responsibility for the development, implementation, and maintenance of its Information Security Program, including:
- a) Designating a security official with overall responsibility;
  - b) Defining security roles and responsibilities for individuals with security responsibilities; and
  - c) Designating a Security Council consisting of cross-functional management representatives to meet on a regular basis.





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## SECURITY EXHIBIT

- 11) Testing – Regularly testing of the key controls, systems and procedures of its information security program to validate that they are properly implemented and effective in addressing the threats and risks identified.

Such testing includes:

- a) Internal risk assessments;
- b) ISO 27001 certification; and
- c) SSAE Type II (or successor standard) audits twice annually.

- 12) Monitoring – Monitoring the network and production systems, including error logs on servers, disks and security events for any potential problems.

Such monitoring includes:

- a) Reviewing changes affecting systems handling authentication, authorization, and auditing;
- b) Reviewing privileged access to Workday production systems; and
- c) Engaging third parties to perform network vulnerability assessments and penetration testing on a regular basis.

- 13) Change and Configuration Management – Maintaining policies and procedures for managing changes to production systems, applications, and databases.

Such policies and procedures include:

- a) A process for documenting, testing and approving the promotion of changes into production;
- b) A security patching process that requires patching systems in a timely manner based on a risk analysis; and
- c) A process for Workday to utilize a third party to conduct web application level security assessments. These assessments generally include testing for:
  - i) Cross-site request forgery
  - ii) Improper input handling (e.g. cross-site scripting, SQL injection, XML injection, cross-site flashing)
  - iii) XML and SOAP attacks
  - iv) Weak session management
  - v) Data validation flaws and data model constraint inconsistencies
  - vi) Insufficient authentication
  - vii) Insufficient authorization

- 14) Program Adjustments – Workday monitors, evaluates, and adjusts, as appropriate, the security program in light of:

- a) Any relevant changes in technology and any internal or external threats to Workday or the Customer Data;
- b) Security and data privacy regulations applicable to Workday; and
- c) Workday's own changing business arrangements, such as mergers and acquisitions, alliances and joint ventures, outsourcing arrangements, and changes to information systems.

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## Workday Production Support and Service Level Availability Policy (SLA)

Workday's Software as a Service ("Service") is based on a multi-tenanted operating model that applies common, consistent management practices for all customers using the service. This common operating model allows Workday to provide the high level of service reflected in our business agreements. This document communicates Workday's Production Support and Service Level Availability Policy ("SLA") with its customers. Capitalized terms, unless otherwise defined herein, shall have the same meaning as in the Master Agreement.

### 1. Technical Assistance Terms:

Workday will provide Customer with 24x7x365 technical assistance in accordance with this SLA.

### 2. Service Availability:

Workday's Service Availability commitment for a given calendar month is 99.5%. Service Availability is calculated per month as follows:

$$\left( \frac{\text{Total} - \text{Unplanned Outage} - \text{Planned Maintenance}}{\text{Total} - \text{Planned Maintenance}} \right) \times 100 \geq 99.5\%$$

Definitions:

- **Total** is the total minutes in the month
- **Unplanned Outage** is total minutes unavailable due to an unplanned outage in the month
- **Planned Maintenance** is total minutes of planned maintenance in the month.

Currently, Planned Maintenance is four (4) hours for weekly maintenance, four (4) hours for monthly maintenance, four (4) hours for quarterly maintenance. Workday's current weekly maintenance begins at 10 pm (Eastern) on Fridays; monthly maintenance begins at 2:00 am (Eastern) on Saturday; and quarterly maintenance begins at 6:00 am (Eastern) on Saturday. All times are subject to change upon reasonable notice.

If actual maintenance exceeds the time allotted for Planned Maintenance it is considered an Unplanned Outage. If actual maintenance is less than time allotted for Planned Maintenance, that time is not applied as a credit to offset any Unplanned Outage time for the month.

The measurement point for Service Availability is the availability of the Workday Production Service at the Workday production data center's Internet connection points. Customer may request an availability report not more than once per month via the Customer Center.

### 3. Workday Update Process and Notifications:

Periodically, Workday introduces new features and functionality in a new version of the Workday Service with enhanced functionality across all, or substantially all, Workday modules ("Update"). Prior to an Update, Production customers will be provided with an Update sandbox for testing. Updates will take approximately twenty-four (24) hours to complete which will require the Service to be taken down for some or all of that time (which time shall not be considered an Unplanned Outage). Specific information and timelines for each Update can be found on the Workday Community (<https://community.workday.com>). Updates will be performed during a weekend following any Planned Maintenance. Customers shall provide a named Update Contact, with access to Workday Community, to schedule and manage Customer through its Update process. Workday provides information for managing the Update process on the Workday Community.

Workday currently Updates the Service three (3) times per year but the number of Updates may be increased or decreased by Workday. Workday shall provide notification of and information about Updates beginning at least ninety (90) days prior to providing new Updates in Customer's Update sandbox environment. Such notification shall be made via Workday Community.

## Workday Production Support and Service Level Availability Policy (SLA)

### 4. Service Response:

Workday's Service Response commitment is: (i) not less than 50% of (online) transactions in two (2) seconds or less and (ii) not more than 10% in five (5) seconds or more. Service Response is the processing time of the Workday Production Service in the Workday production data center to complete transactions submitted from a web browser. This Service Response commitment excludes requests submitted via Workday Web Services.

The time required to complete the request will be measured from the point in time when the request has been fully received by the encryption endpoint in the Workday Production data center, until such time as the response begins to be returned for transmission to Customer. Customer may request a response time report not more than once per month via the Customer Center.

### 5. Disaster Recovery:

Workday will maintain a disaster recovery plan for the Workday Production Service in conformance with Workday's most current Disaster Recovery Summary, the current version of which can be viewed on the Workday Community. Workday commits to a recovery time objective of twelve (12) hours - measured from the time that the Workday Production Service becomes unavailable until it is available again. Workday commits to a recovery point objective of one (1) hour - measured from the time that the first transaction is lost until the Workday Production Service became unavailable.

Workday will test the disaster recovery plan once every six months, and will make available a written summary of the results of the most recent test available to Customers.

### 6. Case Submittal and Reporting:

Customer's Named Support Contacts may submit cases to Workday Support via the Workday Customer Center. Named Support Contacts must be trained on the Workday product(s) for which they initiate support requests. Each case will be assigned a unique case number. Workday will respond to each case in accordance with this SLA and will use commercially reasonable efforts to promptly resolve each case. Actual resolution time will depend on the nature of the case and the resolution itself. A resolution may consist of a fix, workaround, delivery of information or other commercially reasonable solution to the issue. Case reporting is available on demand via the Workday Customer Center.

### 7. Severity Level Determination:

Customer shall reasonably self-diagnose each support issue and recommend to Workday an appropriate Severity Level designation. Workday shall validate Customer's Severity Level designation, or notify Customer of a proposed change in the Severity Level designation to a higher or lower level with justification for the proposal. In the event of a conflict regarding the appropriate Severity Level designation, each party shall promptly escalate such conflict to its management team for resolution through consultation between the parties' management, during which time the parties shall continue to handle the support issue in accordance with the Workday Severity Level designation. In the rare case a conflict requires a management discussion, both parties shall be available within one hour of the escalation.

### 8. Support Issue Production Severity Levels - Response and Escalation:

Response Time is the period from the time the Production case was logged in the Customer Center until Workday responds to Customer and/or escalation within Workday, if appropriate. Because of the widely varying nature of issues, it is not possible to provide specific resolution commitments.

## Workday Production Support and Service Level Availability Policy (SLA)

### Severity Level 1:

- **Definition:** The Workday Service is unavailable for all users or a Workday issue prevents payroll or tax processing and/or financials quarter-end or year-end close processing.
- **Workday Response Commitment:** Workday will respond within one (1) hour of receipt of case.
- **Resolution:** Workday will work to resolve the problem until the Service is returned to normal operation. Customer will be notified of status changes.
- **Escalation:** If the problem has not been resolved within one (1) hour, Workday will escalate the problem to the appropriate Workday organization. The escalated problem will have higher priority than ongoing support, development or operations initiatives.
- **Customer Response Commitment:** Customer shall remain accessible by phone for troubleshooting from the time a Severity 1 issue is logged until such time as it is resolved.

### Severity Level 2:

- **Definition:** The Workday Service contains a bug that prevents Customer from executing one or more critical business processes with a significant impact and no workaround exists.
- **Workday Response Commitment:** Workday will respond within one (1) hour of receipt of case.
- **Resolution:** Workday will work to resolve the problem until the Service is returned to normal operation. Customer will be notified of status changes.
- **Escalation:** If the problem has not been resolved within four (4) hours, Customer may request that Workday escalate the problem to the appropriate Workday organization where the escalated problem will have higher priority than ongoing development or operations initiatives.
- **Customer Response Commitment:** Customer shall remain accessible by phone for troubleshooting from the time a Severity 2 issue is logged until such time as it is resolved.

### Severity Level 3:

- **Definition:** The Workday Service contains a bug that prevents Customer from executing one or more important business processes. A workaround exists but is not optimal.
- **Workday Response Commitment:** Workday will respond within four (4) hours of receipt of case.
- **Resolution:** If resolution requires a Workday bug fix, Workday will add the bug fix to its development queue for future Update and suggest potential workaround until the problem is resolved in a future Update. Customer will be notified of status changes.
- **Escalation:** If progress is not being made to Customer's satisfaction, Customer may request that Workday escalate the problem to the appropriate Workday organization.
- **Customer Response Commitment:** Customer will respond to Workday requests for additional information and implement recommended solutions in a timely manner.

### Severity Level 4:

- **Definition:** The Workday Service contains an issue that may disrupt important business processes where a workaround is available or functionality is not imperative to Customer's business operations.
- **Workday Response Commitment:** Workday will respond within twenty-four (24) hours of receipt of case.
- **Resolution:** If resolution requires a Workday bug fix, Workday will add the bug fix to its development queue for future Update and suggest potential workaround until the problem is resolved in a future Update. Customer will be notified of status changes.
- **Escalation:** Customer may request that Workday escalate the problem to the appropriate Workday organization.

## Workday Production Support and Service Level Availability Policy (SLA)

- **Customer Response Commitment:** Customer will respond to Workday requests for additional information and implement recommended solutions in a timely manner.

### Severity Level 5: (Including Customer Care and Operations Requests):

- **Definition:** Non-system issues such as Named Support Contact change, requests for SLA reports or business documents, etc. Questions about configuration and functionality should be addressed to the Customer Community. If necessary to open a Support case requesting assistance, Severity 5 should be used.
- **Workday Response Commitment:** Workday will respond within twenty-four (24) hours of receipt of case.
- **Resolution Commitment:** Workday will respond to request. Customer will be notified of status changes.
- **Escalation:** Customer may request that Workday escalate the problem to the appropriate Workday organization.
- **Customer Commitment:** Customer will respond to Workday requests for additional information in a timely manner.

### 9. Workday Support Scope:

Workday will support functionality that is developed by Workday and under its direct control. For all other functionality, and/or issues or errors in the Workday Service caused by issues, errors and/or changes in Customer's information systems and/or third party products or services, Workday may assist Customer and its third party providers in diagnosing and resolving issues or errors but Customer acknowledges that these matters are outside of Workday's support obligations. Service Level failures attributable to (i) Customer's acts or omissions; and (ii) force majeure events shall be excused.

### 10. Workday Web Services API Support:

Workday recommends using the most recent version of the Workday Web Services (WWS) APIs in order to receive optimum performance and stability. Prior versions of WWS APIs are updated to support backward-compatibility for all prior versions of WWS APIs that have not reached an end-of-life status. End-of-life announcements will be made not less than eighteen (18) months before the end-of-life of each WWS API. All announcements surrounding the WWS APIs will be communicated through Workday's Developer Network at [www.developer.workday.com](http://www.developer.workday.com).

Backward compatibility means that an integration created to work with a given WWS API version will continue to work with that same WWS API version even as Workday introduces new WWS API versions. With the exception of backward-compatibility updates, prior versions of WWS APIs are not enhanced.

### 11. Service Credits:

In the event of a failure by Workday to meet the Service Availability and Service Response minimums as set forth in this SLA, as Customer's sole and exclusive remedy, at Customer's request, Workday shall provide service credits in accordance with the Master Subscription Agreement or applicable Order Form.

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# **Workday Agreement with OUSD**

## **Attachment D**



## MASTER SUBSCRIPTION AGREEMENT

This Master Subscription Agreement, effective as of the date of last signatory set forth below ("**Effective Date**"), is by and between **Workday, Inc. ("Workday")** a Delaware corporation with offices at 6230 Stoneridge Mall Road, Pleasanton, CA 94588 and **Oakland Unified School District ("Customer" or "County")**, a California local government entity with offices at 1000 Broadway, Oakland, CA 94607. Whereas, Workday provides a subscription Service, Customer desires to subscribe to the Service, and this business relationship and the allocation of responsibilities regarding such Service are set forth in this Agreement. Therefore, the parties agree as follows:

### **1. Customer's Use of the Service.**

**1.1 Provision of the Service.** Workday shall: (i) make the Service available in accordance with the Documentation and the SLA to Customer during the Term pursuant to this Agreement; (ii) not use Customer Data except to provide the Service, or to prevent or address service or technical problems, in accordance with this Agreement and the Documentation, or in accordance with Customer's instructions; and (iii) not disclose Customer Data to anyone other than Authorized Parties.

**1.2 Customer Obligations.** Customer may enable access of the Service for use only by Authorized Parties solely for the internal business purposes of Customer and its Affiliates in accordance with the Documentation and not for the benefit of any third parties. Customer is responsible for all Authorized Party use of the Service and compliance with this Agreement. Customer shall: (a) have sole responsibility for the accuracy, quality, and legality of all Customer Data; and (b) prevent unauthorized access to, or use of, the Service, and notify Workday promptly of any such unauthorized access or use. Customer shall not: (i) use the Service in violation of applicable Laws; (ii) in connection with the Service, send or store infringing, obscene, threatening, or otherwise unlawful or tortious material, including material that violates privacy rights; (iii) send or store Malicious Code in connection with the Service; (iv) interfere with or disrupt performance of the Service or the data contained therein; or (v) attempt to gain access to the Service or its related systems or networks in a manner not set forth in the Documentation. Customer shall designate a maximum number of named contacts as listed in the applicable Order Form to request and receive support services from Workday. Named Support Contacts must be trained on the Workday product(s) for which they initiate support requests. The Service is provided in U.S. English. Workday has translated portions of the Service into other languages. Customer and its Authorized Parties may only use the translated portions of the Service for the number of languages listed in the applicable Order Form. Customer shall be liable for the acts and omissions of all Customer Affiliates relating to this Agreement.

