



Contract Number

25-1057

SAP Number

## Innovation and Technology Department

Department Contract Representative	Jeremiah Thomas
Telephone Number	(909) 388-0641

Contractor	Computer Technologies U.S.A LLC dba/ Blue Hill Data Services
Contractor Representative	Laura Whaley
Telephone Number	(845) 875-7064
Contract Term	12/21/2025 – 12/20/2028
Original Contract Amount	\$1,796,708
Amendment Amount	N/A
Total Contract Amount	\$1,796,708
Cost Center	1200104048,1200504048,1200604048

### IT IS HEREBY AGREED AS FOLLOWS:

**WHEREAS**, San Bernardino County (County) desires to designate a contractor of choice to procure Broadcom Inc. workload automation, server monitoring, and scheduler software licenses, as further described in a statement of work (the "Services"); and

**WHEREAS**, the County conducted a competitive process to find Computer Technologies U.S.A. LLC d/b/a Blue Hill Data Services (Contractor) to provide these services, and

**WHEREAS**, based upon and in reliance on the representations of Contractor in its response to the County's Invitation to Bid the County finds Contractor qualified to provide Broadcom Inc. workload automation, server monitoring, and scheduler software licenses; and

**WHEREAS**, the County desires that such services be provided by Contractor and Contractor agrees to perform these services as set forth below;

**NOW, THEREFORE**, the County and Contractor mutually agree to the following terms and conditions:

#### A. DEFINITIONS

- A.1** Board: The San Bernardino County Board of Supervisors
- A.2** Contract: The Contract between the County and the Contractor resulting from the award issued pursuant to the RFP's evaluation.
- A.3** Contractor: Any individual, company, firm, corporation, partnership, or other organization to whom a contract award is made by the County.
- A.4** ITD: County Innovation and Technology Department.
- A.5** Purchasing Agent: The Director of the County Purchasing Department.
- A.6** Services: The requested services described in this Contract.
- A.7** Subcontractor: An individual, company, firm, corporation, partnership, or other organization, not in the employment of or owned by Contractor who is performing services on behalf of Contractor under the Contract or under a separate contract with or on behalf of Contractor.

**B. CONTRACTOR RESPONSIBILITIES**

- B.1** Provide license as outlined in Attachment A "Flow Down Provisions", Exhibit A – Mainframe CA Software.

**C. GENERAL CONTRACT REQUIREMENTS**

**C.1 Recitals**

The recitals set forth above are true and correct and incorporated herein by this reference.

**C.2 Contract Amendments**

Contractor agrees any alterations, variations, modifications, or waivers of the provisions of the Contract, shall be valid only when reduced to writing, executed and attached to the original Contract and approved by the person(s) authorized to do so on behalf of Contractor and County.

**C.3 Contract Assignability**

Without the prior written consent of the County, the Contract is not assignable by Contractor either in whole or in part.

**C.4 Contract Exclusivity**

This is not an exclusive Contract. The County reserves the right to enter into a contract with other contractors for the same or similar services. The County does not guarantee or represent that the Contractor will be permitted to perform any minimum amount of work, or receive compensation other than on a per order basis, under the terms of this Contract.

**C.5 Attorney's Fees and Costs**

If any legal action is instituted to enforce any party's rights hereunder, each party shall bear its own costs and attorney's fees, regardless of who is the prevailing party. This paragraph shall not apply to those costs and attorney's fees directly arising from a third-party legal action against a party hereto and payable under Indemnification and Insurance Requirements.

**C.6 Background Checks for Contractor Personnel**

Contractor shall ensure that its personnel (a) are authorized to work in the jurisdiction in which they are assigned to perform Services; (b) do not use legal or illegal substances in any manner which will impact their ability to provide Services to the County; and (c) are not otherwise disqualified from performing the Services under applicable law. If requested by the County and not in violation of applicable law, Contractor shall conduct a background check, at Contractor's sole expense, on all its personnel providing Services. If requested by the County, Contractor shall

provide the results of the background check of each to the County. Such background check shall be in the form generally used by Contractor in its initial hiring of employees or contracting for contractors or, as applicable, during the employment-screening process but must, at a minimum, have been performed within the preceding 12-month period. Contractor personnel who do not meet the County's hiring criteria, in County's sole discretion, shall not be assigned to work on County property or Services, and County shall have the right, at its sole option, to refuse access to any Contract personnel to any County facility.

**C.7 Change of Address**

Contractor shall notify the County in writing, of any change in mailing address within ten (10) business days of the change.

**C.8 Choice of Law**

This Contract shall be governed by and construed according to the laws of the State of California.

**C. 9 Compliance with County Policy**

In performing the Services and while at any County facilities, Contractor personnel (including subcontractors) shall (a) conduct themselves in a businesslike manner; (b) comply with the policies, procedures, and rules of the County regarding health and safety, and personal, professional and ethical conduct; (c) comply with the finance, accounting, banking, Internet, security, and/or other applicable standards, policies, practices, processes, procedures, and controls of the County; and (d) abide by all laws applicable to the County facilities and the provision of the Services, and all amendments and modifications to each of the documents listed in subsections (b), (c), and (d) (collectively, "County Policies"). County Policies, and additions or modifications thereto, may be communicated orally or in writing to Contractor or Contractor personnel or may be made available to Contractor or Contractor personnel by conspicuous posting at a County facility, electronic posting, or other means generally used by County to disseminate such information to its employees or contractors. Contractor shall be responsible for the promulgation and distribution of County Policies to Contractor personnel to the extent necessary and appropriate.

County shall have the right to require Contractor's employees, agents, representatives and subcontractors to exhibit identification credentials issued by County in order to exercise any right of access under this Contract.

**C.10 Confidentiality**

Contractor shall protect from unauthorized use or disclosure the names and other identifying information concerning persons receiving Services pursuant to this Contract, except for statistical information not identifying any participant. Contractor shall not use or disclose any identifying information for any purpose other than carrying out the Contractor's obligations under this Contract, except as may otherwise be required by law. This provision will remain in force even after the termination of the Contract.

**C.11 Primary Point of Contact**

Contractor will designate an individual to serve as the primary point of contact for the Contract. Contractor or designee must respond to County inquiries within two (2) business days. Contractor shall not change the primary contact without written acknowledgement to the County. Contractor will also designate a back-up point of contact in the event the primary contact is not available.

**C.12 County Representative**

The Chief Information Officer or his/her designee shall represent the County in all matters pertaining to the services to be rendered under this Contract, including termination and

assignment of this Contract, and shall be the final authority in all matters pertaining to the Services by Contractor. If this contract was initially approved by the San Bernardino County Board of Supervisors, then the Board of Supervisors must approve all amendments to this Contract, unless otherwise delegated.

**C.13 Damage to County Property**

Contractor shall repair, or cause to be repaired, at its own cost, all damages to County vehicles, facilities, buildings or grounds caused by the willful or negligent acts of Contractor or its employees or agents. Such repairs shall be made immediately after Contractor becomes aware of such damage, but in no event later than thirty (30) days after the occurrence.

If the Contractor fails to make timely repairs, the County may make any necessary repairs. The Contractor, as determined by the County, shall repay all costs incurred by the County for such repairs, by cash payment upon demand, or County may deduct such costs from any amounts due to the Contractor from the County, as determined at the County's sole discretion.

**C. 14 Debarment and Suspension**

Contractor certifies that neither it nor its principals or subcontractors is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency. (See the following United States General Services Administration's System for Award Management website <https://www.sam.gov>). Contractor further certifies that if it or any of its subcontractors are business entities that must be registered with the California Secretary of State, they are registered and in good standing with the Secretary of State.

