



## VMware Cloud on AWS

### SaaS Listing

The Broadcom SaaS offering ("**SaaS Offering**") listed below is provided under the following terms and conditions in addition to any terms and conditions referenced on the Broadcom quote, order form, statement of work, or other mutually agreed ordering document (each a "**Transaction Document**") under the applicable end user agreement or governing contract (collectively, the "**Agreement**") entered into by the Customer and the Broadcom entity ("**Broadcom**") through which the Customer obtained a license for the SaaS Offering. These terms shall be effective from the effective date of such Transaction Document. Capitalized terms have the meanings ascribed to them herein, or, otherwise, in the Agreement.

The most current version of the SaaS Listing and published on [legaldocs.broadcom.com](https://legaldocs.broadcom.com) applies to the SaaS Offering. Broadcom may from time to time make modifications to the SaaS Offering and/or any part of the SaaS Listing. Any changes will become effective on the date published or as Broadcom may notify the Customer. Broadcom may also elect to cease providing the SaaS Offering, in which case Broadcom will provide notice pursuant to applicable Broadcom policies. If Broadcom deprecates any material feature or functionality of the SaaS Offering or makes a change that has a material, detrimental impact on the Customer use of the SaaS Offering, Broadcom will notify the Customer prior to the effective date of that change. If the Customer elects to terminate their entitlement to the SaaS Offering because of the material, detrimental change, Customer must notify Broadcom no later than 30 days after our notice date. Customer's notice must state the effective termination date, which must not be more than 90 days after the date of their notice, unless Customer and Broadcom agree to a longer period. Customer will be responsible for all fees incurred prior to the effective termination date or end of availability. Broadcom will refund any prepaid fees prorated as of the effective termination date, as Customer's sole and exclusive remedy for any termination/cessation of the SaaS Offering.

### SaaS Offering Program Name: VMware Cloud on AWS (VMC)

#### 1. SERVICE DESCRIPTION

The SaaS Offering is a managed infrastructure-as-a-service offering that enables Customer to deploy software defined data centers (SDDCs) made up of the following Broadcom software components and capabilities running on bare metal hosts delivered from AWS cloud computing infrastructure ("**AWS Cloud Infrastructure**"):

- VMware vSphere®
- VMware vCenter Server®
- VMware vDefend™ Gateway and Distributed Firewall
- VMware NSX Networking
- VMware vSAN™
- VMware HCX®

Maintenance, patching, and upgrades of the SDDC software components, except for VMware HCX®, is performed by Broadcom. For clarity, the Broadcom software components included in the SDDC of the SaaS Offering do not include the full set of Broadcom software components and capabilities found in VMware Cloud Foundation (VCF) (e.g., does not include entitlement to Aria, VKS, and vCloud Director).

Service Offering requires self-service provisioning and deprovisioning of SDDCs, clusters and hosts, - which are all made available from the VMC Console at [vmc.broadcom.com](https://vmc.broadcom.com).

## AWS Cloud Infrastructure

At the time of provisioning the SaaS Offering, Customer will be required to decide between the following options with respect to the bare metal hosts (and AWS Cloud Infrastructure) that will run the SDDC software components of the SaaS Offering being provisioned:

1. **AWS Data Center Location:** Customer may have an option to choose between a certain number of AWS regions (i.e. the location of AWS Cloud Infrastructure) in which to deploy hosts that will run the SDDC software components of the SaaS Offering being provisioned. The list of available AWS regions, if option is available, are made available at the time of provisioning, and some AWS regions do not support all or some of SaaS Offering features.
2. **EC2 Instance Type:** Customer must choose between one of the following AWS EC2 instance types for the bare metal servers running their host: i3en or i4i.

Notwithstanding anything to the contrary, Customer may not change its selection for the above noted options for EC2 Instance Type, or the above noted options for AWS Data Center Location, for the duration of the Subscription Term of the SaaS Offering.

## License Metrics and Charges

SaaS Offering is provided on yearly subscription terms, and billed on a per host in advance (except for dynamic burst host and third-party charges (AWS and Microsoft) described below). The SaaS Offering subscription start time coincides with 00:00:00 Coordinated Universal Time and the SaaS Offering subscription end time coincides with 00:00:00 Coordinated Universal Time regardless of the AWS Data Center Location selected for a host.