### **2. Fees.**

**2.1 Invoices & Payment.** Fees for the Service will be invoiced in accordance with the relevant Order Form. Except as otherwise set forth in an Order Form, all fees due hereunder (except fees subject to good faith dispute) shall be due and payable within thirty (30) days of invoice date. Except as otherwise stated in an Order Form, all fees are quoted and payable in United States dollars and are based on Service rights acquired and not actual usage. Customer shall provide Workday with complete and accurate billing and contact information including a valid email address for receipt of invoices.

**2.2 Non-cancelable & non-refundable.** Except as specifically set forth to the contrary under Section 6.2 "Warranty Remedies", Section 7.1 "Indemnification by Workday", Section 9.2 "Termination", and under the SLA, all payment obligations under any and all Order Forms are non-cancelable and all payments made are non-refundable except to the extent Customer is overcharged or inadvertently pays more than is due. The license rights for the number of Employees set forth on any respective Order Form cannot be decreased during the Term.

**2.3 Overdue Payments.** Any payment not received from Customer by the due date may accrue (except with respect to charges then under reasonable and good faith dispute), at Workday's discretion, late charges at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid.

**2.4 Non-Payment and Suspension of Service.** If Customer's account is more than thirty (30) days past due (except with respect to charges subject to a reasonable and good faith dispute), in addition to any other rights or remedies it may have under this Agreement or by law, Workday reserves the right to suspend the Service upon thirty (30) days written notice, without liability to Customer, until such amounts are paid in full.

**2.5 Budgetary Limit on Order Form.** An Order Form may state a budgetary limit. If one is on an Order Form, Workday will not charge fees in excess of the stated budgetary limit in the absence of a mutually executed change order or other similar document,



## MASTER SUBSCRIPTION AGREEMENT

but is not obligated to provide the Service beyond the budgetary limit. Customer is not entitled to any free use of the Service if the budgetary limit has been reached.

**2.6 Taxes.** Except as otherwise stated in an Order Form, Workday's fees do not include any direct or indirect local, state, federal or foreign taxes, levies, duties or similar governmental assessments of any nature, including value-added, excise, use or withholding taxes (collectively, "Taxes"). Customer is responsible for paying all Taxes associated with its acquisitions hereunder, this Agreement, and the Service, excluding U.S. income taxes on Workday. If Customer has an obligation to withhold any amounts under any law or tax regime (other than U.S. income tax law), Customer shall gross up the payments so that Workday receives the amount actually quoted and invoiced. If Workday has a legal obligation to pay or collect Taxes for which Customer is responsible under this section, the appropriate amount shall be invoiced to and paid by Customer, unless Customer provides Workday with a valid tax exemption certificate authorized by the appropriate taxing authority.

**2.7 Employee Count Verification.** Workday may periodically confirm the number of Employee records on its hosted servers and if the number of Employee records exceeds the number of permitted Employees on the relevant Order Form, the provisions in the Order Form for subscription fees for additional Employees will apply. In addition, upon Workday's request but not more frequently than quarterly, Customer will report to Workday the total number of Employees.

### **3. Proprietary Rights.**

**3.1 Ownership and Reservation of Rights to Workday Intellectual Property.** Workday and its licensors own all right, title and interest in and to the Service, Documentation, and other Workday Intellectual Property Rights. Subject to the limited rights expressly granted hereunder, Workday reserves all rights, title and interest in and to the Service, and Documentation, including all related Intellectual Property Rights. No rights are granted to Customer hereunder other than as expressly set forth herein.

**3.2 License Grant.** Workday hereby grants Customer a non-exclusive, non-transferable, right to use the Service and Documentation, solely for the internal business purposes of Customer and Affiliates and solely during the Term, subject to the terms and conditions of this Agreement within scope of use defined in the relevant Order Form.

**3.3 License Restrictions.** Customer shall not (i) modify, copy or create any derivative works based on the Service or Documentation; (ii) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share, offer in a service bureau, or otherwise make the Service or Documentation available to any third party, other than to Authorized Parties as permitted herein; (iii) reverse engineer or decompile any portion of the Service or Documentation, including but not limited to, any software utilized by Workday in the provision of the Service and Documentation, except to the extent required by Law; (iv) access the Service or Documentation in order to build any commercially available product or service; or (v) copy any features, functions, integrations, interfaces or graphics of the Service or Documentation.

**3.4 Ownership of Customer Data.** As between Workday and Customer, Customer owns its Customer Data.

**3.5 Customer Input.** Workday shall have a royalty-free, worldwide, transferable, sub-licensable, irrevocable, perpetual license to use or incorporate into the Service any Customer Input. Workday shall have no obligation to make Customer Input an Improvement. Customer shall have no obligation to provide Customer Input.

**3.6 Aggregated Data Use.** Workday owns the aggregated and statistical data derived from the operation of the Service, including, without limitation, the number of records in the Service, the number and types of transactions, configurations, and reports processed in the Service and the performance results for the Service (the "Aggregated Data"). Nothing herein shall be construed as prohibiting Workday from utilizing the Aggregated Data for purposes of operating Workday's business, provided that Workday's use of Aggregated Data will not reveal the identity, whether directly or indirectly, of any individual or specific data entered by any individual into the Service. In no event does the Aggregated Data include any personally identifiable information.

### **4. Confidentiality.**

**4.1 Confidentiality.** A party shall not disclose or use any Confidential Information of the other party except as reasonably necessary to perform its obligations or exercise its rights pursuant to this Agreement except with the other party's prior written permission.





## MASTER SUBSCRIPTION AGREEMENT

**4.2 Protection.** Each party agrees to protect the Confidential Information of the other party in the same manner that it protects its own Confidential Information of like kind except as specified in section 4.3, but in no event using less than a reasonable standard of care.

**4.3 Compelled Disclosure.** A disclosure by one party of Confidential Information of the other party to the extent required by Law shall not be considered a breach of this Agreement, provided the party so compelled promptly provides the other party with prior notice of such compelled disclosure (to the extent legally permitted) and provides reasonable assistance, at the other party's cost, if the other party wishes to contest the disclosure. For purposes of this section, a request to Customer for documents or information pursuant to the California Public Records Act will be considered a compelled disclosure. All parties acknowledge that the County will not make any assertion of exemption on behalf of Workday in response to a Public Records Act request. However, if presented with a request for any document that Workday has clearly marked Confidential or Proprietary, the County will inform Workday of the document's imminent disclosure. The Service and its Documentation are claimed as Confidential and Proprietary by Workday, whether or not individual pages/screens are marked as such. It will then be the sole responsibility of Workday to timely seek a court order prohibiting the document from disclosure and Workday agrees to indemnify, defend and hold harmless the County in any subsequent proceeding by any outside party to obtain Workday's Confidential information from the County. The parties agree and acknowledge that while an Order Form may be considered Confidential Information, it may be disclosed by the County as required under this section 4.3. In addition, the County may disclose Order Forms and this Agreement in accordance with requirements for publication of items that will be on the County's Board agenda; such disclosure may take the form of a web site-accessible posting of the documents. After documents have been removed from the web site posting, they will be made available to third parties only through the compelled disclosure process.

**4.4 Special Access by Law Enforcement and for Oversight.** Customer is a public sector entity subject to oversight by other public sector entities and potentially by the federal government. The parties agree that to the extent that law enforcement officials or entities with oversight authority request access to the Service, whether in a "hands-on" manner or by watching a Customer employee use the Service, for the purpose of viewing or retrieving Customer Data or confirming how Customer processes Customer Data, Customer may grant such access.

**4.5 Remedies.** If a party discloses or uses (or threatens to disclose or use) any Confidential Information of the other party in breach of confidentiality protections hereunder, the other party shall have the right, in addition to any other remedies available, to injunctive relief to enjoin such acts, it being acknowledged by the parties that any other available remedies are inadequate.

**4.6 Exclusions.** Confidential Information shall not include any information that: (i) is or becomes generally known to the public without breach of any obligation owed to the other party; (ii) was known to a party prior to its disclosure by the other party without breach of any obligation owed to the other party; (iii) was independently developed by a party without breach of any obligation owed to the other party; or (iv) is received from a third party without breach of any obligation owed to the other party. Customer Data shall not be subject to the exclusions set forth in this Section.

### **5. Customer Data.**

**5.1 Protection and Security.** During the Term of this Agreement, Workday shall maintain a formal security program materially in accordance with industry standards that is designed to: (i) ensure the security and integrity of Customer Data; (ii) protect against threats or hazards to the security or integrity of Customer Data; and (iii) prevent unauthorized access to Customer Data. Such security program will conform to the Workday Security Exhibit attached hereto, and is further described in Workday's most recently completed SSAE 16 (SOC1) audit report or industry-standard successor report. The most recently completed, as of the Effective Date, SOC1 audit report is referred to as the "Current Audit Report". In no event during the Term shall Workday's security program use controls materially less protective than those provided in Workday's Security Exhibit and the Current Audit Report. During the Term, Workday will maintain a current certification with the U.S. Department of Commerce under the U.S.-European Union and U.S.-Switzerland Safe Harbor Frameworks. Workday designs its Service to allow Customers to achieve differentiated configurations, enforce user access controls, and manage data categories that may be populated and/or made accessible on a country-by-country basis. Customer understands that its use of the Service and compliance with any terms hereunder does not constitute compliance with any Law. Customer understands that it has an independent duty to comply with any and all Laws applicable to it.

**5.2 Unauthorized Disclosure.** If either party believes that there has been a disclosure of Customer Data to anyone other than an Authorized Party or Workday, such party must promptly notify the other party. Additionally, each party will reasonably assist the



## MASTER SUBSCRIPTION AGREEMENT

other party in remediating or mitigating any potential damage, including any notification which should be sent to individuals impacted or potentially impacted, or the provision of credit reporting services to such individuals. Each party shall bear the costs of such remediation or mitigation to the extent the breach or security incident was caused by it.

### **6. Warranties & Disclaimers.**

**6.1 Warranties.** Each party warrants that it has the authority to enter into this Agreement and, in connection with its performance of this Agreement, shall comply with all Laws applicable to it related to data privacy, international communications and the transmission of technical or personal data. Workday warrants that during the Term (i) the Service shall perform materially in accordance with the Documentation; and (ii) the functionality of the Service will not be materially decreased during the Term.

**6.2 Warranty Remedies.** As Customer's exclusive remedy and Workday's sole liability for breach of the warranty set forth in Section 6.1 (i) and (ii), (a) Workday shall correct the non-conforming Service at no additional charge to Customer, or (b) in the event Workday is unable to correct such deficiencies after good-faith efforts, Workday shall refund Customer amounts paid that are attributable to the defective Service from the date Workday received such notice. To receive warranty remedies, Customer must promptly report deficiencies in writing to Workday, but no later than thirty (30) days of the first date the deficiency is identified by Customer.

**6.3 DISCLAIMER.** EXCEPT AS EXPRESSLY PROVIDED HEREIN AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WORKDAY MAKES NO WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE SERVICE AND/OR RELATED DOCUMENTATION. WORKDAY DOES NOT WARRANT THAT THE SERVICE WILL BE ERROR FREE OR UNINTERRUPTED. THE LIMITED WARRANTIES PROVIDED HEREIN ARE THE SOLE AND EXCLUSIVE WARRANTIES PROVIDED TO CUSTOMER IN CONNECTION WITH THE PROVISION OF THE SERVICE.

### **7. Mutual Indemnification.**

**7.1 Indemnification by Workday.** Workday shall defend, indemnify and hold Customer harmless against any loss, damage or costs (including reasonable attorneys' fees) in connection with claims, demands, suits, or proceedings ("**Claims**") made or brought against Customer by a third party alleging that the use of the Service as contemplated hereunder infringes a copyright, a U.S. patent issued as of the Effective Date, or a trademark of a third party; provided, however, that Customer: (a) promptly gives written notice of the Claim to Workday; (b) gives Workday sole control of the defense and settlement of the Claim (provided that Workday may not settle any Claim unless it unconditionally releases Customer of all liability); and (c) provides to Workday, at Workday's cost, all reasonable assistance. Workday shall not be required to indemnify Customer in the event of: (w) modification of the Service by Customer, its Employees, or Authorized Parties in conflict with Customer's obligations or as a result of any prohibited activity as set forth herein; (x) use of the Service in a manner inconsistent with the Documentation; (y) use of the Service in combination with any other product or service not provided by Workday; or (z) use of the Service in a manner not otherwise contemplated by this Agreement. If Customer is enjoined from using the Service or Workday reasonably believes it will be enjoined, Workday shall have the right, at its sole option, to obtain for Customer the right to continue use of the Service or to replace or modify the Service so that it is no longer infringing. If neither of the foregoing options is reasonably available to Workday, and the parties are unable to agree upon any other solution, then use of the Service shall be terminated and Workday's sole liability shall be to refund any prepaid fees for the Service that were to be provided after the effective date of termination as well as any fees paid by Customer attributable to the enjoined portions of the Service for the period of time Customer was enjoined from use of the Service.

**7.2 Indemnification by Customer.** Customer shall defend, indemnify and hold Workday harmless from any Claims made or brought by a third party alleging that the Customer Data infringes the rights of, or has caused harm to, a third party or violates any Law; provided, however, that Workday: (a) promptly gives written notice of the Claim to Customer; (b) gives Customer sole control of the defense and settlement of the Claim (provided that Customer may not settle any Claim unless it unconditionally releases Workday of all liability); and (c) provides to Customer, all reasonable assistance, at Customer's cost for any requested assistance which does not fall within the scope of what is included in the Service fee.