**C.15 Drug and Alcohol Free Workplace**

In recognition of individual rights to work in a safe, healthful and productive work place, as a material condition of this Contract, the Contractor agrees that the Contractor and the Contractor's employees, while performing service for the County, on County property, or while using County equipment:

- C.15.1** Shall not be in any way impaired because of being under the influence of alcohol or an illegal or controlled substance.
- C.15.2** Shall not possess an open container of alcohol or consume alcohol or possess or be under the influence of an illegal or controlled substance.
- C.15.3** Shall not sell, offer, or provide alcohol or an illegal or controlled substance to another person, except where Contractor or Contractor's employee who, as part of the performance of normal job duties and responsibilities, prescribes or administers medically prescribed drugs.

The Contractor shall inform all employees that are performing service for the County on County property, or using County equipment, of the County's objective of a safe, healthful and productive work place and the prohibition of drug or alcohol use or impairment from same while performing such service for the County.

The County may terminate for default or breach of this Contract and any other Contract the Contractor has with the County, if the Contractor or Contractor's employees are determined by the County not to be in compliance with above.

**C.16 Duration of Terms**

This Contract, and all of its terms and conditions, shall be binding upon and shall inure to the benefit of the heirs, executors, administrators, successors, and assigns of the respective parties, provided no such assignment is in violation of the provisions of this Contract.

**C.17 Employment Discrimination**

During the term of the Contract, Contractor shall not discriminate against any employee or applicant for employment because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, sexual orientation, age, or military and veteran status. Contractor shall comply with Executive Orders 11246, 11375, 11625, 12138, 12432, 12250, 13672, Title VI and Title VII of the Civil Rights Act of 1964, the California Fair Employment and Housing Act and other applicable Federal, State and County laws and regulations and policies relating to equal employment and contracting opportunities, including laws and regulations hereafter enacted.

**C.18 Environmental Requirements**

In accordance with County Policy 11-08, the County prefers to acquire and use products with higher levels of post-consumer recycled content. Environmentally preferable goods and materials must perform satisfactorily and be available at a reasonable price. The County requires Contractor to use recycled paper for any printed or photocopied material created as a result of this Contract. Contractor is also required to use both sides of paper sheets for reports submitted to the County whenever practicable.

To assist the county in meeting the reporting requirements of the California Integrated Waste Management Act of 1989 (AB 939), Contractor must be able to annually report the County's environmentally preferable purchases. Contractor must also be able to report on environmentally preferable goods and materials used in the provision of their service to the County, utilizing a County approved form.

**C.19 Improper Influence**

Contractor shall make all reasonable efforts to ensure that no County officer or employee, whose position in the County enables him/her to influence any award of the Contract or any competing offer, shall have any direct or indirect financial interest resulting from the award of the Contract or shall have any relationship to the Contractor or officer or employee of the Contractor.

**C.20 Improper Consideration**

Contractor shall not offer (either directly or through an intermediary) any improper consideration such as, but not limited to cash, discounts, service, the provision of travel or entertainment, or any items of value to any officer, employee or agent of the County in an attempt to secure favorable treatment regarding this Contract.

The County, by written notice, may immediately terminate this Contract if it determines that any improper consideration as described in the preceding paragraph was offered to any officer, employee or agent of the County with respect to the proposal and award process. This prohibition shall apply to any amendment, extension or evaluation process once a contract has been awarded.

Contractor shall immediately report any attempt by a County officer, employee or agent to solicit (either directly or through an intermediary) improper consideration from Contractor. The report shall be made to the supervisor or manager charged with supervision of the employee or the County Administrative Office. In the event of a termination under this provision, the County is entitled to pursue any available legal remedies.

**C.21 Informal Dispute Resolution**

In the event the County determines that service is unsatisfactory, or in the event of any other dispute, claim, question or disagreement arising from or relating to this Contract or breach thereof, the parties hereto shall use their best efforts to settle the dispute, claim, question or disagreement.

To this effect, they shall consult and negotiate with each other in good faith and, recognizing their mutual interests, attempt to reach a just and equitable solution satisfactory to both parties.

**C.22 Legality and Severability**

The parties' actions under the Contract shall comply with all applicable laws, rules, regulations, court orders and governmental agency orders. The provisions of this Contract are specifically made severable. If a provision of the Contract is terminated or held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall remain in full effect.

**C.23 Licenses, Permits and/or Certifications**

Contractor shall ensure that it has all necessary licenses, permits and/or certifications required by the laws of Federal, State, County, and municipal laws, ordinances, rules and regulations. The Contractor shall maintain these licenses, permits and/or certifications in effect for the duration of this Contract. Contractor will notify County immediately of loss or suspension of any such licenses, permits and/or certifications. Failure to maintain a required license, permit and/or certification may result in immediate termination of this Contract.

**C.24 Material Misstatement/Misrepresentation**

If during the course of the administration of this Contract, the County determines that Contractor has made a material misstatement or misrepresentation or that materially inaccurate information has been provided to the County, this Contract may be immediately terminated. If this Contract is terminated according to this provision, the County is entitled to pursue any available legal remedies.

**C.25 Mutual Covenants**

The parties to this Contract mutually covenant to perform all of their obligations hereunder, to exercise all discretion and rights granted hereunder, and to give all consents in a reasonable manner consistent with the standards of "good faith" and "fair dealing".

**C.26 Nondisclosure**

Contractor shall hold as confidential and use reasonable care to prevent unauthorized access by, storage, disclosure, publication, dissemination to and/or use by third parties of, confidential information that is either: (1) provided by the County to Contractor or an agent of Contractor or otherwise made available to Contractor or Contractor's agent in connection with this Contract; or, (2) acquired, obtained, or learned by Contractor or an agent of Contractor in the performance of this Contract. For purposes of this provision, confidential information means any data, files, software, information or materials in oral, electronic, tangible or intangible form and however stored, compiled or memorialized and includes, but is not limited to, technology infrastructure, architecture, financial data, trade secrets, equipment specifications, user lists, passwords, research data, and technology data.

**C.27 Notice of Delays**

Except as otherwise provided herein, when either party has knowledge that any actual or potential situation is delaying or threatens to delay the timely performance of this contract, that party shall, within twenty-four (24) hours, give notice thereof, including all relevant information with respect thereto, to the other party.

**C.28 Ownership of Documents**

All documents, data, products, graphics, computer programs and reports prepared by Contractor pursuant to the Contract shall be considered property of the County upon payment for services (and product, if applicable). All such items shall be delivered to County at the completion of work under the Contract. Unless otherwise directed by County, Contractor may retain copies of such items.

**C.29 Participation Clause**

The County desires that Municipalities, School Districts, and other Tax Districts within the San Bernardino County requiring the same services provided herein may at their option and through the County Purchasing agent, avail themselves of this Contract. Upon notice, in writing, the Contractor agrees to the extension of the terms of a resultant contract with such governmental bodies as though they have been expressly identified in this bid, with the provisions that:

**C.29.1** Such governmental body does not have and will not have in force any other contract for like purchases.

**C.29.2** Such governmental body does not have under consideration for award any other bids or quotations for like purchases.

Such governmental body shall make purchases directly through and to the Contractor. The County will not be liable for any such purchase made between the Contractor and another governmental body who avails themselves of this contract.

**C.30 Air, Water Pollution Control, Safety and Health**

Contractor shall comply with all air pollution control, water pollution, safety and health ordinances and statutes, which apply to the work performed pursuant to this Contract.

**C.31 Records**

Contractor shall maintain all records and books pertaining to the delivery of services under this Contract and demonstrate accountability for contract performance. All records shall be complete and current and comply with all Contract requirements. Failure to maintain acceptable records shall be considered grounds for withholding of payments for invoices submitted and/or termination of the Contract.

All records relating to the Contractor's personnel, consultants, subcontractors, Services/Scope of Work and expenses pertaining to this Contract shall be kept in a generally acceptable accounting format. Records should include primary source documents. Fiscal records shall be kept in accordance with Generally Accepted Accounting Principles and must account for all funds, tangible assets, revenue and expenditures. Fiscal records must comply with the appropriate Office of Management and Budget (OMB) Circulars which state the administrative requirements, cost principles and other standards for accountancy.

