Service Level Agreement

Service Commitment

BMC will use commercially reasonable efforts to make the Subscription Services available at the defined monthly Service Commitment below.

Subscription Service Offering	Service Commitment
Control-M SaaS Subscription Services	99.95%
Control-M Archive Service	99.9%

Definitions

"**Actual Availability**" is the availability (in %) of the Subscription Services that is actually achieved in any given month which is calculated as follows:

$$\frac{\text{(Service Time – Excluded Downtime – Non-excluded Downtime)}}{\text{(Service Time – Excluded Downtime)}} \times 100$$

"**Excluded Downtime**" is all unavailability caused by (1) scheduled or mutually agreed upon downtime to perform routine, non-emergency or emergency maintenance on the Subscription Services; (2) downtime on nonproduction systems; (3) factors outside of BMC's reasonable control, including any force majeure event, including without limitation, acts of God, acts of government, flood, fire, hurricane, earthquakes, civil unrest, acts of terror, strikes or other labor problems (other than those involving BMC employees), epidemics, pandemics, and quarantines, or Internet service provider or power failures or delays; (4) failure of Customer's Internet access or related problems; (5) Customer's equipment, software or other technology and/or third party equipment, software or other technology (other than third party equipment within BMC's direct control); (6) actions or inactions of Customer or any third party; or (7) service suspensions or termination of Customer's right to use the BMC Subscription Services in accordance with the Agreement.

"**Non-excluded Downtime**" is all downtime that is not Excluded Downtime.

"**Service Commitment**" is the availability that BMC commits to reach in any given month, and which is met if the Actual Availability is equal or higher than the percentage included in the Service Commitment table above.

"**Service Credit**" is the amount of credit owed to the Customer, provided all of the conditions under the sections "Service Credits" and "Credit Request and Payment Procedures" below are met.

"**Service Time**" is the total minutes for a given calendar month.

Service Credits

If for any Subscription Service, the Actual Availability is less than the Service Commitment, Customer will be eligible to receive a Service Credit. The Service Credit will be calculated by converting the difference between the Actual Availability and the Service Commitment into minutes, whereby a partial minute is counted as a full minute. These minutes will then be converted into a monetary amount, whereby the amount for one minute equates to the amount that the customer has paid for one minute of Subscription Services. For any partial calendar month during which Customer subscribes to the Subscription Service, the Actual Availability and the Service Commitment will be calculated based on the entire calendar month, not just the portion for which the Customer subscribed.

Service Credits will be applied against Customer's next transaction. A Service Credit will be applicable and issued only if the Service Credit amount is greater than one dollar ($1 USD). Service Credits may not be transferred or applied to any other BMC service or account. Customer's sole and exclusive remedy for any unavailability or non-performance of the Subscription Service or other failure by BMC to provide the Subscription Service is the receipt of a Service Credit (if eligible) in accordance with the terms of this Service Level Agreement. If there is no renewal/applicable Order, all Service Credits will be forfeited (for example, if the Non-excluded Downtime occurs in the last month of the Order term and Customer does not renew, then the Service Credit is forfeited).

Credit Request and Payment Procedures

BMC will provide Customer with either (i) the capability to view availability in the Subscription Services, or (ii) a monthly availability report. To receive a Service Credit, Customer must submit a request ("**Service Credit Request**") by sending an e-mail message to SLArequest@bmc.com. To be eligible, the Service Credit Request must (i) include Customer's account number in the subject of the e-mail message; (ii) include, in the body of the e-mail either the BMC-provided monthly availability report, or, the dates and times of each incident of Non-excluded Downtime that Customer claims to have experienced; and (iii) be received by BMC within 30 days after the end of the month in which the Non-Excluded Downtime occurred. If the Actual Availability applicable to the month of such request is confirmed by BMC and is less than the Service Commitment, then BMC will confirm the Service Credit to Customer within 15 days of receipt of the Service Credit Request. Customer's failure to provide the Service Credit Request and other information as required above will disqualify Customer from receiving a Service Credit.