### **8. Limitation of Liability.**

**8.1 Limitation of Liability.** TO THE MAXIMUM EXTENT PERMITTED BY LAW AND EXCEPT WITH RESPECT TO EITHER PARTY'S INDEMNIFICATION OBLIGATIONS AND/OR CUSTOMER'S PAYMENT OBLIGATIONS AND AS SET



## **MASTER SUBSCRIPTION AGREEMENT**

FORTH IN SECTION 8.3 BELOW, IN NO EVENT SHALL EITHER PARTY'S (OR WORKDAY'S THIRD PARTY LICENSORS') AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR OTHERWISE, EXCEED THE SUBSCRIPTION FEES ACTUALLY PAID BY CUSTOMER IN CONSIDERATION FOR WORKDAY'S SERVICE DELIVERY DURING THE IMMEDIATELY PRECEDING TWELVE (12) MONTH PERIOD FOR THE SERVICE FROM WHICH THE CLAIM AROSE (OR, FOR A CLAIM ARISING BEFORE THE FIRST ANNIVERSARY OF THE EFFECTIVE DATE, THE AMOUNT PAID FOR THE FIRST TWELVE MONTH PERIOD).

**8.2 Exclusion of Damages.** EXCEPT WITH RESPECT TO CUSTOMER'S PAYMENT OBLIGATIONS, IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, HOWEVER CAUSED, OR FOR ANY LOST PROFITS, LOSS OF USE, COST OF DATA RECONSTRUCTION, COST OR PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, WHETHER IN CONTRACT, TORT OR OTHERWISE, ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THE SERVICE, INCLUDING BUT NOT LIMITED TO THE USE OR INABILITY TO USE THE SERVICE, ANY INTERRUPTION, INACCURACY, ERROR OR OMISSION, EVEN IF THE PARTY FROM WHICH DAMAGES ARE BEING SOUGHT OR SUCH PARTY'S LICENSORS OR SUBCONTRACTORS HAVE BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES.

**8.3 SPECIAL LIMITATION FOR UNAUTHORIZED DISCLOSURE OF CUSTOMER DATA.** WORKDAY'S AGGREGATE LIABILITY FOR ITS BREACH OF THIS AGREEMENT RESULTING IN THE UNAUTHORIZED DISCLOSURE OF CUSTOMER DATA (INCLUDING THE COST TO DEFEND THIRD PARTY CLAIMS CAUSED BY SUCH BREACH) SHALL NOT EXCEED THE SUBSCRIPTION FEES ACTUALLY PAID BY CUSTOMER IN CONSIDERATION FOR WORKDAY'S SERVICE DELIVERY DURING THE IMMEDIATELY PRECEDING EIGHTEEN (18) MONTH PERIOD FOR THE SERVICE FROM WHICH THE CLAIM AROSE (OR, FOR A CLAIM ARISING BEFORE COMPLETION OF THE FIRST EIGHTEEN MONTHS OF THE APPLICABLE ORDER FORM, THE AMOUNT PAID FOR THE FIRST EIGHTEEN MONTH PERIOD).

### **9. Term & Termination.**

**9.1 Term of Agreement.** The term of this Agreement commences on the Effective Date and continues until the stated term in all Order Forms has expired or has otherwise been terminated, unless otherwise extended pursuant to the written agreement of the parties. Subscriptions to the Service commence on the date, and are for a period, as set forth in the applicable Order Form.

**9.2 Termination.** Either party may terminate this Agreement: (i) upon sixty (60) days prior written notice to the other party of a material breach by the other party if such breach remains uncured at the expiration of such notice period; (ii) as provided in section 2.4 for non-payment; or (iii) immediately in the event the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors. In the event the Agreement is terminated, all Order Forms are simultaneously terminated. Upon any termination by Customer pursuant to this section, Workday shall refund Customer any prepaid fees for the affected Service that were to be provided after the effective date of termination. Nothing in this Section 9.2 limits the rights set forth in section 4.5 of this Agreement.

**9.3 Effect of Termination.** Upon any termination of this Agreement, Customer shall, as of the date of such termination, immediately cease accessing and otherwise utilizing the applicable Service (except as permitted under the section entitled "Retrieval of Customer Data") and Workday Confidential Information. Termination for any reason shall not relieve Customer of the obligation to pay any fees accrued or due and payable to Workday prior to the effective date of termination. Upon termination for cause by Workday, any collection action brought by Workday may seek all fees that were not cancelable by Customer under any terminated Order Form, regardless of whether they were due to be paid before or after the date of the collection action, and Customer agrees that it shall not claim that such action is premature. Following termination, the parties shall make reasonable and good faith attempts to resolve any outstanding fee disputes.

**9.4 Retrieval of Customer Data.** Upon request by Customer made within thirty (30) days after any expiration or termination of this Agreement, Workday will make Customer Data as well as configuration data available to Customer through the Service on a limited basis solely for purposes of Customer retrieving Customer Data and configuration data for a period of up to thirty (30) days after such



## MASTER SUBSCRIPTION AGREEMENT

request is received by Workday. After such thirty (30) day period, Workday will have no obligation to maintain or provide any Customer Data or configuration data and may thereafter, unless legally prohibited, delete all Customer Data and configuration data. Workday will not unreasonably deny a request to extend the access period to up to sixty (60) days total if such request is made in writing before the end of the initial thirty (30) day period. Additionally, during the Term of the Agreement, Customers can extract data using Workday's standard web services. If Customer requires Workday's assistance, Customer may acquire Workday professional services at Workday's then-current billing rates pursuant to a separately executed Statement of Work and Professional Services Agreement. Customer will determine the scope of the professional services engaged to extract data from the Workday system and as such may increase or decrease Workday's professional services involvement in order to control costs.

**9.5 Transition Period before Final Termination.** Upon any termination of the Agreement, Workday shall, upon Customer's request, continue to provide the Service to Customer (except where Workday is enjoined) pursuant to the terms of this Agreement for a transitional period of up to three (3) months (the "Transition Period"). Access to the Service during the Transition Period will be subject to the fees set out in the applicable Order Form, prorated on a monthly basis and payable in advance, based on the annual fees charged to Customer for the Service during the twelve month period immediately preceding the termination date plus an additional five percent (5%). During the Transition Period, Workday will provide cooperation and assistance as Customer may reasonably request to support an orderly transition to another provider of similar software, services, or to Customer's internal operations. Such cooperation and assistance will be limited to consulting regarding the Workday Service and will be subject to a fee based on Workday's then-current rates for consulting services and such services will be set out in a statement of work to a professional services agreement between the parties. Notwithstanding the foregoing, in the event of termination of this Agreement by Workday for breach by Customer, Workday may withhold the provision of transition Services and condition further performance upon (i) payment of undisputed fees then owed, (ii) prepayment of fees for further services, and (iii) receipt by Workday of an officer's certificate from Customer certifying ongoing compliance with the terms of this Agreement during the Transition Period.

**9.6 Surviving Provisions.** The following provisions of this Agreement shall not survive and will have no further force or effect following any termination or expiration of this Agreement: (i) subsection (i) of Section 1.1 "Provision of the Service"; (ii) Section 3.2 "License Grant"; and (iii) any Order Form(s). All other provisions of this Agreement shall survive any termination or expiration of this Agreement.

### **10. General Provisions.**

**10.1 Relationship of the Parties.** The parties are independent contractors. This Agreement does not create nor is it intended to create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties. There are no third-party beneficiaries to this Agreement.

**10.2 Notices.** All notices under this Agreement shall be in writing and shall be deemed to have been given upon: (i) personal delivery; (ii) the third business day after first class mailing; or (iii) the second business day after sending by facsimile with telephonic confirmation of receipt. Notices to Workday shall be addressed to the attention of its Vice President, Legal. Notices to Customer shall be addressed to Customer's signatory of this Agreement. Each party may modify its recipient of notices by providing notice pursuant to this Agreement.

**10.3 Waiver and Cumulative Remedies.** No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right or any other right. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity.

**10.4 Force Majeure.** Neither party shall be liable for any failure or delay in performance under this Agreement (other than for delay in the payment of money due and payable hereunder) for causes beyond that party's reasonable control and occurring without that party's fault or negligence, including, but not limited to, acts of God, acts of government, flood, fire, civil unrest, acts of terror, strikes or other labor problems (other than those involving Workday or Customer employees, respectively), computer attacks or malicious acts, such as attacks on or through the Internet, any Internet service provider, telecommunications or hosting facility. Dates by which performance obligations are scheduled to be met will be extended for a period of time equal to the time lost due to any delay so caused.

**10.5 Assignment.** Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other party (which consent shall not be unreasonably withheld). Notwithstanding the



## MASTER SUBSCRIPTION AGREEMENT

foregoing, either party may assign this Agreement in its entirety (including all Order Forms) without consent of the other party in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets provided the assignee has agreed to be bound by all of the terms of this Agreement and all past due fees are paid in full, except that Customer shall have no right to assign this Agreement to a direct Competitor of Workday. Any attempt by a party to assign its rights or obligations under this Agreement in breach of this section shall be void and of no effect. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

**10.6 Governing Law.** This Agreement shall be governed exclusively by the internal laws of the State of California, without regard to its conflicts of laws rules. The Parties agree the venue of any dispute will be the Superior Court for Oakland, California or the federal district court for Oakland, California.

**10.7 Export.** Each party shall comply with the export laws and regulations of the United States and other applicable jurisdictions in providing and using the Service. Without limiting the generality of the foregoing, Customer shall not make the Service available to any person or entity that: (i) is located in a country that is subject to a U.S. government embargo; (ii) is listed on any U.S. government list of prohibited or restricted parties; or (iii) is engaged in activities directly or indirectly related to the proliferation of weapons of mass destruction.

**10.8 Dispute Resolution.** Prior to the initiation of any legal proceeding other than one described in subsection (d) below, the parties shall first attempt to resolve their dispute informally, as follows:

(a) Within five (5) business days following the written request of a party, designated individual(s) from Workday and Customer shall meet to resolve such dispute.

(b) The representatives referred to in subsection (a) above shall meet as often as the parties reasonably deem necessary in order to gather and furnish to the other all information with respect to the matter in issue which the parties believe to be appropriate and germane in connection with its resolution. The representatives shall discuss the problem and negotiate in good faith in an effort to resolve the dispute without the necessity of formal legal proceedings. The specified format for the discussions will be left to the discretion of the designated representatives, but may include the preparation of agreed upon statements of fact or written statements of position.

(c) If the representatives referred to in subsection (a) above are unable to resolve the dispute within thirty (30) business days after the dispute is escalated to them, then either Party may escalate the dispute to the President of Workday and the Vice-President and Chief Human Resource Officer of Customer, for their review and resolution.

(d) The provisions of this Section 10.6 shall not be construed to prevent a party from instituting, and a party is authorized to institute, judicial or other proceedings either to (i) seek injunctive relief or (ii) avoid the expiration of any applicable legal or contractual limitations period.

(e) Each of the parties agrees to continue performing its obligations under this Agreement and all related agreements while any dispute is being resolved except to the extent that the issue in dispute precludes performance (a dispute over payment shall not be deemed to preclude performance).

**10.9 Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect.

**10.10 Insurance.** Workday will maintain during the entire Term of this Agreement, at its own expense, the following insurance: (a) statutory workers' compensation insurance and employer's liability insurance as required by applicable law; (b) a commercial general liability policy with an aggregate limit of no less than \$2,000,000; (c) an automobile insurance policy with an aggregate limit of no less than \$1,000,000; (d) a professional liability errors & omissions policy with an aggregate limit of no less than \$10,000,000; and (e) a crime policy with an aggregate limit of no less than \$5,000,000. Upon Customer's request, Workday shall provide certificates of insurance as evidence for these coverages and limits.



## MASTER SUBSCRIPTION AGREEMENT

**10.11 Miscellaneous.** This Agreement, including all exhibits and addenda hereto and all Order Forms, constitutes the entire agreement between the parties with respect to the subject matter hereof. In the event of a conflict, the provisions of an Order Form shall take precedence over provisions in the body of this Agreement, any other exhibits, or attachments, provided, however, that the Agreement shall take precedence with respect to all sections unless the Order Form clearly states that it shall take priority and the Order Form was signed by Customer's Director of ISD and the line immediately preceding his or her signature must acknowledge an intent to override a specific Section of this Agreement. This Agreement supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter.-No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and signed by the party against whom the modification, amendment or waiver is to be asserted. Notwithstanding any language to the contrary therein, no terms or conditions stated in a Customer purchase order or in any other Customer order documentation shall be incorporated into or form any part of this Agreement, and all such terms or conditions shall be null and void. Workday may use Customer's name and logo in lists of customers, on marketing materials and on its website. This Agreement may be executed electronically, by facsimile and in counterparts, which taken together shall form one binding legal instrument.

**10.12 Availability of Funds.** Customer may terminate this Agreement or a portion of the services referenced in an Order Form to the extent funds are not budgeted or allocated to this project in a future fiscal year, by providing written notice to Workday as soon as is reasonably possible after Customer learns of said unavailability of funding.

**10.13 Retention of Records, Right to Monitor and Audit**

(a) Workday shall maintain all records required by laws applicable to Workday for the period set forth in such laws and shall be subject to examination and/or audit to the extent set forth in such laws.

(b) Reporting and Record Keeping: Workday shall comply with all program and fiscal reporting requirements set forth by law with respect to the way it operates its own business and shall assist the Customer in responding to any Federal or State Department having monitoring or review authority over the Customer.

**10.14 Use by other Public Sector Entities.** The parties agree that other public sector entities, including state agencies, local governments, local school systems, courts, and public institutions of higher education may utilize the terms of this Agreement to purchase services from Workday. The parties understand that pricing is specific to utilization metrics and the choice of Workday Service components and that other entities will not pay the same price as Customer. Customer will in no way whatsoever incur any liability to Workday, such entities, or others in relation to specifications, delivery, payment, or any other aspect of actions or omissions by such entities. An entity wishing to utilize this Agreement will execute its own Order Form which references this Agreement and incorporates it by reference.