**C.32 Relationship of the Parties**

Nothing contained in this Contract shall be construed as creating a joint venture, partnership, or employment arrangement between the Parties hereto, nor shall either Party have the right, power or authority to create an obligation or duty, expressed or implied, on behalf of the other Party hereto.

**C.33 Release of Information**

No news releases, advertisements, public announcements or photographs arising out of the Contract or Contractor's relationship with County may be made or used without prior written approval of the County.

**C.34 Representation of the County**

In the performance of this Contract, Contractor, its agents and employees, shall act in an independent capacity and not as officers, employees, or agents of the San Bernardino County.

**C.35 Strict Performance**

Failure by a party to insist upon the strict performance of any of the provisions of this Contract by the other party, or the failure by a party to exercise its rights upon the default of the other party,

shall not constitute a waiver of such party's right to insist and demand strict compliance by the other party with the terms of this Contract thereafter.

**C.36 Subcontracting**

Contractor shall obtain County's written consent, which County may withhold in its sole discretion, before entering into Contracts with or otherwise engaging any subcontractors who may supply any part of the Services to County. At County's request, Contractor shall provide information regarding the subcontractor's qualifications and a listing of a subcontractor's key personnel including, if requested by the County, resumes of proposed subcontractor personnel. Contractor shall remain directly responsible to County for its subcontractors and shall indemnify County for the actions or omissions of its subcontractors under the terms and conditions specified in Section G. All approved subcontractors shall be subject to the provisions of this Contract applicable to Contractor Personnel.

For any subcontractor, Contractor shall:

- 36.1 Be responsible for subcontractor compliance with the Contract and the subcontract terms and conditions; and
- 36.2 Ensure that the subcontractor follows County's reporting formats and procedures as specified by County.
- 36.3 Include in the subcontractor's subcontract substantially similar terms as are provided in Sections B. Contractor Responsibilities, C. General Contract Requirements and G. Insurance and Indemnification.

Upon expiration or termination of this Contract for any reason, County will have the right to enter into direct Contracts with any of the Subcontractors. Contractor agrees that its arrangements with Subcontractors will not prohibit or restrict such Subcontractors from entering into direct Contracts with County.

**C. 37 Subpoena**

In the event that a subpoena or other legal process commenced by a third party in any way concerning the Goods or Services provided under this Contract is served upon Contractor or County, such party agrees to notify the other party in the most expeditious fashion possible following receipt of such subpoena or other legal process. Contractor and County further agree to cooperate with the other party in any lawful effort by such other party to contest the legal validity of such subpoena or other legal process commenced by a third party as may be reasonably required and at the expense of the party to whom the legal process is directed, except as otherwise provided herein in connection with defense obligations by Contractor for County.

**C.38 Termination for Convenience**

The County reserves the right to terminate the Contract, for its convenience, with or without cause, with a thirty (30) day written notice of termination. Such termination may include all or part of the services described herein. Upon such termination, payment will be made to the Contractor for services rendered and expenses reasonably incurred prior to the effective date of termination. Upon receipt of termination notice Contractor shall promptly discontinue services unless the notice directs otherwise. Contractor shall deliver promptly to County and transfer title (if necessary) all completed work, and work in progress, including drafts, documents, plans, forms, data, products, graphics, computer programs and reports.

**C.39 Time of the Essence**

Time is of the essence in performance of this Contract and of each of its provisions.

**C.40 Venue**

The parties acknowledge and agree that this Contract was entered into and intended to be performed in San Bernardino County, California. The parties agree that the venue of any action

or claim brought by any party to this Contract will be the Superior Court of California, San Bernardino County, San Bernardino District. Each party hereby waives any law or rule of the court, which would allow them to request or demand a change of venue. If any action or claim concerning this Contract is brought by any third-party and filed in another venue, the parties hereto agree to use their best efforts to obtain a change of venue to the Superior Court of California, San Bernardino County, San Bernardino District.

**C.41 Conflict of Interest**

Contractor shall make all reasonable efforts to ensure that no conflict of interest exists between its officers, employees, or subcontractors and the County. Contractor shall make a reasonable effort to prevent employees, Contractor, or members of governing bodies from using their positions for purposes that are, or give the appearance of being motivated by a desire for private gain for themselves or others such as those with whom they have family business, or other ties. Officers, employees, and agents of cities, counties, districts, and other local agencies are subject to applicable conflict of interest codes and state law. In the event the County determines a conflict of interest situation exists, any increase in costs, associated with the conflict of interest situation, may be disallowed by the County and such conflict may constitute grounds for termination of the Contract. This provision shall not be construed to prohibit employment of persons with whom Contractor's officers, employees, or agents have family, business, or other ties so long as the employment of such persons does not result in increased costs over those associated with the employment of any other equally qualified applicant.

**C.42 Former County Administrative Officials**

Contractor agrees to provide, or has already provided information on former San Bernardino County administrative officials (as defined below) who are employed by or represent Contractor. The information provided includes a list of former County administrative officials who terminated County employment within the last five years and who are now officers, principals, partners, associates or members of the business. The information also includes the employment with or representation of Contractor. For purposes of this provision, "County administrative official" is defined as a member of the Board of Supervisors or such officer's staff, County Executive Officer or member of such officer's staff, County department or group head, assistant department or group head, or any employee in the Exempt Group, Management Unit or Safety Management Unit.

**C.43 Disclosure of Criminal and Civil Procedures**

The County reserves the right to request the information described herein from the Contractor. Failure to provide the information may result in a termination of the Contract. The County also reserves the right to obtain the requested information by way of a background check performed by an investigative firm. The Contractor also may be requested to provide information to clarify initial responses. Negative information discovered may result in Contract termination.

Contractor is required to disclose whether the firm, or any of its partners, principals, members, associates or key employees (as that term is defined herein), within the last ten years, has been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense arising directly or indirectly from the conduct of the firm's business, or whether the firm, or any of its partners, principals, members, associates or key employees, has within the last ten years, been indicted on or had charges brought against it or them (if still pending) or convicted of any crime or offense involving financial misconduct or fraud. If the response is affirmative, the Contractor will be asked to describe any such indictments or charges (and the status thereof), convictions and the surrounding circumstances in detail.

In addition, the Contractor is required to disclose whether the firm, or any of its partners, principals, members, associates or key employees, within the last ten years, has been the subject of legal proceedings as defined herein arising directly from the provision of services by the firm or those

individuals. "Legal proceedings" means any civil actions filed in a court of competent jurisdiction, or any matters filed by an administrative or regulatory body with jurisdiction over the firm or the individuals. If the response is affirmative, the Contractor will be asked to describe any such legal proceedings (and the status and disposition thereof) and the surrounding circumstances in detail.

For purposes of this provision "key employees" includes any individuals providing direct service to the County. "Key employees" do not include clerical personnel providing service at the firm's offices or locations.

**C.44 RESERVED**

**C.45 RESERVED**

**C.46 Iran Contracting Act**

IRAN CONTRACTING ACT OF 2010, Public Contract Code sections 2200 et seq. (Applicable for all Contracts of one million dollars (\$1,000,000) or more). In accordance with Public Contract Code section 2204(a), the Contractor certifies that at the time the Contract is signed, the Contractor signing the Contract is not identified on a list created pursuant to subdivision (b) of Public Contract Code section 2203 as a person (as defined in Public Contract Code section 2202(e)) engaging in investment activities in Iran described in subdivision (a) of Public Contract Code section 2202.5, or as a person described in subdivision (b) of Public Contract Code section 2202.5, as applicable.

Contractors are cautioned that making a false certification may subject the Contractor to civil penalties, termination of existing contract, and ineligibility to bid on a contract for a period of three (3) years in accordance with Public Contract Code section 2205.