Separate and apart from charges for yearly subscriptions to the SaaS Offering, Customer will be invoiced on a quarterly basis for consumption of:

- 1) the following AWS networking services related to the SDDC and Microsoft products (optional):
  - AWS EC2 Egress Data Transfer (Per GB)
  - AWS EC2 Cross Region Data Transfer (Per GB)
  - AWS EC2 Direct Connect (Per GB)
  - AWS EC2 Elastic IP (Per IP Address, Per Hour)
  - AWS EC2 Transit Connect (Per Hour, Per GB, Per Attachment)
  - Optional: Microsoft Windows Data Center Server (Per Host Per Month)
  - Optional: Windows SQL Server (Per Host Per Month)
- 2) any Dynamic Burst Hosts (Per Host, Per Day) - A Customer Organization is enabled for dynamic burst if they have purchased SaaS Offering subscriptions (minimum 2 hosts of i4i.metal / i3en.metal) and VMware Live Recovery cloud subscriptions. For such orgs, any host usage exceeding purchased VMC subscriptions will be billed per host per day and invoiced quarterly.

Customers will be billed for all charges related to the above while their SDDC is active. It is the Customer's responsibility to delete the SDDC or hosts via the self-service console if they no longer wish to consume the service. Deleting the SDDC and host will stop further billing.

**Customer Responsibility for Capacity Management:** Customers are responsible for managing the storage capacity of their SDDCs. Broadcom requires that at least 20% of storage space (referred to as "slack space") remains unused in the VMware vSAN™ datastore within the service, to support operation of the SDDC. Adequate slack space is required for use of the vSAN datastore. If storage free space reaches (or falls below) twenty percent (20%), it is possible that Customer could lose the ability to utilize the SDDC, and the environment could become inoperable.

If unused space in an SDDC vSAN datastore reaches (or falls below) twenty percent (20%), Broadcom will automatically add hosts to the SDDC to prevent damage to the SDDC. Customer can use the VMware Cloud Sizer tool ([VMware Cloud Sizer](#)) to determine the appropriate number of hosts needed to support anticipated workloads.

If the Customer has changed the Elastic DRS for SaaS Offering (Elastic Distributed Resources Scheduler) (“eDRS”) policy to “Optimize for Best Performance” or “Optimize for Lowest Cost”, or “Custom Policy”, Broadcom will automatically size Customer’s SDDC up or down based on load and according to the eDRS policy Customer has chosen, subject to existing subscriptions. For CPU and memory recommendations, a scale-out action is only initiated if Customer has sufficient subscription coverage for the relevant region and instance type.

If Customer does not change the eDRS settings, the default option is “Scale Up for Storage Only” which means that Broadcom will add hosts to Customer’s SDDC only when storage capacity becomes critical (that is, twenty percent (20%) or less free space) and is initiated regardless of available subscriptions. If Customer does not have sufficient subscriptions to cover the new host(s), Customer must purchase such sufficient subscriptions within 48 hours. If a host is added beyond available subscriptions and subscriptions are not purchased within 48 hours, Customer will lose access to SDDC(s) and workloads. SDDC(s) with hosts not covered by subscription will eventually be irrevocably deleted. When eDRS is set to “Scale Up for Storage Only” Broadcom will not automatically scale down the SDDC. Additional hosts added pursuant to this capacity management process must be purchased using yearly subscriptions.

If a customer organization is enabled for dynamic host burst, all eDRS policies will work without any subscription restrictions and any hosts added above their purchased subscriptions will be billed per host per day.

**Data Retention and Deletion:** Retention and storage policies associated with Customer Content in the SaaS Offering (including any personal data in Customer Content) are solely managed by Customer. Broadcom does not back up Customer Content in the service and therefore will not be able to recover any Customer Content in any unforeseen event. Customer is responsible for implementing tools, products, and operational procedures to support data migration, data protection, backup/archive, and restoration for all Customer Content and all configurations created by Customer in the SDDC, including Virtual Machines and Content Libraries. Any deletion of a host on SaaS Offering results in an automated cryptographic wipe of the hard drive, that is performed via destruction of keys used by the self encrypting drives. This cryptographic erasure ensures that there is no Customer Content on the drives before returning the hosts to the pool of available hardware to be reprovisioned or decommissioned. Service Operations Data is backed up by Broadcom and retained for one (1) year. Usage Data is backed up by VMware and retained for no more than seven (7) years.