**10.15 Non-Discrimination.** It is the policy of Customer that in connection with all work performed under contracts there be no discrimination against anyone engaged in the work because of race, color, ancestry, national origin, religious creed, physical disability, medical condition, marital status, sexual orientation, gender, or age; therefore, Workday agrees to comply with applicable Federal and California laws including, but not limited to, the California Fair Employment and Housing Act beginning with Government Code Section 12900 and Labor Code Section 1735 and OUSD policy. In addition, Workday agrees to require like compliance by any subcontractors it uses for work specific to Customer. Infrastructure suppliers whose services or products are used in general to provide the Service shall not be considered subcontractors for the purpose of this section. Workday shall not engage in unlawful discrimination in employment on the basis of actual or perceived; race, color, national origin, ancestry, religion, age, marital status, pregnancy, physical or mental disability, medical condition, veteran status, gender, sex or sexual orientation

**10.16. Drug-Free/Smoke Free Policy.** No drugs, alcohol and/or smoking are allowed at any time in any building and/or grounds on Customer's property. No students, staff, visitors, or contractors are permitted to use drugs on these sites.

**10.17. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion:** Customer certifies to the best of its knowledge and belief, that it and its officials: Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency according to Federal Acquisition Regulation Subpart 9.4, and by signing this contract,



## MASTER SUBSCRIPTION AGREEMENT

certifies that Workday does not appear on the Excluded Parties List. <https://www.sam.gov/portal/public/SAM>

### **11. Definitions.**

**"Affiliate"** means any entity which directly or indirectly controls, is controlled by, or is under common control by either party or in the case of Customer, affiliate also means any special district or local government entity to which Customer provides payroll or human resources services. For purposes of the preceding sentence, "control" means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

**"Agreement"** means this Master Agreement, including the Workday Production Support and Service Level Availability Policy (as may be updated from time to time), any exhibits or attachments hereto, and any fully executed Order Form.

**"Authorized Parties"** means Customer's Employees, employees of special districts or local government entities to which Customer provides payroll and human resource services and third party providers authorized to access or receive Customer Data by Customer (i) in writing, (ii) through the Service's security designation, or (iii) by system integration or other data exchange process.

**"Competitor"** means any entity that may be reasonably construed as offering competitive functionality or services to those offered by Workday. If the parties cannot agree on whether an entity is a Competitor, then the opinion of three (3) financial analysts with adequate knowledge of the human resources and/or financials software and services industry (chosen by mutual agreement of the parties) commissioned at Workday's sole expense, shall determine such.

**"Confidential Information"** means (a) any software utilized by Workday in the provision of the Service and its respective source code; (b) Customer Data; and (c) each party's business or technical information, including but not limited to the Documentation, training materials, any information relating to software plans, designs, costs, prices (other than pricing in an executed Order Form or other contract document) and names, finances, marketing plans, business opportunities, personnel, research, development or know-how that is designated by the disclosing party as "confidential" or "proprietary" or the receiving party knows or should reasonably know is confidential or proprietary; and (d) the terms, conditions, and pricing of any Order Form to this Agreement (but not its existence or parties).

**"Customer Data"** means the electronic data or information submitted by Customer or Authorized Parties to the Service.

**"Customer Input"** means suggestions, enhancement requests, recommendations or other feedback provided by Customer or its Employees and Authorized Parties relating to the operation or functionality of the Service, excluding Customer Data.

**"Documentation"** means Workday's electronic and hardcopy user guide for the Service, which may be updated by Workday from time to time.

**"Employee"** means employees, consultants, contingent workers, independent contractors, and retirees of Customer and its Affiliates whose active business record(s) are or may be managed by the Service and for which a subscription to the Service has been purchased pursuant to an Order Form. The number of permitted Employees will be as set forth in the applicable Order Form. Information related to former employees, consultants, contingent workers, independent contractors and retirees in the form of static, historical records may be maintained in the system but shall be excluded from the calculation of Employees unless self-service access to the record through the Service is provided to the individual.

**"Improvements"** means all improvements, updates, enhancements, error corrections, bug fixes, release notes, upgrades and changes to the Service and Documentation, as developed by Workday and made generally available for Production use without a separate charge to Customers.

**"Intellectual Property Rights"** means any and all common law, statutory and other industrial property rights and intellectual property rights, including copyrights, trademarks, trade secrets, patents and other proprietary rights issued, honored or enforceable under any applicable laws anywhere in the world, and all moral rights related thereto.

**"Law"** means any local, state, national and/or foreign law, treaties, and/or regulations applicable to a respective party.



## **MASTER SUBSCRIPTION AGREEMENT**

**"Malicious Code"** means viruses, worms, time bombs, Trojan horses and other malicious code, files, scripts, agents or programs.

**"Order Form"** means the separate ordering documents under which Customer subscribes to the Workday Service pursuant to this Agreement that have been fully executed by the parties.

**"Production"** means the Customer's or an Employee's use of or Workday's written verification of the availability of the Service (i) to administer Employees; (ii) to generate data for Customer's books/records; or (iii) in any decision support capacity.

**"Service"** means Workday's software-as-a-service applications as described in the Documentation and subscribed to under an Order Form.

**"SLA"** means the Workday Production Support and Service Level Availability Policy, which may be updated by Workday from time to time.

**"Tenant"** means a unique instance of the Service, with a separate set of customer data held by Workday in a logically separated database (i.e., a database segregated through password-controlled access).





**MASTER SUBSCRIPTION AGREEMENT**

IN WITNESS WHEREOF, the parties' authorized signatories have duly executed this Agreement as of the Effective Date.

**OAKLAND UNIFIED SCHOOL DISTRICT**

**WORKDAY, INC.**

Michael A. Stankey  
Michael A. Stankey (Sep 22, 2014)

Signature

Signature  
Michael A. Stankey

Name

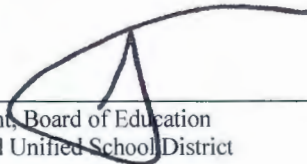
Name  
President & COO

Title

Title  
Sep 22, 2014

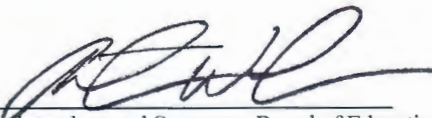
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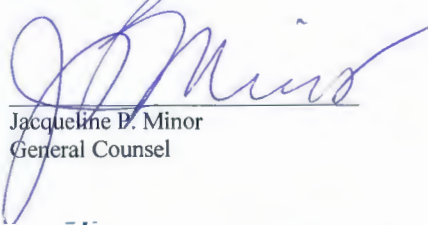
  
\_\_\_\_\_  
President, Board of Education  
Oakland Unified School District

Approved as to Legal Form by:

Paula Goldman  
Paula Goldman (Sep 18, 2014)

  
\_\_\_\_\_  
Superintendent and Secretary, Board of Education  
Oakland Unified School District

Approved As to Form

  
\_\_\_\_\_  
Jacqueline P. Minor  
General Counsel

File ID Number: 14-1859  
Introduction Date: 10-8-14  
Enactment Number: 14-1752  
Enactment Date: 10-8-14  
Bv:



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**DATA PROCESSING EXHIBIT**  
**WORKDAY, INC. – DATA CENTER IN U.S.**

**Introduction**

- A. Customer concluded a Master Subscription Agreement (“MSA”) with Workday and in the context of the Service provided, Workday and its subsidiaries will process Personal Data on behalf of Customer and its Affiliates.
- B. Customer together with its Affiliates, are considered Data Controllers in respect of the Processing of Personal Data that takes place in the context of the Service provided by Workday. Workday, together with its Affiliates, is a Data Processor. For the purposes of this Exhibit, the obligations on both parties shall also apply to their respective Affiliates.
- C. Customer and Workday wish to supplement the terms of the MSA and formalize the terms and conditions that will be applicable to the Processing of Personal Data by Workday of the Personal Data belonging to Customer and its Affiliates.

**1. Definitions and interpretation**

- 1.1 The following terms shall have the following meanings in this Exhibit.

“**Additional Products**” means products, services and applications (whether made available by Workday or a third party) that are not part of the Service.

“**Affiliates**” shall have the same meaning as in the MSA.

“**Contingent Worker**” shall, for the purposes of this Exhibit only, mean: (i) an individual directly engaged by Workday (not employed through another entity) to perform any of Workday’s obligations under the MSA or this Exhibit; or (ii) an individual who is engaged by Workday to perform any of Workday’s obligations under the MSA or Exhibit but employed through a staffing firm entity (other than an Affiliate of Workday) where such entity is in the business of providing staffing augmentation but does not undertake responsibility for the direct supervision of the individual.

“**Customer Data**” shall have the same meaning as in the MSA.

“**Customer Audit Program**” means Workday’s customer audit program where, subject to the then current terms of the program, Workday shall provide, and customers shall pay for, an audit of the Service on an annual basis for each year specified in the relevant order under the program (“Audit Program Order”). At any time during the term of the MSA, Customer may elect to execute an Audit Program Order.

“**Data Controller**” shall mean the legal person which alone or jointly with others, determines the purposes and means of the Processing of Personal Data.

“**Data Processor**” shall mean the person or body which Processes Personal Data on behalf of the Data Controller, without coming under the direct authority of the Data Controller.

“**Data Protection Directive**” means Directive 95/46/EC.

“**Data Subject**” shall mean the person to whom the Personal Data relates.



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“**EEA**” shall mean the European Economic Area.

“**Exhibit**” means this Data Processing Exhibit forming part of the MSA.

“**Personal Data**” shall mean any piece of information that is related to an identified or identifiable individual that has been provided by Customer or its Affiliates as Customer Data to enable Workday to Process the data on its behalf.

“**Processing or Process**” shall mean any operation or set of operations concerning Personal Data, including the collection, recording, organisation, storage, updating, modification, retrieval, consultation, use, dissemination by means of transmission, distribution or making available in any other form, merging, linking as well as blocking, erasure or destruction of Personal Data.

“**Service**” shall mean the hosted software services performed by Workday as described in the MSA.

“**Subcontractor**” shall mean an entity engaged by Workday which performs Data Processing which is not an Affiliate of Workday or a Contingent Worker. For the avoidance of doubt, a co-location data center facility is not a Subcontractor under this Exhibit.

## **2. Data Controller and Data Processor**

2.1 Customer and Workday acknowledge that Customer and/or Affiliates qualify as Data Controllers with regard to the Processing of Personal Data in the context of the Service provided by Workday to Customer and its Affiliates.

2.2 Customer and Workday acknowledge that Workday and its Affiliates qualifies as Data Processor with regard to the Processing of Personal Data in the context of the Service provided by Workday to Customer and its Affiliates.

## **3. Customer Instructions**

3.1 Workday shall only Process the Personal Data to the extent necessary to provide the Service to Customer and its Affiliates and only for the purposes - as agreed upon by Customer and Affiliates – as instructed by Customer and in a manner consistent with this Exhibit. The MSA and this Exhibit are Customer’s instructions to Workday for Processing of Personal Data.

3.2 Customer acknowledges that Workday is reliant on the Customer alone for direction as to the extent Workday is entitled to Process the Personal Data. Consequently, Workday shall be entitled to relief from liability in circumstances where a Data Subject makes a claim or complaint with regards to Workday’s actions to the extent that such actions directly result from instructions received from Customer.

3.3 Throughout the term of the MSA, Workday will, at its election and as necessary under applicable law implementing Article 12(b) of the Data Protection Directive, either (1) provide Customer with the ability to correct, delete or block Personal Data; or (2) make such corrections, deletions, or blockages on Customer’s behalf.

## **4. Mutual obligations**

Each party warrants to the other that it will Process the Personal Data in compliance with this Exhibit and will not perform its obligations under this Exhibit in such a way as to cause the other party to breach any of its obligations under this Exhibit.

## **5. Data location and transfers outside the EEA**

5.1 For so long as the U.S.-European Union and U.S.-Swiss Safe Harbor framework (“**Safe Harbor**”) are recognized by the European Union as a legitimate basis for the transfer of Personal Data to an entity located in the United States, Workday warrants that it will maintain a current Safe Harbor certification with the U.S. Department of Commerce.



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5.2 The Customer shall ensure that the Customer is entitled to transfer the relevant Personal Data to Workday so that Workday and its Affiliates may lawfully use, process and transfer the Personal Data in accordance with this Exhibit on the Customer's behalf.

5.3 During the term of the MSA, Workday agrees that Personal Data will be housed in data centers located in the United States unless the parties otherwise expressly agree in writing. The parties understand and agree that Customer Data may be accessed from and/or transmitted to countries outside the United States by Workday and its Affiliates in accordance with the terms and conditions of the MSA and this Exhibit and only to the EEA and countries approved as having adequate data protection in place by the European Commission and only for the purposes set out in the MSA, which includes updating the Service; and preventing or addressing service or technical problems. When Customer Data is accessed by Workday or its Affiliates from outside the United States for the purposes set forth above, Customer Data may be temporarily stored in that country; however, the Customer Data will also continue to be stored in a data center in the United States.

#### **6. Security**

6.1 Workday shall take and implement adequate technical and organisational measures, as set forth in the attached Appendix, to protect the Personal Data against unauthorized or unlawful Processing of Personal Data and against the accidental loss, destruction, or damage to any Personal Data.

6.2 Workday shall promptly notify Customer of any unauthorized disclosure of Personal Data as required by applicable law and in accordance with the relevant contractual provisions of the MSA.

#### **7. Access requests**

7.1 Workday shall promptly notify Customer of: (i) any third party or Data Subject complaints regarding the Processing of Personal Data; or (ii) any government or Data Subject requests for access to or information about the collection or Processing of Personal Data undertaken by Workday in the context of the Service.

7.2 In case of any investigation or seizure of the Personal Data by government officials, a data protection supervisory authority or any law enforcement authority, Workday will promptly notify Customer unless prohibited by applicable law or upon request of law enforcement where such notification would impede an ongoing investigation.

#### **8. Workday personnel**

Without limiting the scope of Section 6.1, Workday shall take reasonable steps to ensure the reliability of all its personnel who may have access to the Personal Data.