**C.47 RESERVED**

**C.48 RESERVED**

**C. 49 RESERVED**

**C.50 RESERVED**

**C.51 RESERVED**

**C.52 RESERVED**

**C.53 Prohibition on Contracting with Entities that Require Certain Internal Confidentiality Agreements or Statements-Representation (FAR 52.203-18).**

In compliance with Federal Acquisition Regulation 52.203-18, Contractor shall not require employees or subcontractors of Contractor seeking to report waste, fraud, or abuse, to sign internal confidentiality agreements or statement prohibiting or otherwise restricting such employees or subcontractors from lawfully reporting such waste, fraud or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information. To the extent Contractor has required employees or subcontractors to sign internal confidentiality agreements or statements in the past, Contractor shall notify current employees and subcontractors that those prohibitions and restrictions are no longer in effect. Contractor shall include this clause in all subcontracts.

**C.54 Use of Biobased Products (FAR 52.223-1)**

Contractor certifies that to the extent biobased products are purchased using Contract funds, Contractor shall comply with Federal Acquisition Regulation 52.223-1.

**C.55 Service Contract Labor Standards (FAR 52.222-52, 52.222-53, 22.1003-4)**

To the extent applicable, Contractor agrees to comply with and to provide any information necessary for the County to comply with Federal Acquisition Regulations 52.222-52, 52.222-53, and 22.1003-4.

**C.56 RESERVED**

**D. TERM OF CONTRACT**

This Contract is effective as of December 21, 2025 and expires December 20, 2028 but may be terminated earlier in accordance with provisions of this Contract.

**E. COUNTY RESPONSIBILITIES**

**E.1** Please see Attachment A "Flow Down Provisions", for County responsibilities.

**F. FISCAL PROVISIONS**

- F.1** The maximum amount of payment under this Contract shall not exceed \$1,796,708, of which \$0 may be federally funded and shall be subject to availability of other funds to the County. The consideration to be paid to Contractor, as provided herein, shall be in full payment for all Contractor's services and expenses incurred in the performance hereof, including travel and per diem.
- F.2** Invoices shall be issued with a net thirty (30) day payment term with the corresponding Purchase Order number stated on the invoice.
- F.3** Contractor shall accept all payments from County via electronic funds transfer (EFT) directly deposited into the Contractor's designated checking or other bank account. Contractor shall promptly comply with directions and accurately complete forms provided by County required to process EFT payments.
- F.4** County is exempt from Federal excise taxes and no payment shall be made for any personal property taxes levied on Contractor or on any taxes levied on employee wages. The County shall only pay for any State or local sales or use taxes on the services rendered or equipment and/or parts supplied to the County pursuant to the Contract.
- F.5** Costs for services under the terms of this Contract shall be incurred during the contract period except as approved by County. Contractor shall not use current year funds to pay prior or future year obligations.
- F.6** Funds made available under this Contract shall not supplant any federal, state or any governmental funds intended for services of the same nature as this Contract. Contractor shall not claim reimbursement or payment from County for, or apply sums received from County with respect to that portion of its obligations that have been paid by another source of revenue. Contractor agrees that it will not use funds received pursuant to this Contract, either directly or indirectly, as a contribution or compensation for purposes of obtaining funds from another revenue source without prior written approval of the County.
- F.7** Contractor shall adhere to the County's Travel Management Policy (8-02 and 08-02SP1) when travel is pursuant to this Contract and for which reimbursement is sought from the County. In addition, Contractor is encouraged to utilize local transportation services, including but not limited to, the Ontario International Airport.

## **G. INDEMNIFICATION AND INSURANCE REQUIREMENTS**

### **G.1 Indemnification**

The Contractor agrees to indemnify, defend (with counsel reasonably approved by County) and hold harmless the County and its authorized officers, employees, agents and volunteers from any and all claims, actions, losses, damages and/or liability arising out of this Contract from any cause whatsoever, including the acts, errors or omissions of any person and for any costs or expenses incurred by the County on account of any claim except where such indemnification is prohibited by law. This indemnification provision shall apply regardless of the existence or degree of fault of indemnities. The Contractor indemnification obligation applies to the County's "active" as well as "passive" negligence but does not apply to the County's "sole negligence" or "willful misconduct" within the meaning of Civil Code section 2782.

### **G.2 Additional Insured**

All policies, except for Worker's Compensation, Errors and Omissions and Professional Liability policies shall contain additional endorsements naming the County and its officers, employees, agents and volunteers as additional named insured with respect to liabilities arising out of the performance of services hereunder. The additional insured endorsements shall not limit the scope of coverage for the County to vicarious liability but shall allow coverage for the County to the full extent provided by the policy. Such additional insured coverage shall be at least as broad as Additional Insured (Form B) endorsement form ISO, CG 2010.11 85.

### **G.3 Waiver of Subrogation Rights**

The Contractor shall require the carriers of required coverages to waive all rights of subrogation against the County, its officers, employees, agents, volunteers, contractors and subcontractors. All general or auto liability insurance coverage provided shall not prohibit the Contractor and Contractor's employees or agents from waiving the right of subrogation prior to a loss or claim. The Contractor hereby waives all rights of subrogation against the County.

### **G.4 Policies Primary and Non-Contributory**

All policies required herein are to be primary and non-contributory with any insurance or self-insurance programs carried or administered by the County.

### **G.5 Severability of Interests**

The Contractor agrees to ensure that coverage provided to meet these requirements is applicable separately to each insured and there will be no cross liability exclusions that preclude coverage for suits between the Contractor and the County or between the County and any other insured or additional insured under the policy.

### **G.6 Proof of Coverage**

The Contractor shall furnish Certificates of Insurance to the County Department administering the Contract evidencing the insurance coverage at the time the Contract is executed, additional endorsements, as required shall be provided prior to the commencement of performance of services hereunder, which certificates shall provide that such insurance shall not be terminated or expire without thirty (30) days written notice to the Department, and Contractor shall maintain such insurance from the time Contractor commences performance of services hereunder until the completion of such services. Within fifteen (15) days of the commencement of this contract, the Contractor shall furnish a copy of the Declaration page for all applicable policies and will provide complete certified copies of the policies and endorsements immediately upon request.

### **G.7 Acceptability of Insurance Carrier**

Unless otherwise approved by Risk Management, insurance shall be written by insurers authorized to do business in the State of California and with a minimum "Best" Insurance Guide rating of "A- VII".

**G.8 Deductibles and Self-Insured Retention**

Any and all deductibles or self-insured retentions in excess of \$10,000 shall be declared to and approved by Risk Management.

**G.9 Failure to Procure Coverage**

In the event that any policy of insurance required under this contract does not comply with the requirements, is not procured, or is canceled and not replaced, the County has the right but not the obligation or duty to cancel the contract or obtain insurance if it deems necessary and any premiums paid by the County will be promptly reimbursed by the Contractor or County payments to the Contractor will be reduced to pay for County purchased insurance.

**G.10 Insurance Review**

Insurance requirements are subject to periodic review by the County. The Director of Risk Management or designee is authorized, but not required, to reduce, waive or suspend any insurance requirements whenever Risk Management determines that any of the required insurance is not available, is unreasonably priced, or is not needed to protect the interests of the County. In addition, if the Department of Risk Management determines that heretofore unreasonably priced or unavailable types of insurance coverage or coverage limits become reasonably priced or available, the Director of Risk Management or designee is authorized, but not required, to change the above insurance requirements to require additional types of insurance coverage or higher coverage limits, provided that any such change is reasonable in light of past claims against the County, inflation, or any other item reasonably related to the County's risk.

Any change requiring additional types of insurance coverage or higher coverage limits must be made by amendment to this contract. Contractor agrees to execute any such amendment within thirty (30) days of receipt.

Any failure, actual or alleged, on the part of the County to monitor or enforce compliance with any of the insurance and indemnification requirements will not be deemed as a waiver of any rights on the part of the County.