**Data Export:** The following data can be exported from the SaaS Offering:

- VMC Data
  - Services
  - Users/Groups (excluding credentials)
- Network Configuration
  - Network groups
  - CGW configuration
  - MGW configuration
  - DFW
  - DHCP Bindings
  - Adv Firewall configuration
  - Public IPs
  - NAT
  - Routes
  - VPN configuration
- Folder Paths
- VM Meta-Data
  - Names
  - Datastores
- VM Data

- VMDK data

The following data cannot be exported from the SaaS offering:

- User credential data/passwords
- Management appliances, including VMware vCenter, VMware NSX, VMware Hybrid Cloud Extension (HCX), and VMware Live Recovery (VLR)
- ESX instances and configuration specific to SaaS Offering

**Credit for Data Transfer Charges when Switching:**

Customers in the EU that intend to fully exit SaaS Offering may request that Broadcom submit to AWS a request for credit against certain AWS pass through charges for data transfers out (DTO) to the internet. To initiate the request, send an email to [vmc-dto-request.pdl@broadcom.com](mailto:vmc-dto-request.pdl@broadcom.com) sixty to ninety days prior to the planned commencement of the data transfer. Include customer name, customer contact, VMC-A Org IDs, and Broadcom ERP/Account ID. Copy your Broadcom account representative. Promptly provide the additional information we will require to confirm eligibility and to support your request. Approval of the request is solely determined by AWS, and is subject to any requirements and limitations imposed by AWS. For reference, AWS has described their process for their direct customers [here](#) and [here](#).

## 2. THIRD PARTY INFORMATION AND TERMS

Any required third-party software license terms are incorporated by this reference and are set forth in online documentation at [techdocs.broadcom.com](http://techdocs.broadcom.com) or [legaldocs.broadcom.com](http://legaldocs.broadcom.com).

**Amazon:** Customer will not be able to access or use the SaaS Offering without having its own AWS customer account (an “**AWS account**”), which Customer must establish directly with AWS. This means that if Customer does not already have an AWS account, Customer must establish one prior to being able to access the SaaS Offering. Prior to provisioning an SDDC, Broadcom allows Customer to connect to its AWS account. This process establishes identity and access management policies in Customer’s AWS account that enable communication between resources provisioned in Customer’s AWS account and in the VMC SDDC.

**Microsoft:** If Customer is running Windows workloads in Customer’s SaaS Offering instance and wishes to leverage the functionality of the Microsoft Windows Server Datacenter offering or the Microsoft SQL Server Enterprise offering (collectively, the “**Microsoft Products**”), Customer may have Broadcom enable the Microsoft Products, under Broadcom’s own licenses for the Microsoft Products, for Customer’s environment. Broadcom is a licensee of the Microsoft Products pursuant to a separate agreement between Microsoft and Broadcom. Customer may be able to provision its existing license(s) in Customer’s environment, if those licenses are eligible for that portability, pursuant to Customer’s own license agreement with Microsoft. If Customer elects to have Broadcom enable the Microsoft Products for Customer’s SaaS Offering instance, Broadcom will charge Customer for this use. Customer’s use of the Microsoft Products is subject to the following conditions, which are in addition to the provisions of the Agreement:

1. The Microsoft Products may only be used with Customer’s instance of the SaaS Offering. Customer is not permitted to provision or to allow anyone else to provision the Microsoft Products in any other environment, including but not limited to Customer’s on-premises environment.
2. The Microsoft Products may not be used in high-risk activities, as described in the General Terms.
3. Customer may not remove, modify, or obscure any copyright, trademark, or other proprietary rights notices that are contained in or on the Microsoft Products.
4. Customer may not reverse engineer, decompile, or disassemble the Microsoft Products, except to the extent that such activity is expressly permitted by applicable law.
5. Microsoft, to the extent permitted by applicable law, disclaims all warranties regarding, and any liability on the part of Microsoft or its suppliers for, any damages, whether direct, indirect, or consequential, arising from Customer’s use of SaaS Offering.
6. The Microsoft Products are the intellectual property of Microsoft. Customer’s rights to use the Microsoft Products are limited to those rights expressly granted in the Agreement and are subject to the conditions in this section (“Microsoft Server Products”).

7. Microsoft is a third party beneficiary of these terms, with the right to enforce these terms and to verify Customer's compliance with these terms. If Customer needs support for the Microsoft Products, Customer must contact Microsoft, or Customer's preferred third-party support provider. Broadcom will not provide support for the Microsoft Products that Customer uses in connection with its service instance.