#### **9. Subcontractors**

Workday may use Subcontractors to provide limited services on its behalf in accordance with the terms of the MSA. Any such Subcontractor will be permitted to Process Personal Data only to deliver the services Workday has retained them to provide, and Workday shall procure the Subcontractor does not Process Personal Data for any other purpose. Prior to giving any Subcontractor access to Personal Data Workday shall ensure that such Subcontractor has entered into a written agreement with Workday requiring that the Subcontractor abide by terms no less protective than those provided in this Exhibit. Workday shall identify any Subcontractor which Processes Personal Data and shall make a summary of the data Processing terms available to all of its customers. Workday shall be liable for the acts and omissions of any such Subcontractor to the same extent as if the acts or omissions were performed by Workday.

#### **10. Audit**

Customer agrees that Workday's then-current SOC1 and SOC 2 audit reports (or comparable industry-standard successor reports) and/or Workday's ISO 27001 Certification will be used to satisfy any audit or inspection requests by or on behalf of Customer, and Workday shall make such reports available to Customer. In the event that Customer, a regulator, or data protection authority requires additional information, such information shall be made available in accordance with Workday's Customer Audit Program.



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**11. Term and termination**

This Exhibit shall come into effect on the Effective Date of the MSA and will end simultaneously and automatically with the termination of the MSA.

**12. Additional Products**

Customer acknowledges that if it installs, uses, or enables Additional Products that interoperate with the Service but are not part of the Service itself, then the Service may allow such Additional Products to access Personal Data as required for the interoperation of those Additional Products with the Service. This Exhibit does not apply to the Processing of Personal Data transmitted to and from such other Additional Products. Such separate Additional Products are not required to use the Service and may be restricted for use as determined by Customer's system administrator.

**13. Miscellaneous**

13.1. With regard to the subject matter of this Exhibit, the following will apply: in case of contradiction between a stipulation, section or article of this Exhibit on the one hand and a stipulation, section or article of any other agreement, including but not limited to the MSA, on the other hand then the stipulation, section or article of this Exhibit will prevail.

13.2. This Exhibit is part of and subject to the non-conflicting terms of the MSA and shall be governed by the same law and jurisdiction.

13.3 Customer will coordinate all communication with Workday on behalf of its Affiliates with regard to this Exhibit.

13.4 Customer's remedies in respect of any breach by Workday of the terms of this Exhibit will be subject to any aggregate limitation of liability that applies to the Customer under the MSA.



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## **Appendix**

### **Description of the technical and organizational security measures implemented by Workday:**

- A. Workday has implemented and maintains a security program in accordance with industry standards which is described in its most recently completed SOC1 or comparable industry-standard successor report.
- B. More specifically, Workday's security program shall include:

#### **Access Control of Processing Areas**

Suitable measures in order to prevent unauthorized persons from gaining access to the data Processing equipment (namely database and application servers and related hardware) where the Personal Data are Processed. This is accomplished by:

- establishing security areas;
- protection and restriction of access paths;
- securing the data processing equipment and personal computers;
- establishing access authorizations for employees and third parties, including the respective documentation;
- regulations on card-keys;
- restriction on card-keys;
- requiring that access to the data center where Personal Data are hosted is logged, monitored, and tracked; and
- the data center where Personal Data are hosted is secured by a security alarm system, and other appropriate security measures.

#### **Access Control to Data Processing Systems**

Suitable measures to prevent their data processing systems from being used by unauthorized persons. This is accomplished by:

- identification of the terminal and/or the terminal user to the systems;
- automatic time-out of user terminal if left idle, identification and password required to reopen;
- automatic turn-off of the user ID when several erroneous passwords are entered, log file of events, (monitoring of break-in-attempts);
- issuing and safeguarding of identification codes;
- dedication of individual terminals and/or terminal users, identification characteristics exclusive to specific functions; and
- access to data content is logged, monitored, and tracked.

#### **Access Control to Use Specific Areas of Data Processing Systems**

Restrictions that the persons entitled to use Workday's data processing system are only able to access the data within the scope and to the extent covered by their respective access permission (authorization) and that Personal Data cannot be read, copied or modified or removed without authorization. This shall be accomplished by:

- employee policies and training in respect of each employee's access rights to the Personal Data;
- allocation of individual terminals and /or terminal user, and identification characteristics exclusive to specific functions;
  
- release of data to only authorized persons;
- control of files, controlled and documented destruction of data; and
- policies controlling the retention of back-up copies.



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### **Availability Control**

Suitable measures to ensure that Personal Data are protected from accidental destruction or loss. This is accomplished by:

- infrastructure redundancy; and
- backups of production data stored at an alternative site and available for restore in case of failure of the primary system.

### **Transmission Control**

Suitable measures to prevent the Personal Data from being read, copied, altered or deleted by unauthorized parties during the transmission thereof or during the transport of the data media. This is accomplished by:

- use of adequate firewall and encryption technologies to protect the public gateways through which the data travels;
- certain highly confidential employee data (e.g., personally identifiable information such as National ID numbers, credit or debit card numbers) is also encrypted when stored; and
- monitoring of the completeness of the transfer of data.

### **Input Control**

Suitable measures to ensure that it is possible to check and establish whether and by whom Personal Data have been input into data processing systems or removed. This is accomplished by:

- an authorization policy for the input of data, as well as for the alteration and deletion of stored data;
- authentication of the authorized personnel;
- utilization of user codes (passwords);
- providing that entries to data processing facilities (the data centers housing the computer hardware and related equipment) are capable of being locked;
- automatic log-off of user ID's that have not been used for a substantial period of time; and
- proof established within Workday's organization of the input authorization.

### **Separation of Processing for different Purposes**

Suitable measures to ensure that data collected for different purposes can be Processed separately. This is accomplished by:

- access to data is separated through application security for the appropriate users.

### **Job Control**

- Suitable measures to ensure that Personal Data is Processed strictly in accordance with the instructions of Customer. This is accomplished by granting information to Customer in the form of Workday's then-current SOC1audit report (or comparable industry-standard successor report) and/or Workday's ISO 27001.



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## SECURITY EXHIBIT

Workday maintains a comprehensive, written information security program that contains administrative, technical, and physical safeguards that are appropriate to (a) the size, scope and type of Workday's business; (b) the amount of resources available to Workday; (c) the type of information that Workday will store; and (d) the need for security and confidentiality of such information.

Workday's security program is designed to:

- Protect the confidentiality, integrity, and availability of Customer Data in Workday's possession or control or to which Workday has access;
- Protect against any anticipated threats or hazards to the confidentiality, integrity, and availability of Customer Data;
- Protect against unauthorized or unlawful access, use, disclosure, alteration, or destruction of Customer Data;
- Protect against accidental loss or destruction of, or damage to, Customer Data; and
- Safeguard information as set forth in any local, state or federal regulations by which Workday may be regulated.

Without limiting the generality of the foregoing, Workday's security program includes:

- 1) Security Awareness and Training – A mandatory security awareness and training program for all members of Workday's workforce (including management), which includes:
  - a) Training on how to implement and comply with its Information Security Program;
  - b) Promoting a culture of security awareness through periodic communications from senior management with employees.
- 2) Access Controls - Policies, procedures, and logical controls:
  - a) To limit access to its information systems and the facility or facilities in which they are housed to properly authorized persons;
  - b) To prevent those workforce members and others who should not have access from obtaining access; and
  - c) To remove access in a timely basis in the event of a change in job responsibilities or job status.
- 3) Physical and Environmental Security – Controls that provide reasonable assurance that access to physical servers at the production data center is limited to properly authorized individuals and that environmental controls are established to detect, prevent and control destruction due to environmental extremes.

These controls include:

- a) Logging and monitoring of unauthorized access attempts to the data center by the data center security personnel;
  - b) Camera surveillance systems at critical internal and external entry points to the data center;
  - c) Systems that monitor and control the air temperature and humidity at appropriate levels for the computing equipment; and
  - d) Uninterruptible Power Supply (UPS) modules and backup generators that provide back-up power in the event of an electrical failure.
- 4) Security Incident Procedures – A security incident response plan that includes procedures to be followed in the event of any security breach of Customer Data or any security breach of any application or system directly associated with the accessing, processing, storage, communication or transmission of Customer Data.

Such procedures include:





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## SECURITY EXHIBIT

- a) Roles and responsibilities: formation of an internal incident response team with a response leader;
  - b) Investigation: assessing the risk the incident poses and determining who may be affected;
  - c) Communication: internal reporting as well as a notification process in the event of unauthorized disclosure of Customer Data in accordance with the Master Agreement;
  - d) Recordkeeping: keeping a permanent record of what was done and by whom to help in later analysis and possible legal action; and
  - e) Audit: conducting and documenting root cause analysis and remediation plan.
- 5) Contingency Planning/Disaster Recovery – Policies and procedures for responding to an emergency or other occurrence (for example, fire, vandalism, system failure, pandemic flu, and natural disaster) that could damage Customer Data or production systems that contain Customer Data.

Such procedures include:

- a) Data Backups: A policy for performing periodic backups of production file systems and databases according to a defined schedule;
  - b) Disaster Recovery: A formal disaster recovery plan for the production data center, including:
    - i) Requirements for the disaster plan to be tested on a regular basis, currently twice a year; and
    - ii) A documented executive summary of the Disaster Recovery testing, at least annually, which is available upon request to customers.
  - c) Business Continuity Plan: A formal process to address the framework by which an unplanned event might be managed in order to minimize the loss of vital resources.
- 6) Audit Controls –Hardware, software, and/or procedural mechanisms that record and examine activity in information systems that contain or use electronic information, including appropriate logs and reports concerning these security requirements.
- 7) Data Integrity – Policies and procedures to ensure the confidentiality, integrity, and availability of Customer Data and protect it from disclosure, improper alteration, or destruction.
- 8) Storage and Transmission Security – Technical security measures to guard against unauthorized access to Customer Data that is being transmitted over a public electronic communications network or stored electronically. Such measures include requiring encryption of any Customer Data stored on desktops, laptops or other removable storage devices.
- 9) Secure Disposal – Policies and procedures regarding the disposal of tangible property containing Customer Data, taking into account available technology so that Customer Data cannot be practicably read or reconstructed.
- 10) Assigned Security Responsibility – Assigning responsibility for the development, implementation, and maintenance of its Information Security Program, including:
- a) Designating a security official with overall responsibility;
  - b) Defining security roles and responsibilities for individuals with security responsibilities; and
  - c) Designating a Security Council consisting of cross-functional management representatives to meet on a regular basis.



**SECURITY EXHIBIT**

- 11) Testing – Regularly testing of the key controls, systems and procedures of its information security program to validate that they are properly implemented and effective in addressing the threats and risks identified.

Such testing includes:

- a) Internal risk assessments;
- b) ISO 27001 certification; and
- c) SSAE Type II (or successor standard) audits twice annually.

- 12) Monitoring – Monitoring the network and production systems, including error logs on servers, disks and security events for any potential problems.

Such monitoring includes:

- a) Reviewing changes affecting systems handling authentication, authorization, and auditing;
- b) Reviewing privileged access to Workday production systems; and
- c) Engaging third parties to perform network vulnerability assessments and penetration testing on a regular basis.

- 13) Change and Configuration Management – Maintaining policies and procedures for managing changes to production systems, applications, and databases.

Such policies and procedures include:

- a) A process for documenting, testing and approving the promotion of changes into production;
- b) A security patching process that requires patching systems in a timely manner based on a risk analysis; and
- c) A process for Workday to utilize a third party to conduct web application level security assessments. These assessments generally include testing for:

[REDACTED]

- 14) Program Adjustments – Workday monitors, evaluates, and adjusts, as appropriate, the security program in light of:

- a) Any relevant changes in technology and any internal or external threats to Workday or the Customer Data;
- b) Security and data privacy regulations applicable to Workday; and
- c) Workday’s own changing business arrangements, such as mergers and acquisitions, alliances and joint ventures, outsourcing arrangements, and changes to information systems.



## Workday Production Support and Service Level Availability Policy (SLA)

Workday’s Software as a Service (“Service”) is based on a multi-tenanted operating model that applies common, consistent management practices for all customers using the service. This common operating model allows Workday to provide the high level of service reflected in our business agreements. This document communicates Workday’s Production Support and Service Level Availability Policy (“SLA”) with its customers. Capitalized terms, unless otherwise defined herein, shall have the same meaning as in the Master Agreement.

### 1. Technical Assistance Terms:

Workday will provide Customer with 24x7x365 technical assistance in accordance with this SLA.

### 2. Service Availability:

Workday’s Service Availability commitment for a given calendar month is 99.5%. Service Availability is calculated per month as follows:

$$\left( \frac{\text{Total} - \text{Unplanned Outage} - \text{Planned Maintenance}}{\text{Total} - \text{Planned Maintenance}} \right) \times 100 \geq 99.5\%$$

Definitions:

- **Total** is the total minutes in the month
- **Unplanned Outage** is total minutes unavailable in the month outside of the Planned Maintenance window
- **Planned Maintenance** is total minutes of planned maintenance in the month.

Currently, Planned Maintenance is four (4) hours for weekly maintenance, four (4) hours for monthly maintenance, four (4) hours for quarterly maintenance. Workday’s current weekly maintenance begins at [REDACTED] monthly maintenance begins at [REDACTED]; and quarterly maintenance begins at [REDACTED]. All times are subject to change upon reasonable notice.

If actual maintenance exceeds the time allotted for Planned Maintenance it is considered an Unplanned Outage. If actual maintenance is less than time allotted for Planned Maintenance, that time is not applied as a credit to offset any Unplanned Outage time for the month.

The measurement point for Service Availability is the availability of the Workday Production Service at the Workday production data center’s Internet connection points. Customer may request an availability report not more than once per month via the Customer Center.

### 3. Workday Feature Release and Service Update Process:

Periodically, Workday introduces new features in the Workday Service with enhanced functionality across Workday applications. Features and functionality will be made available as part of a major feature release (“Feature Release”) or as part of weekly service updates (“Service Updates”). Feature Releases will take place approximately twice per year. The frequency of Feature Release availability may be increased or decreased by Workday at Workday’s discretion. Feature Releases will take approximately twenty-four (24) hours to update which will require the Service to be taken down for some or all of that time (which time shall not be considered an Unplanned Outage). Specific information and timelines for Feature Releases and Service Updates can be found on the Workday Community (<https://community.workday.com>). Feature Releases will be performed during a weekend following any Planned Maintenance.