**G.11 The Contractor agrees to provide insurance set forth in accordance with the requirements herein. If the Contractor uses existing coverage to comply with these requirements and that coverage does not meet the specified requirements, the Contractor agrees to amend, supplement or endorse the existing coverage to do so.**

Without in anyway affecting the indemnity herein provided and in addition thereto, the Contractor shall secure and maintain throughout the contract term the following types of insurance with limits as shown:

**G.11.1 Workers' Compensation/Employer's Liability** – A program of Workers' Compensation insurance or a state-approved, self-insurance program in an amount and form to meet all applicable requirements of the Labor Code of the State of California, including Employer's Liability with \$250,000 limits covering all persons including volunteers providing services on behalf of the Contractor and all risks to such persons under this contract.

If Contractor has no employees, it may certify or warrant to the County that it does not currently have any employees or individuals who are defined as "employees" under the Labor Code and the requirement for Workers' Compensation coverage will be waived by the County's Director of Risk Management.

With respect to Contractors that are non-profit corporations organized under California or Federal law, volunteers for such entities are required to be covered by Workers' Compensation insurance.

**G.11.2** Commercial/General Liability Insurance – The Contractor shall carry General Liability Insurance covering all operations performed by or on behalf of the Contractor providing coverage for bodily injury and property damage with a combined single limit of not less than one million dollars (\$1,000,000), per occurrence. The policy coverage shall include:

- a. Premises operations and mobile equipment.
- b. Products and completed operations.
- c. Broad form property damage (including completed operations).
- d. Explosion, collapse and underground hazards.
- e. Personal injury.
- f. Contractual liability.
- g. \$2,000,000 general aggregate limit.

**G.11.3** Automobile Liability Insurance – Primary insurance coverage shall be written on ISO Business Auto coverage form for all owned, hired and non-owned automobiles or symbol 1 (any auto). The policy shall have a combined single limit of not less than one million dollars (\$1,000,000) for bodily injury and property damage, per occurrence.

If the Contractor is transporting one or more non-employee passengers in performance of contract services, the automobile liability policy shall have a combined single limit of two million dollars (\$2,000,000) for bodily injury and property damage per occurrence.

If the Contractor owns no autos, a non-owned auto endorsement to the General Liability policy described above is acceptable.

**G.11.4** Umbrella Liability Insurance – An umbrella (over primary) or excess policy may be used to comply with limits or other primary coverage requirements. When used, the umbrella policy shall apply to bodily injury/property damage, personal injury/advertising injury and shall include a “dropdown” provision providing primary coverage for any liability not covered by the primary policy. The coverage shall also apply to automobile liability.

**G.11.5** Professional Liability – Professional Liability Insurance with limits of not less than one million (\$1,000,000) per claim and two million (\$2,000,000) aggregate limits

**G.11.6** **RESERVED**

**G.11.7** **RESERVED**

**G.11.8** **RESERVED**

**H. RIGHT TO MONITOR AND AUDIT**

**H.1** The County, State and Federal government shall have absolute right to review and audit all records, books, papers, documents, corporate minutes, and other pertinent items as requested, and shall have absolute right to monitor the performance of Contractor in the delivery of services provided under this Contract. Contractor shall give full cooperation, in any auditing or monitoring conducted. Contractor shall cooperate with the County in the implementation, monitoring, and evaluation of this Contract and comply with any and all reporting requirements established by the County.

IN WITNESS WHEREOF, the San Bernardino County and the Contractor have each caused this Contract to be subscribed by its respective duly authorized officers, on its behalf.

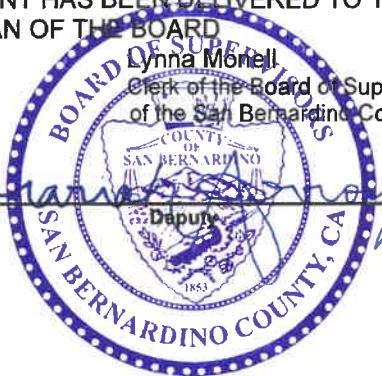
SAN BERNARDINO COUNTY

*Joe Kamen*

► Dawn Rowe, Chair Board of Supervisors  
Joe Baca, Vice Chair, Board of Supervisors

Dated: DEC 16 2025

SIGNED AND CERTIFIED THAT A COPY OF THIS DOCUMENT HAS BEEN DELIVERED TO THE CHAIRMAN OF THE BOARD



B  
Y

Lynna Morell  
Clerk of the Board of Supervisors  
of the San Bernardino County

*Deputy*

Computer Technologies U.S.A. LLC d/b/a Blue Hill Data Services  
(Print or type name of corporation, company, contractor, etc.)

By *John Kamen*

(Authorized signature - sign in blue ink)

Name John Kamen

(Print or type name of person signing contract)

Title President and Chief Executive Officer

(Print or Type)

Dated: 04/12/25

Address 2 Blue Hill Plaza, PO Box 1614

Pearl River, New York 10965

**FOR COUNTY USE ONLY**

Approved as to Legal Form

► *Kaleigh Ragon*

Kaleigh Ragon, Deputy County Counsel

Date 04/12/25

Reviewed for Contract Compliance

►

Date \_\_\_\_\_

Reviewed/Approved by Department

►

Date \_\_\_\_\_

**H.2** All records pertaining to services delivered and all fiscal, statistical and management books and records shall be available for examination and audit by County representatives for a period of three years after final payment under this Contract or until all pending County, State and Federal audits are completed, whichever is later.

**I. CORRECTION OF PERFORMANCE DEFICIENCIES**

**I.1** Failure by Contractor to comply with any of the provisions, covenants, requirements or conditions of this Contract shall be a material breach of this Contract.

**I.2** In the event of a non-cured breach, County may, at its sole discretion and in addition to any other remedies available at law, in equity, or otherwise specified in this Contract:

- a. Afford Contractor thereafter a time period within which to cure the breach, which period shall be established at the sole discretion of County; and/or
- b. Discontinue reimbursement to Contractor for and during the period in which Contractor is in breach, which reimbursement shall not be entitled to later recovery; and/or
- c. Withhold funds pending duration of the breach; and/or
- d. Offset against any monies billed by Contractor but yet unpaid by County those monies disallowed pursuant to Item "b" of this paragraph; and/or
- e. Terminate this Contract immediately and be relieved of the payment of any consideration to Contractor. In the event of such termination, the County may proceed with the work in any manner deemed proper by the County. The cost to the County shall be deducted from any sum due to the Contractor under this Contract and the balance, if any, shall be paid by the Contractor upon demand.

**J. NOTICES**

All written notices provided for in this Contract or which either party desires to give to the other shall be deemed fully given, when made in writing and either served personally, or by facsimile, or deposited in the United States mail, postage prepaid, and addressed to the other party as follows:

San Bernardino County  
Innovation and Technology Department  
851 E. Cooley Drive  
Colton, CA 92324

Computer Technologies U.S.A LLC d/b/a/ Blue  
Hill Data Services  
2 Blue Hill Plaza  
Pearl River, NY 10965

Notice shall be deemed communicated two (2) County working days from the time of mailing if mailed as provided in this paragraph.

**K. ENTIRE AGREEMENT**

This Contract, including all Exhibits and other attachments, which are attached hereto and incorporated by reference, and other documents incorporated herein, represents the final, complete and exclusive agreement between the parties hereto. Any prior agreement, promises, negotiations or representations relating to the subject matter of this Contract not expressly set forth herein are of no force or effect. This Contract is executed without reliance upon any promise, warranty or representation by any party or any representative of any party other than those expressly contained herein. Each party has carefully read this Contract and signs the same of its own free will.

**L. ELECTRONIC SIGNATURES**

This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same Agreement. The parties shall be entitled to sign and transmit an electronic signature of this Agreement (whether by facsimile, PDF or other mail transmission), which signature shall be binding on the party whose name is contained therein. Each party providing an electronic signature agrees to promptly execute and deliver to the other party an original signed Agreement upon request.