The separate license agreement between Broadcom and Microsoft regarding the Microsoft Products requires Broadcom and/or Customer's authorized Broadcom channel partner to disclose Customer's name and address to Microsoft, and Customer acknowledges this and consents to this disclosure, (i) if Customer has a demonstration of SaaS Offering, using the Microsoft Products, or (ii) if Customer uses the SaaS Offering on a trial or evaluation basis and the Microsoft Products are used. If Customer elects to have Broadcom provision the Microsoft Products in Customer's SaaS Offering instance, Broadcom is also required to disclose to Microsoft the country in which Customer's instance of the service is provisioned, and Customer acknowledges and consents to this disclosure. This information will be used by Microsoft to verify Broadcom's compliance with the terms of the separate license agreement between Broadcom and Microsoft regarding the Microsoft Products, and Customer's compliance with the terms set forth above in this section ("**Microsoft Server Products**").

**Google:** SaaS Offering utilizes Google Analytics.

**FullStory:** SaaS Offering uses FullStory functionality to collect data directly from any browsers used to access and use the service. FullStory collects data regarding use of the service, including user interaction and behavior, to enable session replay. The data collected and inferred is used by Broadcom to diagnose and improve its products and services, and to address issues. For users who wish to opt out of session recording, FullStory makes the following website available: <https://www.fullstory.com/optout/>.

### 3. Service Level Agreement

The service level agreement in this Section ("**SLA**") is subject to the Agreement. We reserve the right to change the terms of this SLA in accordance with the Agreement.

#### Availability

Broadcom will use commercially reasonable efforts to ensure that, during any given billing month of the Subscription Term, Availability of each component of the SaaS Offering ("service component") meets the "Availability Commitment" specified in the table below.

Non-Stretched Cluster (single availability zone)	
Service Component	Availability Commitment
SDDC Infrastructure (for a cluster in a single availability zone)	99.9%
SDDC Management	99.9%
VMware Site Recovery – Management	99.9%

Stretched Cluster (multiple availability zones)	
Service Component	Availability Commitment
SDDC Infrastructure 4 hosts or less (1-2 per availability zone)	99.9%
SDDC Infrastructure 6 host or more (3+ per availability zone)	99.99%

SDDC Management	99.9%
VMware Site Recovery - Management	99.9%

If the Availability of the service component is less than the associated Availability Commitment, then you may request an SLA Credit. Availability in a given billing month is calculated according to the following formula:

**“Availability”** =  $([\text{total minutes in a billing month} - \text{total minutes Unavailable}] / \text{total minutes in a billing month}) \times 100$

### Unavailability and SLA Events

A service component will be considered **“Unavailable”**, subject to the Service Level Agreement Limitations set forth below, if Broadcom’s monitoring tools determine that one of the following events (each, an **“SLA Event”**) has occurred.

The total minutes that the service component is Unavailable for a particular SLA Event is measured from the time that the SLA Event has occurred, as validated by Broadcom, until the time that the SLA Event is resolved such that the service component is no longer Unavailable.

If two or more SLA Events occur simultaneously, the SLA Event with the longest duration will be used to determine the total minutes Unavailable.

Each of the following will be considered an SLA Event for the SaaS Offering:

#### SDDC Infrastructure:

- a) All of your virtual machines ("VMs") running in a cluster do not have any connectivity for four consecutive minutes.
- b) None of your VMs can access storage for four consecutive minutes.
- c) None of your VMs can be started for four consecutive minutes.

#### SDDC Management:

- a) Your vCenter server is inaccessible for four consecutive minutes.
- b) Your NSX manager is inaccessible for four consecutive minutes.

Availability of the SaaS Offering is dependent on and subject to availability of the AWS infrastructure on which the SaaS Offering is hosted. Availability of the AWS infrastructure is not covered by the service availability metrics set forth in this Service Level Agreement. If the AWS infrastructure is unavailable, and therefore the SaaS Offering is unavailable, your sole recourse pursuant to the Agreement is to us, and not to AWS. In such event, we have recourse to AWS pursuant to our separate agreement with AWS. You may have recourse to AWS pursuant to your separate agreement with AWS, which is required as provided in the Service Description, for any unavailability of the AWS systems.

### Requirements

To be eligible to receive any SLA Credits for an SLA Event, you must meet the following requirements:

- For non-stretched clusters, you must have a minimum configuration for all VM storage policy Numbers of Failures to Tolerate (FTT) = 1 when the cluster has 2 to 5 hosts, and a minimum configuration of FTT = 2 when the cluster has 6 to 16 hosts. This is not dependent on RAID levels.
- For stretched clusters with four hosts or less, spanning across more than one availability zone, you must have a minimum configuration for all VM storage policy Site Disaster Tolerance (PFTT) = Dual Site Mirroring.