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## Workday Production Support and Service Level Availability Policy (SLA)

### 4. Service Response:

Workday's Service Response commitment is: (i) not less than 50% of (online) transactions in two (2) seconds or less and (ii) not more than 10% in five (5) seconds or more. Service Response is the processing time of the Workday Production Service in the Workday production data center to complete transactions submitted from a web browser. This Service Response commitment excludes requests submitted via Workday Web Services.

The time required to complete the request will be measured from the point in time when the request has been fully received by the encryption endpoint in the Workday Production data center, until such time as the response begins to be returned for transmission to Customer. Customer may request a response time report not more than once per month via the Customer Center.

### 5. Disaster Recovery:

Workday will maintain a disaster recovery plan for the Workday Production Service in conformance with Workday's most current Disaster Recovery Summary, the current version of which can be viewed on the Workday Community. Workday commits to a recovery time objective of twelve (12) hours - measured from the time that the Workday Production Service becomes unavailable until it is available again. Workday commits to a recovery point objective of one (1) hour - measured from the time that the first transaction is lost until the Workday Production Service became unavailable.

Workday will test the disaster recovery plan once every six months, and will make available a written summary of the results of the most recent test available to Customers.

### 6. Case Submittal and Reporting:

Customer's Named Support Contacts may submit cases to Workday Support via the Workday Customer Center. Named Support Contacts must be trained on the Workday product(s) for which they initiate support requests. Each case will be assigned a unique case number. Workday will respond to each case in accordance with this SLA and will use commercially reasonable efforts to promptly resolve each case. Actual resolution time will depend on the nature of the case and the resolution itself. A resolution may consist of a fix, workaround, delivery of information or other commercially reasonable solution to the issue. Case reporting is available on demand via the Workday Customer Center.

### 7. Severity Level Determination:

Customer shall reasonably self-diagnose each support issue and recommend to Workday an appropriate Severity Level designation. Workday shall validate Customer's Severity Level designation, or notify Customer of a proposed change in the Severity Level designation to a higher or lower level with justification for the proposal. In the event of a conflict regarding the appropriate Severity Level designation, each party shall promptly escalate such conflict to its management team for resolution through consultation between the parties' management, during which time the parties shall continue to handle the support issue in accordance with the Workday Severity Level designation. In the rare case a conflict requires a management discussion, both parties shall be available within one hour of the escalation.

### 8. Support Issue Production Severity Levels - Response and Escalation:

Response Time is the period from the time the Production case was logged in the Customer Center until Workday responds to Customer and/or escalation within Workday, if appropriate. Because of the widely varying nature of issues, it is not possible to provide specific resolution commitments.



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## Workday Production Support and Service Level Availability Policy (SLA)

### Severity Level 1:

- **Definition:** The Workday Service is unavailable for all users or a Workday issue prevents payroll or tax processing and/or financials quarter-end or year-end close processing.
- **Workday Response Commitment:** Workday will respond within one (1) hour of receipt of case.
- **Resolution:** Workday will work to resolve the problem until the Service is returned to normal operation. Customer will be notified of status changes.
- **Escalation:** If the problem has not been resolved within one (1) hour, Workday will escalate the problem to the appropriate Workday organization. The escalated problem will have higher priority than ongoing support, development or operations initiatives.
- **Customer Response Commitment:** Customer shall remain accessible by phone for troubleshooting from the time a Severity 1 issue is logged until such time as it is resolved.

### Severity Level 2:

- **Definition:** The Workday Service contains a bug that prevents Customer from executing one or more critical business processes with a significant impact and no workaround exists.
- **Workday Response Commitment:** Workday will respond within one (1) hour of receipt of case.
- **Resolution:** Workday will work to resolve the problem until the Service is returned to normal operation. Customer will be notified of status changes.
- **Escalation:** If the problem has not been resolved within four (4) hours, Customer may request that Workday escalate the problem to the appropriate Workday organization where the escalated problem will have higher priority than ongoing development or operations initiatives.
- **Customer Response Commitment:** Customer shall remain accessible by phone for troubleshooting from the time a Severity 2 issue is logged until such time as it is resolved.

### Severity Level 3:

- **Definition:** The Workday Service contains a bug that prevents Customer from executing one or more important business processes. A workaround exists but is not optimal.
- **Workday Response Commitment:** Workday will respond within four (4) hours of receipt of case.
- **Resolution:** If resolution requires a Workday bug fix, Workday will add the bug fix to its development queue for future Update and suggest potential workaround until the problem is resolved in a future Update. Customer will be notified of status changes.
- **Escalation:** If progress is not being made to Customer's satisfaction, Customer may request that Workday escalate the problem to the appropriate Workday organization.
- **Customer Response Commitment:** Customer will respond to Workday requests for additional information and implement recommended solutions in a timely manner.

### Severity Level 4:

- **Definition:** The Workday Service contains an issue that may disrupt important business processes where a workaround is available or functionality is not imperative to Customer's business operations.
- **Workday Response Commitment:** Workday will respond within twenty-four (24) hours of receipt of case.
- **Resolution:** If resolution requires a Workday bug fix, Workday will add the bug fix to its development queue for future Update and suggest potential workaround until the problem is resolved in a future Update. Customer will be notified of status changes.



## Workday Production Support and Service Level Availability Policy (SLA)

- Escalation: Customer may request that Workday escalate the problem to the appropriate Workday organization.
- Customer Response Commitment: Customer will respond to Workday requests for additional information and implement recommended solutions in a timely manner.

Severity Level 5: (Including Customer Care and Operations Requests):

- Definition: Non-system issues such as Named Support Contact change, requests for SLA reports or business documents, etc. Questions about configuration and functionality should be addressed to the Customer Community. If necessary to open a Support case requesting assistance, Severity 5 should be used.
- Workday Response Commitment: Workday will respond within twenty-four (24) hours of receipt of case.
- Resolution Commitment: Workday will respond to request. Customer will be notified of status changes.
- Escalation: Customer may request that Workday escalate the problem to the appropriate Workday organization.
- Customer Commitment: Customer will respond to Workday requests for additional information in a timely manner.

### 9. Workday Support Scope:

Workday will support functionality that is developed by Workday and under its direct control. For all other functionality, and/or issues or errors in the Workday Service caused by issues, errors and/or changes in Customer's information systems and/or third party products or services, Workday may assist Customer and its third party providers in diagnosing and resolving issues or errors but Customer acknowledges that these matters are outside of Workday's support obligations. Service Level failures attributable to (i) Customer's acts or omissions; and (ii) force majeure events shall be excused.

### 10. Workday Web Services API Support:

Workday recommends using the most recent version of the Workday Web Services (WWS) APIs in order to receive optimum performance and stability. Prior versions of WWS APIs are updated to support backward-compatibility for all prior versions of WWS APIs that have not reached an end-of-life status. End-of-life announcements will be made not less than eighteen (18) months before the end-of-life of each WWS API. All announcements surrounding the WWS APIs will be communicated through Workday's Developer Network at [www.developer.workday.com](http://www.developer.workday.com).

Backward compatibility means that an integration created to work with a given WWS API version will continue to work with that same WWS API version even as Workday introduces new WWS API versions. With the exception of backward-compatibility updates, prior versions of WWS APIs are not enhanced.

### 11. Service Credits:

In the event of a failure by Workday to meet the Service Availability and Service Response minimums as set forth in this SLA, as Customer's sole and exclusive remedy, at Customer's request, Workday shall provide service credits in accordance with the Master Subscription Agreement or applicable Order Form.



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**ORDER FORM #1  
TO MASTER SUBSCRIPTION AGREEMENT ("MSA")**

<b>Customer Name</b>	Oakland Unified School District
<b>MSA Effective Date</b>	See MSA executed herewith
<b>Order Effective Date</b>	The later of the dates beneath the parties' signatures below
<b>Order Term</b>	October 31, 2014 through October 30, 2017
<b>Order Term in Months</b>	36
<b>Currency</b>	USD
<b>Total Subscription Fee</b>	1,346,539

Payment #	Payment Due Date	Payment Amount
1	Invoiced upon Order Effective Date, due in accordance with the MSA	448,847
2	First anniversary of the Order Term Start Date	448,846
3	Second anniversary of the Order Term Start Date	448,846
<b>Total Subscription Fees</b>		<b>1,346,539</b>

SKU	Service	Permitted FSE Workers
HCM	Human Capital Management	3,897
CCTPP	Cloud Connect for Third Party Payroll	3,897

Annual Subscription Fees for Additional FSE Workers	Fees
HCM	92.14
CCTPP	23.04

Translations	Number of Languages
Number of Translations	None

<b>Number of Named Support Contacts</b>	2
---	---

Customer Contact Information	Billing	Customer Support
Contact Name	Brigitte Marshall	Roxanne Phen
Street Address	1000 Broadway	1000 Broadway
City/Town, State/Region/County, Zip/Post Code, Country	Oakland, CA 94607 United States	Oakland, CA 94607 United States
Phone/Fax #	(510) 879-8100	(661) 645-5425
Email (required)	<a href="mailto:brigitte.marshall@ousd.k12.ca.us">brigitte.marshall@ousd.k12.ca.us</a>	<a href="mailto:roxanne.phen@ousd.k12.ca.us">roxanne.phen@ousd.k12.ca.us</a>

This Order Form is only valid and binding on the parties when executed by both parties and is subject to the additional terms in the above-referenced MSA and in Addendum A attached hereto. Customer is purchasing the Service that is currently available. All remittance advice and invoice inquiries can be directed to [Accounts.Receivable@workday.com](mailto:Accounts.Receivable@workday.com).



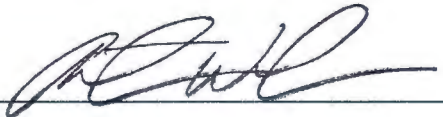
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**Until executed by Customer, this OF is an offer to contract only and such offer shall remain valid and in effect only until October 31, 2014, after which date this offer shall be null and void.**

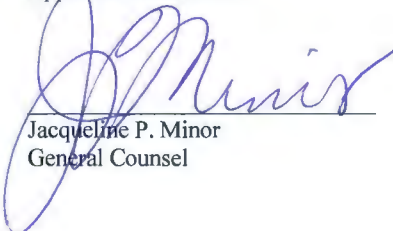
IN WITNESS WHEREOF, this Order Form is entered into and becomes a binding part of the above-referenced MSA as of the later of the dates beneath the parties' signatures below (the "Order Effective Date").

<b>Oakland Unified School District</b>	<b>Workday, Inc.</b>
	 Michael A. Stankey (Sep 22, 2014)
_____ Signature	_____ Signature
_____ Name	_____ Michael A. Stankey
_____ Title	_____ President & COO
_____ Date Signed	_____ Sep 22, 2014
_____ Date Signed	_____ Date Signed

  
\_\_\_\_\_  
President, Board of Education  
Oakland Unified School District

  
\_\_\_\_\_  
Superintendent and Secretary, Board of Education  
Oakland Unified School District

Approved As to Form

  
\_\_\_\_\_  
Jacqueline P. Minor  
General Counsel

File ID Number: 14  
Introduction Date: 10-8-14  
Enactment Number: 14-1752  
Enactment Date: 10-8-14  
By: \_\_\_\_\_





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ADDENDUM A

ADDITIONAL ORDER FORM TERMS

1. General. Unless otherwise defined herein, capitalized terms used in this Order Form have the same meaning as set forth in the referenced MSA between Workday and Customer (the "Agreement"). In the event of a conflict between the terms of this Order Form and the terms of the Agreement, the terms of this Order Form shall prevail. References to "Annual" or "Year" in this Order Form mean the consecutive 12-month period during the Order Term. The "Service" licensed to Customer hereunder is limited to that listed on the Order Form and the number of Employees shown. The total Subscription Fee for the use of the Service during the Order Term is only for the stated permitted number of Employees. Except as stated herein, the Service may be used by Customer on a worldwide basis, subject to export regulations. Workday makes country-specific features available only in accordance with the Documentation. USP is limited to use in the United States. CP is limited to use in Canada. CCB is limited to use in the United States and Canada.

2. FSE Workers and Growth. The maximum number of Full-Service Equivalent Workers ("FSE Workers") for which the Service may be used by Customer and which are included in the Subscription Fee is as set forth in this Order Form. The number of FSE Workers is calculated by first multiplying the number of workers in each category of workers by the applicable percentage rate specified below and then adding the resulting numbers for each category of worker together for a total sum.

Sample Total FSE Worker Calculation:

Worker Category	Applicable Number	Applicable Percentage	FSE Worker Calculation
Full-Time Employees	2,000	100.0%	2,000
Part-Time Employees	500	25.0%	125
Associates	100	12.5%	13
Former Workers with Access	0	2.5%	0
<b>Totals:</b>	<b>2,600</b>		<b>2,138</b>

The Service may be used by Customer only for the following categories of Employees/Workers:

"Full-Time Employee" is an employee of Customer regularly scheduled for more than twenty hours per week regardless of the method of payment or actual hours worked, whether or not such employee is eligible to receive employee benefits in accordance with Customer's internal standard practices. A Full-Time Employee will be considered non-temporary if they are hired to work for a period of more than 3 months in a given year.

"Part-Time Employee" is an employee of Customer regularly scheduled for twenty hours per week or less regardless of the method of payment or actual hours worked, whether or not such employee is eligible to receive employee benefits in accordance with Customer's internal standard practices. A Part-Time Employee will be considered non-temporary if they are hired to work for a period of more than 3 months in a given year.

"Associate" is an individual not counted as a Full-Time or Part-Time Employee but in one of the following categories: temporary employees, independent contractors and affiliated non-employees including, but not limited to, volunteers and vendors.

"Former Worker With Access" is a former worker that continues to have access to the Service through the Employee Self-Service features.