The term "Broadcom" refers to Broadcom Inc. and/or its subsidiaries.

CA, Inc  
1320 Ridder Park Drive San Jose, CA 95131

## ATTACHMENT A – FLOW DOWN PROVISIONS

### Blue Hill Data for San Bernardino County – REQUIRED FLOW DOWN TERMS & CONDITIONS

Customer/Partner (whichever is applicable to this transaction) must agree and confirm with the terms below

This transaction is governed by the terms in quote # 60881104 and document titled, " Blue Hill Data for San Bernardino County - REQUIRED FLOW DOWN TERMS & CONDITIONS".

#### **Mainframe Consumption License**

The parties understand and agree that Customer's total Baseline for the Term for the Mainframe Consumption License ("MCL Term") shall be **681,792** and that the Annualized Baseline is **227,264** (**227,264** per year). The parties further understand and agree that all Mainframe CA Software licensed hereunder shall be on a subscription basis.

Subject to the Customer's compliance with the Governing Contract, CA hereby grants Customer a personal, non-transferable right to use the CA Mainframe Software, set forth on Exhibit A, at any Z/OS MSU consumption rate it desires during the MCL Term ("Mainframe Consumption License" or "MCL") for the provisioning of managed services to Customer's Client. If during the MCL Term, Customer acquires any entity or group of entities ("Acquired Company"), and if such entity or group of entities desires to make use of the MCL, the parties agree that prior to any such use to negotiate in good faith the cost associated for such additional use and to amend this Agreement memorializing such agreement prior to making use by any Acquired Company.

Customer shall submit the Consumption Report (as defined below) to CA by the tenth (10) day of each month. In the event Customer fails to submit such report by the twentieth (20) of the month, Total z/OS MSUs consumed for the missing month(s) will be counted at 100% utilization of all missing machines.

At the end of each 12 month period hereunder, CA shall determine the Total MSUs consumed from the Consumption Reports and if greater than the Annualized Baseline ("Overage MSUs") CA shall bill Customer at the Overage Fee noted below, but, if less than the Annualized Baseline ("Rollover MSUs") the Rollover MSUs shall be available to Customer during the next 12 month period to offset any Overage MSUs during such 12 month period, provided, however, that in no event will any Rollover MSUs extend into the next 12 month period (e.g., Rollover MSUs from year 1 must be utilized in year 2 and cannot be used in any other year).

Rollover MSUs shall not survive termination and may only be used in accordance with this license and cannot be applied to any other use nor refunded.

**Fees - Overage Fee**

<b>\$1.63</b>	<b>Per Overage MSU</b>
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Overage Fees shall be due and payable by Customer/Partner (whichever is applicable to this transaction) within thirty (30) days of receipt of an invoice.

## Definitions

“MSU” shall mean millions of CPU service units per hour, which is the measure of capacity used to describe the computing power of the hardware processors on which IBM’s Z/OS operating system, as well as the CA Mainframe Software and other mainframe software, runs. The Total Z/OS MSUs Consumed (defined below) shall be determined by the IBM Sub-Capacity Report (SCRT) which is created using IBM’s SCRT product report for ISV programs.

“Total Z/OS MSUs Consumed” shall mean the total hourly MSU utilization for LPARs specified in Exhibit B running the Z/OS operating system at the Customer Site, in the aggregate, running the Z/OS operating system in any given monthly period as specified in section N7 of the IBM SCRT product report for ISV programs. Application Development & Test LPARS will be excluded by CA for the purposes of calculating the Total Z/OS MSUs Consumed provided customer identifies and provides to CA such Application Development and Test LPARS by name on this Order Form and updates CA with modifications in writing prior to the effective month of the change. “Application Development and Test LPARS” shall mean any Logical Partition (LPAR) on a designated Customer CPU identified on this Order Form exclusively used for z/OS-based development and test activities & workloads. No production workload is co-located within the Application Development & Test LPARS.

## Reporting

Notwithstanding other reporting requirements set forth herein, the following shall apply to the Mainframe Consumption License: Within ten (10) days after the end of each calendar month, Customer shall provide to CA via upload to [scrt.broadcom.com](http://scrt.broadcom.com) a copy of the IBM SCRT product report for ISV programs reporting the Total Z/OS MSUs Consumed (“Consumption Report”) for the LPARS on Exhibit B. The parties agree that in order to verify the accuracy of Customer’s reports, Customer will provide any further information as CA may reasonably require within a reasonable timeframe.

For an IBM SCRT product report for ISV programs to be considered valid for a given month, a minimum of 95% of the hours reported must be included in the report and justification provided, where required in Section H4, for low data collection.

Notwithstanding the foregoing, in the event of either a tight CPU loop or other serious and abnormal problem that causes the Total Z/OS MSU Consumed to be erroneously high as reported in the SCRT for an extended period (and that which is not the result of an additional workload processing requirement), the excess MSU value for that period shall be excluded from calculation of the Total Utilized Z/OS MSU Consumed. Reasonable documentation of such events shall be provided to CA to justify such exclusion and the situation agreed with CA prior to submission of the SCRT report.

In the event that IBM changes the basis used by the IBM SCRT product report for ISV programs to calculate and/or report computing capacity hereunder, CA and Customer agree to negotiate in good faith an appropriate amendment relating specifically to the method by which computing capacity is determined and reported. In doing so, the parties agree to consider a revised calculation that will result in the maximum aggregate capacity limitations equivalent to those set forth herein. However, any new terms will in no way affect any other terms of this agreement, including but not limited to, Customer’s payment obligations and the products licensed hereunder.

## Annual Price Increase

During the MCL Term, CA may increase the fees hereunder for the Mainframe CA Software up to seven percent (7%) annually by providing Customer with advance notice including through pricing notices posted at CA support site no less than ninety (90) days prior to such changes taking place but in no event will CA purport to effect a price change while in any particular calendar year (i.e., price changes will only be effective on January 1 of the year following that in which notice was provided).

## Mainframe Reporting

For all CA mainframe software, Customer shall provide to CA via upload to scrt.broadcom.com within ten (10) days after the end of each month the IBM SCRT product report for ISV programs for Customer's z/OS mainframe environment. For Customers running CA mainframe VSE/VM software, Customer shall provide to CA via upload to scrt.broadcom.com annually on or before each anniversary date a listing of the manufacturer, model, serial number and LPAR names of each CPU located at, or remotely accessing, each Customer Site.

## Payment Plan for ITB No. ISD126-ADM-6090

December 21, 2025 - \$509,526.21

December 21, 2026 - \$588,971.51

December 21, 2027 - \$698,208.77

All amounts are exclusive of taxes which will be payable in addition to the fees listed above.

## Exhibit A – Mainframe CA

### Software On-Premise

Offering Name	Offering Code	License Type	Authorized Use Limitation	Start Date	End Date
DX Infrastructure Management	DXIMGR990	Subscription	1382 Device	Dec 21, 2025	Dec 20, 2028
DX Infrastructure Management	DXIMGR990	Subscription	118 Device	Dec 21, 2025	Dec 20, 2028

Mainframe CA Software	License Type	Operating System	Authorized Use Limitation	Start Date	End Date
ESP Workload Automation Intelligence MSU	Subscription	z/OS	Mainframe Consumption License	Dec 21, 2025	Dec 20, 2028
Performance Suite for Db2 for z/OS	Subscription	z/OS	Mainframe Consumption License	Dec 21, 2025	Dec 20, 2028
WatchTower Platform Suite MSU	Subscription	z/OS	Mainframe Consumption License	Dec 21, 2025	Dec 20, 2028
Mainframe DevOps Suite	Subscription	z/OS	Mainframe Consumption License	Dec 21, 2025	Dec 20, 2028
Output Management Suite for z/OS	Subscription	z/OS	Mainframe Consumption License	Dec 21, 2025	Dec 20, 2028
Flexible Storage Suite MSU	Subscription	z/OS	Mainframe Consumption License	Dec 21, 2025	Dec 20, 2028

**EXHIBIT B – Customer LPARs included and excluded in MCL****MCL Included LPARs**

As of the Effective Date of this Order Form, Customer is running the Mainframe CA Software, as listed in the above table, on the CPU(s) listed below

Make	Model	Serial Number	Included LPAR Name	LPAR Location
Z15 T02	8562-E02	093A18	MVSPROD	670 E. Gilbert St San Bernardino, CA 92415

**MCL Excluded LPARs**

As of the Effective Date of this Order Form, Customer is running the Mainframe CA Software, as listed in the above table, on the CPU(s) listed below

Make	Model	Serial Number	Excluded LPAR Name	Reason for Exclusion	LPAR Location

For clarification purposes, CA shall be notified via a support ticket at [support.broadcom.com](http://support.broadcom.com) in advance of any change to Exhibit B.

