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Amendment #2 to Enterprise License Order (Perpetual)

31808

Web: www.bmc.com

Amendment Date: March 01, 2017 Territory: USA only Customer: City of Long Beach

BMC Software, Inc. 2103 CityWest Boulevard Houston, Texas 77042 Attn: Order Services

- 1. SCOPE. This amendment #2 ("Amendment #2") is made to that certain Enterprise License Order (Perpetual) dated December 19, 2014 ("ELO"), as amended by Amendment to Enterprise License Order (Perpetual dated April 30, 2016 ("Amendment #1") (collectively, the "Order") made to the Software License Agreement (BMC No. 523-6) dated January 07, 1987 ("SLA") and the license agreement provided with the Products ("End User License Agreement") (collectively, the "Agreement"), between BMC and Customer, the terms of which are incorporated into this Amendment #2 and the Order. In the event of conflict or omission between the SLA and the End User License Agreement, the End User License Agreement will prevail. Customer and BMC desire to amend the Order in order to add additional Product capacity as a result of the Statement of Capacity due on November 19, 2016 and add additional Product capacity.
- ATTACHMENT A. Attachment A is modified to reflect the changes pursuant to the Section entitled "Scope" and supersedes and 2. replaces Attachment A of the Order. Revised Attachment A is attached to this Amendment #2 and made a part of the Order. SG,157,00 EF 37-77 FEE. The fee to add additional Product capacity is 55,912.67(USD) (the "Fee"). BMC will invoice and Customer agrees to pay
- 3. such Fee, plus applicable taxes subject to the laws where the Products are installed.
- The fee for enrollment of the additional Product capacity in Support (as further described at 4. SUPPORT. www.bmc.com/support/review-policies) is included in the Fee through the Expiration Date of the Order. Customer may not cancel the Products' enrollment in Support. Any Support adjustments due will be in accordance with Section 2.6 of the Order.
- MISCELLANEOUS. The Product performance warranty applies only to Products licensed by Customer for the first time. The 5. Products are accepted on the date BMC delivers the Product to the Customer either physically or by providing access codes for electronic download, whichever occurs first, however, such acceptance will not affect the Product Performance Warranty provided in the Agreement. The Product may contain hyperlinks to websites controlled by parties other than BMC. BMC is not responsible for and does not endorse the content or accept any responsibility for Customer's use of these websites. Customer should refer to the policies posted by other websites regarding data privacy and other topics before using them. In the event of any inconsistency or conflict between this Amendment #2, the Order and the Agreement, this Amendment #2 will control. Any additional or conflicting terms of Customer's purchase order are rejected by BMC. Capitalized terms are defined in this Amendment #2, its Attachments, the Order or in the Agreement. Neither party may terminate this Amendment #2 for its convenience.
- 6. ENTIRE AGREEMENT AND MODIFICATIONS. The parties acknowledge they have read this Amendment #2 and agree that it, the Agreement and the Order, as modified hereby, are the complete and exclusive statements of the agreement between the parties relating to the subject matter of this Amendment #2 (including without limitation the Products in this Amendment #2). This Amendment #2 may not be modified or rescinded except in writing signed by both parties. Customer authorizes BMC to issue the appropriate invoice upon the execution by both parties of this Amendment #2 and will pay the invoice without the issuance of a purchase order or any other document.

CUSTOMER INFORMATION:		BILL TO INFORM	ATION
Company Name:	City of Long Beach	Company Name:	City of Long Beach
Address:	333 W Ocean Blvd	Address:	333 W Ocean Blvd
	Long Beach CA USA 90802		Long Beach CA USA 90802
Contact:	Eugene Fong	Contact:	Accounts Payable
e-mail address:	Eugene.fong@longbeach.gov	e-mail address:	
Other:			·

ATTACHMENTS INCORPORATED INTO ORDER			
Attachment A – Product Table	Х		

Each party hereto warrants and represents that a duly authorized representative of such party has executed this Order and this Order constitutes the legal, valid and binding obligation of such party. Where a party has executed this Agreement using an electronic or digital signature, such party warrants and represents that the signature is legally binding and satisfies all legal requirements.

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("BMC") BMC Software, Inc. By: a Name: Judy Schafer Title: Sr Manager of Order Services Date: MAR 2 2017

("Customer") City of Long Beach
By:	Bull
Name:	Patrick H. Wast
Title:	City Manager
Date:	3/9/17 0
A	EXECUTED PURSUANT TO SECTION 301 OF ssistant City Manager THE CITY CHARTER.
	APPROVED AS TO FORM
~	3-7,2017
By (ARLES PARKIN City Attorney
	DEPUTY CITY ATTORNEY



ATTACHMENT A PRODUCT TABLE

Product Table:

	LICENSED CAPACITY				CURRORT	
PRODUCT	UNIT OF MEASUREMENT	CLASSIFICATION	BASELINE CAPACITY	(IN USD)	SUPPORT UNIT COST (IN USD) (PER YEAR)	PREVIOUS LICENSED CAPACITY
Control-M Workload Automation (Base)	per task	MSM Other	1	8,848.13	- 1,769.63	1
Control-M Workload Automation Suite (Task)	per task	MSM Other	1900	139.28	27.86	1600
Control-M Workload Automation Suite (MIPS)	per MIPS	MSM Other	150	501.80	100.36	150
Control-M Output Management (MIPS)	per MIPS	MSM Other	150	265.44	53.09	150
Control-M Output Management WebAccess (MIPS)	per named user	MSM Other	225	53.25	10.65	100
Control-M Workload Automation Mainframe Extension Pack (MIPS)	Per MIPS	MSM Other	150	221.20	44.24	150