Customer may increase the permitted number of FSE Workers during the Order Term (each an "Additional FSE Worker") by providing written notice to Workday and paying Workday a Subscription Fee for Additional FSE Workers for any such increased use of the particular Service category in accordance with the rate table in this Order Form. No later than October 31<sup>st</sup> each year, Customer must report to Workday the actual number of FSE Workers



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as of October 15<sup>th</sup> and specify the number in each worker category. If the actual number of FSE Workers is higher than the number of permitted FSE Workers stated in this Order Form, Customer will be invoiced for the applicable Subscription Fees for Additional FSE Workers for such overage for the full annual period of this Order Form that is in progress as of October 15th. The Subscription Fee for Additional FSE Workers is calculated by multiplying the increase in the number of FSE Workers for each particular Service category by the applicable fee. For the avoidance of doubt, the total Subscription Fees set forth herein for the Order Term will be due even if the actual number of FSE Workers falls below the stated number of permitted FSE Workers. Subscription Fees for Additional FSE Workers are due within thirty (30) days of the invoice date. An Order Form will be required for FSE Worker increases.

3. **Renewal.** Upon Customer's request at any time during the Order Term, Workday will provide its then-current prices for renewal of this Order Form and will engage in good faith negotiations regarding Subscription Fees for Customer's use of the Service for a period of time following completion of the Order Term ("Renewal Term"). The Renewal Term and the Subscription Fees due during the Renewal Term ("Renewal Fees") will be documented with a new Order Form. Renewal Fees are due by the first day of the Renewal Term to ensure continuous Service.

4. **Service Credits.** In the event of a failure by Workday to meet the Service Availability and Service Response minimums as set forth in the SLA, as Customer's sole and exclusive remedy, at Customer's request, Workday shall provide service credits in accordance with the following matrix:

- A. First month of missed availability or response minimum: The parties shall meet to discuss possible corrective actions
- B. Second consecutive month: 10% of the Subscription Fee (listed above) paid for the applicable month for the affected Service
- C. Third consecutive month: 20% of the Subscription Fee (listed above) paid for the applicable month for the affected Service
- D. Fourth consecutive month: 30% of the Subscription Fee (listed above) paid for the applicable month for the affected Service
- E. Fifth consecutive month: 40% of the Subscription Fee (listed above) paid for the applicable month for the affected Service
- F. Sixth consecutive month: 50% of the Subscription Fee (listed above) paid for the applicable month for the affected Service
- G. More than six consecutive months: Within thirty (30) days of such failure either party shall have the option to terminate the entire Agreement and upon such termination Customer shall receive a refund of all prepaid subscription fees that are unearned as of the date written notice of such termination is received.
- H. Credits shall be deducted from subsequent invoices for subscription fees or other fees or, upon expiration or termination of the Agreement, paid to Customer directly.

5. **Future Commitments.** Warranty information for the Service is set forth in Section 6.1 of the MSA. Workday has made no commitments to develop functionality in the Service that addresses the unique needs of the K-12 education sector or Customer's individual needs, and Customer has not relied on any such commitments in executing this Order Form.



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**Addendum B**

**Workday Service SKU Descriptions**

**Human Capital Management**

Workday HCM supports an organization in organizing, staffing, paying, and developing its global workforce. Workday HCM includes Global Human Resources Management (Workforce Lifecycle Management, Organization Management, Compensation, Business Asset Tracking, Absence, and Employee Benefits Administration) and Global Talent Management (Goal Management, Performance Management, Succession Planning, and Career and Development Planning). Workday HCM also includes Project and Work Management designed to enable organizations to create and manage initiatives, projects, and other types of work. This includes the ability to build project plans and utilize project breakdown structures that include phases, tasks, and milestones as well as plan, staff, and track initiatives, projects, and work efforts. Workday HCM includes connectors that facilitate integration to select Workday partners that provide capabilities including: recruiting, learning, time and attendance, and user account provisioning (LDAP/Active Directory).

**Cloud Connect for Third-Party Payroll**

Cloud Connect for Third-Party Payroll extends Workday HCM by providing integrations to third-party payroll providers and aggregators. Also includes the Payroll Connector (generic integration template that provides a starting point for integration to a third party payroll provider).



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**ORDER FORM #2  
TO MASTER SUBSCRIPTION AGREEMENT ("MSA")**

<b>Customer Name</b>	Oakland Unified School District
<b>MSA Effective Date</b>	See MSA executed herewith
<b>Order Effective Date</b>	The later of the dates beneath the parties' signatures below
<b>Currency</b>	USD
<b>Total Training Fees</b>	122,006

Payment #	Payment Due Date	Payment Amount
1	Invoiced upon Order Effective Date, due in accordance with the MSA	78,109
2	October 31, 2015	21,949
3	October 31, 2016	21,948
	<b>Total Due</b>	<b>122,006</b>

SKU	Training Offering	Price Per TC	Quantity	Training Fees
TC	Training Credits (prepaid)	520	108	56,160

SKU	Training Offering	Annual Rate	Quantity (# of Blocks)	LODE Fees for Order Term
LODEHCM	Learn On-Demand Education – HCM Library Block	5,000	2	30,000
LODETECH	Learn On-Demand Education - Cross-Application Technology Library Block	5,000	1	15,000
	<b>Total ODE Fees for Order Term</b>			<b>45,000</b>

**LODE Order Term:** October 31, 2014 through October 30, 2017

SKU	Training Offering	Total Number of Workers	AK Fees for Order Term
AK	Adoption Kit	3,897	20,846

**AK Order Term:** October 31, 2014 through October 30, 2017

The link to the LODE and Adoption Kit offerings will be delivered to the respective LODE and Adoption Kit Named User designated below. The Customer is responsible for providing accurate email addresses below.

Customer Contact Information	Billing	LODE Named User/ Training Coordinator	Adoption Kit Named User
Contact Name	Brigitte Marshall	Roxanne Phen	Roxanne Phen
Street Address	1000 Broadway	1000 Broadway	1000 Broadway
City/Town, State/Region/ Zip/Post Code, Country	Oakland, CA 94607 United States	Oakland, CA 94607 United States	Oakland, CA 94607 United States
Phone/Fax #	(510) 879-8100	(661) 645-5425	(661) 645-5425
Email (required)	brigitte.marshall@ousd.k12.ca.us	roxanne.phen@ousd.k12.ca.us	roxanne.phen@ousd.k12.ca.us



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This Order Form is only valid and binding on the parties when executed by both parties and is subject to the additional terms in the above-referenced MSA and in Addendum A attached hereto. All remittance advice and invoice inquiries can be directed to [Accounts.Receivable@workday.com](mailto:Accounts.Receivable@workday.com).

**Until executed by Customer, this OF is an offer to contract only and such offer shall remain valid and in effect only until October 31, 2014, after which date this offer shall be null and void.**

IN WITNESS WHEREOF, this Order Form is entered into and becomes a binding part of the above-referenced MSA as of the "Order Effective Date", defined above.

**Oakland Unified School District**

**Workday, Inc.**

Signature

Signature

  
Michael A. Stankey (Sep 22, 2014)

Name

Name

Michael A. Stankey

Title

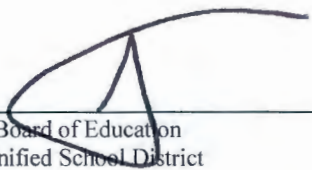
Title

President & COO

Date Signed

Date Signed

Sep 22, 2014

  
\_\_\_\_\_  
President, Board of Education  
Oakland Unified School District

  
\_\_\_\_\_  
Superintendent and Secretary, Board of Education  
Oakland Unified School District

Approved As to Form

  
\_\_\_\_\_  
Jacqueline P. Minor  
General Counsel

File ID Number: 14-1859  
Introduction Date: 10-8-14  
Enactment Number: 14-1752  
Enactment Date: 10-8-14

Bv:

Page 2 of 4

Order Form (Training) - Oakland Unified School District



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ADDENDUM A

ADDITIONAL ORDER FORM TERMS – TRAINING

Unless otherwise defined herein, capitalized terms used in this Order Form have the same meaning as set forth in the referenced MSA. In the event of a conflict between the terms of this Order Form and the terms of the MSA, the terms of this Order Form shall prevail.

- Classroom and Virtual Training Terms.** The Training Credits purchased under this Order Form expire one (1) year from the Order Effective Date. Each Training Credit may be used for either: (i) one day of in person attendance to a Workday classroom training course at a designated Workday facility for one attendee, (ii) one day of training for one person to attend a Workday instructor-led onsite training course at a Customer facility, or (iii) two days of virtual (online remote) attendance to a Workday virtual instructor-led training course for one attendee. Customer may not register for and apply Training Credits to training until such Training Credits are purchased pursuant to an Order Form. Customer may not retroactively apply subsequently purchased Training Credits to training for which registration occurred before the applicable Order Effective Date. If Customer registers for training without an adequate prepaid Training Credit balance, Workday list prices will apply. The number of Training Credits required for an attendee to attend a specific course varies by the duration of the course (in days). Specific offerings and the requisite number of Training Credits for attendance are set forth in Workday’s current training catalog. Any Customer request for cancellation of class enrollment must be received by trainadmin@workday.com or entered into the Learning Management System at least ten (10) full calendar days prior to the scheduled start date of the class. Cancellations received less than ten (10) calendar days prior to the scheduled start date are subject to the full training fee.
- Training Credit Bulk Purchase Option.** Workday’s discounted bulk purchase rates will be applied to the cumulative number of Training Credits purchased during a rolling 12-month period provided Customer prepaays for all such purchases. Discounted rates will not be applied retroactively for previously purchased Training Credits and a la carte training purchases will not count toward the cumulative number of Training Credits purchased for the purpose of bulk purchase rates. The following rates apply to the bulk purchases made hereunder and will remain in effect for at least one (1) year following the Order Effective Date:

Number of Pre-paid Training Credits Acquired	Applicable Rate Per Training Credit
0 – 25	USD \$600
26 – 50	USD \$580
51 – 75	USD \$560
76 – 100	USD \$540
101-249	USD \$520
250+	USD \$500

- On-Site Training Terms.** On-site training at Customer’s site is subject to Workday’s approval and the following terms. Customer will provide the required training facility in accordance with the Workday-provided specifications for room set-up, hardware and Internet connectivity requirements. Each attendee will have an individual workstation complete with Internet connectivity. On-site training fees will be billed in advance or Customer may utilize Training Credits purchased on a previous Order Form if fully paid. In addition to the applicable fees for the Training Credits, Customer will be responsible for the reasonable and actual travel and living expenses incurred by the instructor(s) which will be invoiced after the session. On-site training not completed in the period scheduled will not be refunded, nor will it be applied to any other Workday service offering. The minimum and maximum number of students for any on-site training is thirteen (13) minimum and eighteen (18) maximum.
- Learn On-Demand Education Terms.** A “Block” is a group of five Named Users. A “Library” is a bundle of specific, related training concepts. Library offerings currently include: (i) “HCM”, (ii) “Cross Application Technology”, (iii) “Financials”, (iv) “Workday Payroll”, and (v) “Education & Government”. A “Named User” is an eligible Employee of Customer for which Customer has provided Workday a valid name and e-mail address. Each Named User will be assigned a password granting the Named User access to the LODE. Named Users may not be substituted without the prior written consent of Workday, which will not be



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unreasonably withheld. Each Named User may access all of the LODE content within a specific Library during the stated number of years above.

5. **Adoption Kit Terms.** The Adoption Kit includes: (i) all content listed in the applicable overview provided therewith as well as any additional content made generally available by Workday during the Adoption Kit Order Term, (ii) a facilitators guide, (iii) an FAQ, (iv) videos, and (v) sample internal marketing materials. During the Adoption Kit Order Term, Workday hereby grants to Customer a non-exclusive, nontransferable license to use, copy, customize and create derivative works of the Adoption Kits solely for the purpose of internally distributing the relevant Adoption Kit material to promote internal use of the Service by Customer's Employees. Customer shall reproduce all Workday proprietary rights notices and headings on any copies, in the same manner in which such notices were set forth in or on the original. Customer is solely responsible for the accuracy of any modifications or customizations of the Adoption Kits made by it. Subject to Workday's underlying intellectual property rights in the Adoption Kits and the Service, Customer owns all improvements and other materials that Customer may develop, make or conceive, either solely or jointly with others (but not with Workday), whether arising from Customer's own efforts or suggestions received from any source other than Workday, that relate to the Adoption Kits ("Adoption Kit Improvements"). Customer grants to Workday a royalty-free, irrevocable license to use, copy, distribute, and create derivative works of any and all Adoption Kit Improvements. Customer agrees that Adoption Kit Improvements may include Workday Confidential Information that is subject to the nondisclosure and use restrictions set forth in the MSA. Customer agrees that it will not assert a claim for, or file suit for, or take any other action in furtherance of any alleged or actual infringement or misappropriation of the rights in or associated with any Adoption Kit Improvements should Workday create similar materials independently.
  
6. **Miscellaneous Training Terms.** Workday training is for use by Customer Employees and Authorized Parties only and for purposes consistent with the MSA. In no event will Customer allow third parties to access or use Workday training or related materials, including, but not limited to, other existing or potential Workday customers or partners. Workday training classes and courses may not be videotaped, recorded, downloaded or duplicated without Workday's prior written consent. This Order Form is non-cancelable and associated fees are non-refundable and non-transferable, and cannot be used as a credit toward any other amounts due to Workday. Customer will pay for all classroom and virtual training courses attended by Customer's Employees and Customer's Authorized Parties. Workday may utilize an external learning management system for training enrollment and tracking of course attendance. Customer understands that any such system is not part of the Workday Service.