## **EXHIBIT C - Managed Services Module**

### **1. INTRODUCTION**

- 1.1. This Module permits the provision of managed services ("Managed Services Module") between the Broadcom entity set forth in the referencing Amendment or Transaction Document ("Broadcom"), and the End User set forth in the referencing Transaction Document ("Managed Services Provider") effective on the date set forth in the referencing Transaction Document specifies terms and conditions which apply to the provisioning of managed services and incorporates by reference the terms and conditions of Broadcom's End User Agreement as published at <https://www.broadcom.com/licensing> ("End User Agreement" including the applicable Software Module or SaaS Module). Any capitalized terms used in this Managed Services Module shall have the meanings given in the End User Agreement unless otherwise provided herein.

### **2. DEFINITIONS**

- 2.1. "MS Client" means the entity receiving Managed Services for its internal business purposes from the Managed Service Provider.
- 2.2. "Managed Service Provider Client Agreement" means the terms and conditions of the agreement between Managed Service Provider and an MS Client pursuant to which the MS Client benefits from the Managed Services, including access to the functionality of the Broadcom Offering.
- 2.3. "Managed Services" means the services provided by the Managed Service Provider to MS Client using the Broadcom Offering in conjunction with Managed Service Provider's services, such as managed services, facilities management or cloud services.
- 2.4. "Transaction Document" "Amendment" means a mutually agreed ordering document such as a Broadcom Order Form, registration form, or purchase order for the specific Broadcom Offering licensed or purchased.

### **3. SCOPE OF APPOINTMENT**

- 3.1. Broadcom appoints and authorizes Managed Service Provider to provide Managed Services to the MS Client using the Broadcom Offerings set forth in the referencing Transaction Document pursuant to the terms of this Managed Services Module. This appointment is non-exclusive and non-transferable, with Broadcom reserving the right to appoint other parties providing Managed Services without restriction as to number or location. Managed Service Provider may market itself in connection with exercising its rights under this Managed Services Module as a "Broadcom Authorized Managed Services Provider," though solely in connection with its provision of Managed Services and only during the Term of the Amendment.

### **4. GRANT OF RIGHTS**

- 4.1. Broadcom authorizes Managed Services Provider, within the Territory and consistent with the Broadcom Offering type and quantities of its order with Broadcom, to operate as a Managed Service Provider, and use the Broadcom Offering in conjunction with the Managed Service Provider's services provided to its MS Clients.
- 4.2. On a limited, non-exclusive, non-transferable basis, the Managed Service Provider, in accordance with the Transaction Document, and the End User Agreement, as modified herein, shall be licensed to (a) permit its employees and independent contractors, while under written obligations of confidentiality and an obligation to observe the intellectual property rights of licensors, ("Authorized Users") install, deploy and access the Broadcom Software to provide Managed Services to MS Client; and (b) make a reasonable number of copies of the Broadcom Software for disaster recovery "cold standby", backup and archival purposes. Use of such copies is limited to testing Managed Service Provider's disaster recovery procedures, not to exceed 3 times per year, for a maximum of 10 consecutive days per occurrence, and in the event of an actual disaster during which Managed Service Provider cannot operate the Broadcom Software.
- 4.3. If the Managed Service Provider procures and uses Software as a Service ("SAAS") for its Managed Services, Broadcom hereby provides Managed Service Provider a non-transferable and non-exclusive right to

Access and use SaaS for the sole purpose of supporting its Managed Services as defined herein in accordance with each Transaction Document, and the End User Agreement (and its SaaS Module), as modified herein. Authorized Users may access and use the SaaS solely for the benefit of Managed Service Provider's provision of a Managed Service in accordance with the provisions of the Agreement.

4.4. Notwithstanding any such appointment, Managed Service Provider will remain responsible for the acts and omissions of its Authorized Users and MS Clients in respect of the Broadcom Offering as if they were the acts and omissions of the Managed Service Provider under this Agreement.

## 5. MARKETING

5.1 Managed Service Provider will bear its own cost for marketing unless otherwise provided in the Agreement. Managed Service Provider shall be responsible for the preparation and response to its MS Client's requests for proposals, technical questions, questionnaires, and related MS Client inquiries. Broadcom may make available to Managed Service Provider supporting resources.

5.2 Managed Service Provider is authorized to use the trademarks, service marks, logos, certifications, designations and insignias of Broadcom, Inc., a Broadcom company, and its affiliates ("Marks") and marketing materials provided by Broadcom in relation to the Broadcom Offerings during the Term of the Agreement, in accordance with the then-current Broadcom marketing and trademark usage policies. Managed Services Provider is responsible for requesting, reviewing, and complying with Broadcom marketing and trademark usage policies, which Broadcom shall provide upon written request from Managed Services Provider.

5.3 Broadcom reserves the right to require Managed Service Provider to discontinue use of any advertising or marketing materials relating to Broadcom or the Broadcom Offering that Broadcom reasonably believes are inappropriate and/or may have a detrimental effect on the Broadcom's business. Upon termination of the Agreement, Managed Service Provider agrees to cease all display, advertising and use of any and all Marks and trade names. Managed Service Provider recognizes the ownership and title of Broadcom and its licensors (as appropriate) to the trade names and Marks and the goodwill attaching to the trade names and Marks. Managed Service Provider agrees that any goodwill that accrues because of its use of the trade names and/or Marks belongs to Broadcom or its licensor (as appropriate). Managed Service Provider agrees that if it contests the Marks or trade names, or makes application for registration of any Marks or trade names without Broadcom's prior written consent, Broadcom shall be entitled to terminate the Agreement immediately upon written notice to Managed Service Provider. Managed Service Provider agrees not to use, employ or attempt to register any Marks or trade names that are confusingly similar to the Marks or trade names.

5.4 Managed Service Provider shall not attach, remove or disfigure any Marks on the Broadcom Offerings and shall not attach any additional Marks or other marks to the Broadcom Offerings except as otherwise agreed in writing by Broadcom in advance. Managed Service Provider shall not attach the Marks to any products other than the respective Broadcom Offering. Managed Service Provider agrees not to alter or remove or obscure any copyright or other proprietary notices on or in the Broadcom Offering or related documentation or materials including Managed Service Provider translations of such materials. Broadcom may from time to time use other or additional Marks with respect to any Broadcom Offering. The provisions of the Agreement governing Managed Service Provider's use of the Marks shall also apply to such other Marks.

5.5 Managed Service Provider agrees to participate in reference activities. References will be based upon Managed Service Provider's experience with Broadcom Offerings. Broadcom can provide a selection of reference activities to select from (including success stories, logo usage, speaking engagements, name drops, social media posts, peer discussions). Individual reference activities and collateral are at the Managed Service Provider's discretion and will be presented to Managed Service Provider for review and approval prior to publication.

## 6. MANAGED SERVICES PROVIDER REQUIREMENTS

### 6.1 Restrictions

a) The Broadcom Offerings available to Managed Services Provider are only for the provision of Managed Services to MS Clients, and for the Managed Service Provider's internal end use. For the avoidance of doubt, Managed Service Provider's MS Clients may only access and utilize the Broadcom Software identified herein in conjunction with the managed services provided by the Managed Services

Provider.

- b) As set forth within the Transaction Document, End User Agreement or Governing Contract ,(referenced in the Transaction Document), Broadcom reserves its audit rights to validate that licenses are consumed by Managed Service Provider for each MS Client in a manner consistent with the applicable Order and Governing Contract.
- c) In the event COMPUTER TECHNOLOGIES U.S.A., LLC D/B/A BLUE HILL DATA SERVICES desires to use Broadcom Offerings for clients who are not MS Clients, the parties will negotiate in good faith and execute one or more additional Transaction Documents to procure the applicable Broadcom Software for such clients.

## 6.2 Reports

- a) MS Client Reports. For non Mainframe products, Managed Service Provider shall provide to Broadcom within seven (7) days after the end of each fiscal quarter a report substantially in the form below listing the applicable MS Client, Authorized Use Limitation, term start date and term end date. Such report shall be sent to Managed Service Provider's designated Broadcom Partner Account Director.
- b) Mainframe MS Client Reports. For all Broadcom mainframe software, Managed Service Provider shall provide to Broadcom via upload to scrt.broadcom.com within ten (10) days after the end of each month the IBM SCRT product report for ISV programs for each end user across Managed Service Providers z/OS mainframe machines, wherever located and whether owned or leased by Managed Service Provider, including all disaster recovery machines. For Managed Service Providers running Broadcom mainframe VSE products, Managed Service Providers shall provide the ISV SCRT for z/VSE report monthly via upload to scrt.Broadcom.com for each end user. For Managed Service Providers running Broadcom mainframe VM products, Managed Service Provider shall provide a listing of the model, serial number and LPAR names of each CPU located at, or remotely accessing each Managed Service Provider site by end user to Broadcom annually on or before each anniversary date via upload to scrt.broadcom.com. Managed Service Providers shall retain all SMF type 70 and 89 records for twelve (12) months. These reporting and verification obligations remain in effect during the Term and three months thereafter, and upon request up to twelve (12) months thereafter. Failure to comply with the Mainframe SCRT Reporting requirement will be considered a breach of contract and Managed Service Provider will be subject to removal as a Managed Service Provider for Broadcom Mainframe software products.

6.3. Except as expressly authorized by this Managed Services Module, Managed Services Provider may not: (a) copy, reproduce, distribute or disclose the Broadcom Software and/or SaaS and/or Documentation to any third party; (b) access or use any portion of the Broadcom Software and/or SaaS not expressly authorized in the Transaction Document or Documentation for the applicable Broadcom Offering; (c) modify, unbundle, or create derivative works of the Broadcom Offering or Documentation; (d) create public or unsecured Internet "links" to or from the Broadcom Offering; (e) permit access to or distribution of the Broadcom Offering to MS Client or "frame" or "mirror" any of Broadcom's content which forms part of the Broadcom Offering; (f) rent, sell, resell, lease, assign, transfer or sublicense the Broadcom Offering or use the Broadcom Offering to provide any services other than the Managed Services permitted hereunder; (g) reverse assemble, decompile, reverse engineer or otherwise translate the Broadcom Offering.

6.4. If Managed Services Provider uses Broadcom Offering to provide Managed Services to any Public Sector or Government MS Client, Managed Services Provider acknowledges and agrees that Broadcom, as a commercial item vendor of information technology, shall be deemed to be a supplier of Managed Services Provider and not a subcontractor. Furthermore, Managed Services Provider acknowledges and agrees that Broadcom as a commercial item vendor does not, nor is it obligated to, comply with cost accounting standards requirements. Managed Services Provider agrees not to provide any representation or statement regarding the Broadcom Offering - or Broadcom - to any Public Sector or Government MS Client, including, but not limited to, representations or statements regarding compliance with legal requirements, regulatory standards, or terms of any Public Sector or other Government prime contract or subcontract without the prior written consent of Broadcom.

## 7. MS CLIENT SUPPORT REQUIREMENTS

7.1. The Managed Services Provider is responsible for providing all product and logistical support to its MS Clients, (“Support Services”) of the Broadcom Offerings identified within the applicable Order, as further set forth in the “Broadcom Partner Program – Support Partner Overview Guide” residing on the Broadcom Partner Portal located at: <https://partnerportal.broadcom.com/.Managed Services> Provider shall direct support issues to CA or the appropriate CA Partner as directed by CA’s Support Policy when it has determined that the issue relates to the CA Offering. CA shall not have any obligation to provide support to End User.

### 7.2 Managed Services Provider Support Expectations:

Support Level	Description	Owner
Entitlement	<p>Managed Services Provider’s initial response to an MS Client-initiated request for support.</p> <p><b>Includes:</b> Verification and validation of services the MS Client is entitled to receive; logging the call and problem details in support case management database; dispatch of the request for support.</p>	Managed Services Provider
Level 1	<p>Services provided by Managed Services Provider in response to MS Client’s request for support.</p> <p><b>Includes:</b> Gathering and identifying errors in logs; answering installation, configuration, and usage questions; problem isolation and identification; determination if the problem is documented in Broadcom publications; review of knowledge base for known problem resolutions.</p>	Managed Services Provider
Level 2	<p>Services provided by Managed Services Provider to perform an in-depth analysis of the suspected problem.</p> <p><b>Includes:</b> Attempt to re-create the problem and to provide acceptable problem resolution or workaround.</p>	Managed Services Provider
Level 3	<p>Services provided by Broadcom to resolve problems that are determined to be, or highly probable to be, the result of a design or manufacturing defect, or the result of a complex interaction between Broadcom’s product and another product that cannot be resolved by the Managed Services Provider and</p>	<p>Broadcom to Managed Services Provider</p> <p>Managed Services Provider to MS Client</p>

	<p>requires product design knowledge or expertise to isolate and effect a problem resolution.</p> <p>During Level 3 support interactions, the Managed Services Provider is responsible for managing the support relationship and ongoing communication with the MS Client.</p>	
<b>Escalation Management</b>	<p><b>MS Client Situation/Escalation Management</b> is the responsibility of the Managed Services Provider's management.</p> <p>During escalation management interactions, the Managed Services Provider is responsible for managing the support relationship and ongoing communication with the MS Client.</p>	Managed Services Provider

For further clarification, upon determination that a Support issue arises from non-defect related installation, configuration, or usage issues, Managed Services Provider may refer the issue to a professional services partner of its choosing for issue resolution. The foregoing notwithstanding, Managed Services Provider shall remain liable for the provision of Support Services as described above.

Broadcom shall have no obligation to provide Level 3 Support to Managed Services Provider for: (i) altered, damaged or modified Broadcom Offerings; (ii) Broadcom Offerings that are not the then-current release of the Broadcom Offering available from Broadcom; (iii) Broadcom Offering problems caused by Managed Services Provider, its resellers, or the Commercial and Corporate MS Client's negligence, hardware malfunction or other causes beyond the control of Broadcom; (iv) Broadcom Offerings installed on a hardware or operating system environment which is not supported by Broadcom; or (v) pre-release or beta Broadcom Offerings that are not part of an official Broadcom beta program.

Managed Services Provider's accredited Support Services experts shall advance Level 3 support technical issues not resolved by Managed Services Provider's internal support infrastructure. Broadcom will provide support to Managed Services Provider only. Broadcom will not provide any support to MS Clients (unless Broadcom has entered into a maintenance agreement directly with the MS Client).

**7.3** If an MS Client desires to license the Broadcom Offering on expiration of the Managed Services MS Client Agreement, then Managed Services Provider agrees to cooperate with Broadcom or a Broadcom Partner so that a license for such Broadcom Offering may be offered to MS Client either directly or through a Broadcom Partner.