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ORDER FORM #3  
TO MASTER SUBSCRIPTION AGREEMENT ("MSA")  
(DELIVERY ASSURANCE)

Customer Name	Oakland Unified School District
MSA Effective Date	See MSA executed herewith
Order Effective Date	The later of the dates beneath the parties' signatures below
Order Term	Twelve month period beginning on the Order Effective Date
Currency	USD
Total Estimated Consulting Fees	43,860

SKU	Consulting Engagement Type	Standard Hourly Rate	Estimated Hours	Estimated Fees
DA	Delivery Assurance Checkpoint Reviews	330	47	15,510
DAPM	Delivery Assurance Project Management Reviews	350	81	28,350

The DA estimated hours are based on a scope limited to typical deployment activities for the following:

Service SKUs in Deployment Scope	HCM;CCTPP
Number of Deployment Weeks	26
Number of Absence Plans in Scope	0
Number of Performance Plans in Scope	6
Number of Compensation Plans in Scope	6
Number of Benefit Plans in Scope	0
Number of Partner-Built Integrations in Scope	7
Number of Customer-Built Integrations in Scope	0

Customer Contact Information	Billing
Contact Name	Brigitte Marshall
Street Address	1000 Broadway
City/Town, State/Region/County, Zip/Post Code,	Oakland, CA. 94607
Country	United States
Phone/Fax #	510-879-8180
Email (required)	Brigitte.marshall@ousd.k12.ca.us

**Fees and Payment.** The fees for the reviews and guidance will be billed on a time and materials basis at the hourly rate set forth in this Order Form and invoiced each month along with the related expenses. Invoices are due in accordance with the MSA. All remittance advice and invoice inquiries can be directed to Accounts.Receivable@workday.com.

**Until executed by Customer, this OF is an offer to contract only and such offer shall remain valid and in effect only until October 31, 2014, after which date this offer shall be null and void.**

This Order Form is only valid and binding on the parties when executed by both parties and is subject to the additional terms in the above-referenced MSA and in Addendum A attached hereto.





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IN WITNESS WHEREOF, this Order Form is entered into and becomes a binding part of the above-referenced MSA as of the **Order Effective Date**, defined above.

Oakland Unified School District

Workday, Inc.

*Michael A. Stankey*  
Michael A. Stankey (Sep 22, 2014)

Signature

Signature

Michael A. Stankey

Name

Name

President & COO

Title

Title

Sep 22, 2014

Date Signed

Date Signed

*[Signature]*  
\_\_\_\_\_  
President, Board of Education  
Oakland Unified School District

*[Signature]*  
\_\_\_\_\_  
Superintendent and Secretary, Board of Education  
Oakland Unified School District

Approved As to Form

*[Signature]*  
\_\_\_\_\_  
Jacqueline P. Minor  
General Counsel

File ID Number: 14-1859  
Introduction Date: 10-8-14  
Enactment Number: 14-1752  
Enactment Date: 10-8-14  
By:



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## ADDENDUM A ADDITIONAL ORDER FORM TERMS – DELIVERY ASSURANCE

Unless otherwise defined herein, capitalized terms used in this Order Form have the same meaning as set forth in the referenced MSA between Workday and Customer (the "Agreement"). In the event of a conflict between the terms of this Order Form and the terms of the Agreement, the terms of this Order Form shall prevail.

### I. Description of Consulting Activities

#### A. Configuration Checkpoint Reviews (DA):

1. Configuration Prototype Tenant: This is a detailed review of the configuration of Customer's prototype tenant that will be used for system testing. This review is conducted early in the project in an effort to identify configuration issues that can be remedied quickly and with minimal impact to the project timeline.
2. Pre-Production Tenant: This is a detailed review of the configuration of the Customer pre-production tenant that will be moved into Production. This review is conducted before the pre-production tenant is moved into Production. It serves as a final quality review of the tenant configuration.

#### B. Integration Checkpoint Reviews (DA) for Partner-Built Integrations :

1. Architect stage: For Partner-Built Integrations – An integration approach review will be conducted. The integration architect review occurs early in the project to ensure integrations are architected with best practices in mind. This includes activities such as reviewing the integration approach for functional use cases, data mapping, performance, and scalability. The review is performed prior to the build stage, although prototyping may occur during the architect stage.
2. Build stage: The integration build review is a code and configuration review of integrations in scope. The consulting includes review of integration configurations such as attributes, maps, field overrides, and a code review for integrations such as Studio projects, XSLT for Enterprise Interface Builder.

#### C. Integration Checkpoint Reviews (DA) for Customer-Built Integrations :

1. Architect stage: The integration architect design review occurs early in the project to ensure integrations are architected with best practices in mind. This includes activities such as reviewing the integration design for functional use cases, data mapping, performance, and scalability. The design review is performed prior to the build stage, although prototyping may occur during the architect stage.
2. Build stage: The integration build review is a code and configuration review focused on selected complex, highly configurable or custom integrations in scope. The consulting includes reviewing integration configurations such as attributes, maps, field overrides, and a code review for integrations such as Studio projects, XSLT for Enterprise Interface Builder.

#### D. Project Management Reviews:

1. Deployment Roadmap: Create a high level deployment roadmap covering Customer's first year as a Workday customer.
2. Project Plan Review: Review the project plan for timing of project activities based on Update dates and scheduled activities.
3. Stage Assessments: Create stage assessments at the end of each project stage, as defined by the Workday deployment methodology, which includes a summary of delivery assurance review activities planned and performed during the stage, status of those activities and actionable comments.
4. Test Plan Review: Review the project test plan and provide recommendations based on Workday's standard deployment testing strategy. This review does not include validation of specific test scenario criteria.
5. Participate in project activities such as steering committee meetings and additional project related activities, such as project status meetings, as needed. Participation estimates are based on one monthly steering committee meeting and a one-hour weekly project status meeting.

### II. Conditions.

- A. Workday anticipates that the reviews included in this Order Form will be performed approximately 75% offsite and 25% onsite at a Customer location. Any onsite work will be agreed to by both parties.



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- B. Customer will reimburse Workday for all project related travel and expenses according to Workday's travel and expense policy, which expenses are not included in the fees set forth above.
- C. Customer is responsible for the timely coordination of its internal resources as necessary. If Customer's responsibilities hereunder are delayed for any reason, Customer understands that Workday's ability to staff the project, to complete the project within the estimated number of hours and to meet date commitments, if applicable, could be at risk.
- D. The estimates are based on the deployment scope described in this Order Form. Any changes to the scope may impact both the time required to complete the reviews and the total estimated fees.

**III. Ownership.**

All rights, title and interest to all recommendations, ideas, techniques, know-how, designs, programs, development tools, processes, integrations, enhancements, and other technical information developed by Workday in the course of performing the reviews or guidance, or co-developed by the parties hereunder, including all Intellectual Property Rights pertaining thereto (together the "Workday Intellectual Property") vests in Workday. Nothing contained in this Order Form or the MSA shall be construed as transferring any such rights to Customer or any third party except as expressly set forth herein. All Customer Confidential Information shall be, and remain, the property of Customer.

**IV. Warranty and Disclaimer.**

Workday warrants that it will perform its obligations in this Order Form in a professional and workmanlike manner. As Customer's exclusive remedy and Workday's sole liability for breach of the foregoing warranty, Workday shall correct deficiencies at no additional charge to Customer, provided Customer gives prompt written notice to Workday which describes any deficiencies. In the event Workday is unable to correct such deficiencies after good-faith efforts and at a commercially reasonable cost, Workday shall refund Customer prorated amounts paid for the defective portion of the review. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE MSA, EXCEPT AS EXPRESSLY PROVIDED HEREIN AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WORKDAY MAKES NO WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE REVIEWS AND GUIDANCE.

**V. Limitation of Liability.**

WORKDAY'S MAXIMUM LIABILITY FOR ANY ACTION, REGARDLESS OF THE FORM OF ACTION, WHETHER IN TORT OR CONTRACT, ARISING UNDER THIS ORDER FORM SHALL BE LIMITED TO THE AMOUNT OF FEES PAID BY CUSTOMER UNDER THIS ORDER FORM. THE REVIEWS AND GUIDANCE PROVIDED HEREUNDER ARE ADVISORY ONLY AND NO SPECIFIC RESULT IS ASSURED OR GUARANTEED.



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ORDER FORM #4  
TO MASTER SUBSCRIPTION AGREEMENT ("MSA")  
(PREMIUM CSM)

Customer Name	Oakland Unified School District
Workday Entity Name	Workday, Inc.
MSA Effective Date	See MSA executed herewith
Order Effective Date	The later of the dates beneath the parties' signatures below
Order Term	Twelve (12) quarterly periods beginning on the Order Effective Date
Currency	USD
Total Fees	150,000

SKU	Consulting Engagement Type	Number of Quarterly Periods	Quarterly Fee	Total Fees Due
PCSM	Premium Customer Success Management	12	12,500	150,000

Customer Contact Information	Billing
Contact Name	Brigitte Marshall
Street Address	1000 Broadway
City/Town, State/Region/County, Zip/Post Code, Country	Oakland, CA. 94607 United States
Phone/Fax #	510-879-8180
Email (required)	Brigitte.marshall@ousd.k12.ca.us

This Order Form is only valid and binding on the parties when executed by both parties and is subject to the additional terms in the above-referenced MSA and in Addendum A attached hereto.

IN WITNESS WHEREOF, this Order Form is entered into and becomes a binding part of the above-referenced MSA as of the **Order Effective Date**, defined above.

Oakland Unified School District

Workday, Inc.

David Kakishina  
Signature  
President, Board of Education

Michael A. Stankey  
Signature  
Michael A. Stankey (Sep 22, 2014)

Antwan Wilson  
Name  
Secretary, Board of Education

Signature  
Michael A. Stankey

Name  
President & COO

10-10-14  
Date Signed

Sep 22, 2014  
Date Signed

File ID Number: 14-1859  
Introduction Date: 10-8-14  
Enactment Number: 1A-1752  
Enactment Date: 10-8-14  
Bv:



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## ADDENDUM A

### ADDITIONAL ORDER FORM TERMS – PREMIUM CUSTOMER SUCCESS MANAGEMENT

- 1. Premium CSM General Terms.** Workday will provide Premium Customer Success Management for Customer during the Order Term in the form, type and manner provided herein. Any changes to the scope or fees must be documented in a mutually acceptable change order signed by an authorized representative of each party. In the course of providing Premium CSM Services hereunder, Workday may, in its discretion, draw on the resources of and subcontract to third parties (“Subcontractors”). In such instances, Customer agrees that Workday may provide information Workday receives in connection with this Agreement to the applicable Subcontractors for the purpose of Premium CSM and related administration. Workday will be responsible for the performance of its Subcontractors hereunder. Premium CSM included in this Order Form will be performed remotely unless onsite meetings are mutually agreed upon by Customer and Workday. If applicable, Customer will provide adequate workspace and Internet connections when Premium CSM is performed onsite. Customer is responsible for the timely coordination of its internal resources as necessary. If Premium CSM activities are delayed for greater than a cumulative thirty (30) days due to circumstances outside the control of Workday, Workday reserves the right to reassign its resources and/or to revisit and revise the fees due hereunder.
- 2. Scope of Premium CSM.** Premium CSM may consist of the following specific activities as mutually agreed upon by Workday and Customer.
- a) Personalized Framework for Success series aligning with deployment phases to help prepare Customer for go-live and life in production (if applicable)
  - b) General guidance to Customer relating to their use of the Workday Service
  - c) A liaison into Workday to facilitate resolution or responses to customer inquiries, escalations and cases
  - d) Feature reviews to help Customer understand impact and plan for adoption of those features
  - e) Assistance with development of Customer roadmap for functionality adoption to align with business objectives and production plans
  - f) Business Reviews including:
    - i. Workday Service review
    - ii. Guidance on new programs, training and Workday offerings
    - iii. Analysis of case management trends to determine opportunities for greater success
    - iv. Reviews of Customer’s strategic and business goals to align with Workday solutions and development roadmap
  - g) Participation in regularly scheduled status meetings with Customer and Partner Project Manager, which may cover:
    - i. Workday features and functions alignment
    - ii. Workday Update timeline
    - iii. Training recommendations
  - h) Key Workday communications tailored to Customer regarding:
    - i. Emphasizing Workday alerts and communication that could impact Customer
    - ii. Partnering opportunities for Customer and Workday
    - iii. Participation in user groups and other Workday led events
  - i) Guidance and advice on services and training offerings to align specifically with Customer's lifecycle and business needs
  - j) Guidance for appropriate use of:
    - i. Workgroups (a broader group of customers who provide input on functionality and user experience direction for new capabilities)
    - ii. Brainstorm (on the Workday Community web site where customers suggest and vote on product enhancement ideas)
    - iii. User Groups (groups of customers that have common interests related to Workday to discuss and collaborate on various topics by product area or region)



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**3. Fees, Expenses and Payment.** The Premium CSM fees set forth in this Order Form must be paid in advance in quarterly installments. The first quarterly payment is invoiced upon the Order Effective Date and due in accordance with the MSA. Workday will invoice the subsequent quarterly fees in advance to be due on the first day of each quarterly period. All fees are non-cancelable and non-refundable. Travel related expenses are not included in the fees set forth in this Order Form. If the parties have mutually agreed to have Workday travel in connection with Premium CSM hereunder, Customer will reimburse Workday for all travel related expenses according to Workday's travel and expense policy. Invoicing for travel related expenses will occur on a monthly basis. All remittance advice and invoice inquiries can be directed to [Accounts.Receivable@workday.com](mailto:Accounts.Receivable@workday.com).

**4. Termination.** Either party may terminate this Order Form at any time by giving the other party at least ninety (90) days prior written notice of termination.

**5. Warranty, Disclaimer and Remedies.** Workday warrants that it will perform its obligations in this Order Form in a professional and workmanlike manner. As Customer's exclusive remedy and Workday's sole liability for breach of the foregoing warranty, Workday shall correct deficiencies at no additional charge to Customer, provided Customer gives written notice to Workday within thirty days of Customer's discovery of a deficiency which describes any deficiencies and, in the event Workday is unable to correct such deficiencies after good-faith efforts and at a commercially reasonable cost, within thirty days after Workday informs Customer of such, Customer may terminate this Order Form (but not the Agreement or any other Order Forms) and Workday shall refund Customer prorated amounts paid for the defective portion of the review and any pre-paid fees that have not been earned as of the effective date of such termination. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE MSA, EXCEPT AS EXPRESSLY PROVIDED IN THIS ORDER FORM AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WORKDAY MAKES NO WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE PREMIUM CSM.