- For stretched clusters with six hosts or more, spanning across more than one availability zone, you must have a minimum configuration for all VM storage policy Site Disaster Tolerance (PFTT) = Dual Site Mirroring and Secondary level of failures to tolerate (SFTT) = 1. This is not dependent on RAID levels.
- The storage capacity for the cluster retains slack space of 20% available (as described in the VMware vSAN™ storage guide)
- There must be sufficient capacity on the cluster to support starting a VM.

## SLA Credits

Each “SLA Credit” is an amount equal to a portion of the monthly recurring or metered subscription amount (net of any discounts) for the billing month in which the SLA event occurred.

If an SLA Event occurs for your SDDC Infrastructure, it applies to a cluster within the SDDC. For each SLA Event for a cluster, you are entitled to an SLA Credit proportional to the number of hosts in that cluster. For example, for an SDDC with two clusters, where the first cluster has 4 hosts and the second cluster has 6 hosts, if there is an SLA Event that affects the first cluster, then the SLA Credit would be applied to 40% of the monthly recurring or metered subscription amount (excluding addons, and net of any discounts) for the billing month in which the SLA Event occurred.

If an SLA Event occurs for your SDDC Management, it applies to the entire SDDC. For each SLA Event for the SDDC, you are entitled to an SLA Credit for the entire SDDC. For example, for an SDDC with two clusters where the first cluster has 4 hosts and the second cluster has 6 hosts, if there is an SLA event that applies to the first cluster, then the SLA Credit would be applied to 100% of the monthly recurring or metered subscription amount (net of any discounts) applicable to the SDDC for the billing month in which the SLA Event occurred.

If an SLA Event occurs for VMware Site Recovery management, it applies to all VMs protected using VMware Site Recovery add-on. For each SLA Event for VMware Site Recovery, you are entitled to an SLA Credit for the VMware Site Recovery add-on. For example, for an SDDC with the VMware Site Recovery add-on, if there is an SLA event that applies to the SDDC, then the SLA Credit would be applied to 100% of the monthly recurring or metered subscription amount (excluding add-ons, and net of any discounts) applicable to the VMware Site Recovery add-on for the billing month in which the SLA Event occurred.

### *SDDC Infrastructure*

For a cluster in a single availability zone

Monthly Uptime Percentage	SLA Credit Percentage
Less than 99.9% but equal to or greater than 99.0%	10%
Less than 99.0%	30%

For a stretched cluster across more than one availability zone

Monthly Uptime Percentage	SLA Credit Percentage
Less than 99.9% but equal to or greater than 99.0%	10%
Less than 99.0%	30%

### *SDDC Management*

Monthly Uptime Percentage	SLA Credit Percentage
Less than 99.90% but equal to or greater than 99.0%	5%
Less than 99.0%	15%

## VMware Site Recovery Management

Monthly Uptime Percentage	SLA Credit Percentage
Less than 99.9% but equal to or greater than 99.0%	5%
Less than 99.0%	15%

### Service Level Agreement Limitations

The following will be excluded from any time-based calculations related to the service component being Unavailable: (i) scheduled maintenance where you have been notified at least 24 hours in advance, (ii) recurring or zero-impact maintenance that is generally applicable to all customers, (iii) your misuse of the SaaS Offering or a service component, (iv) force majeure events, denial of service attacks, viruses, or hacking attacks for which there is no commercially reasonable known solution, or any other events that are not within our control or that could not have been avoided with commercially reasonable care, (v) acts or orders of government, (vi) packet loss, network or internet problems beyond Broadcom's border router supporting our public internet connectivity, or (vii) bugs in code or services for which there is no commercially reasonable known fix (even if there is a known workaround).

In addition to the requirements set forth, above, you will not be eligible to receive an SLA Credit if: (i) your account has any delinquent payments for the SaaS Offering, or (ii) the SLA Event was due to your failure to meet your security responsibilities as set forth in the Agreement.

Broadcom's monitoring tools, data, and records will be the sole source of information used to track and validate Availability. Upon request, Broadcom will provide to you, within 45 days after a confirmed SLA Event, a copy of the Availability report that Broadcom makes generally available to customers.

### Service Level Agreement Claims

To request an SLA Credit, you must file a support request within 60 days after the suspected SLA Event. Broadcom will review the request and issue an SLA Credit when Broadcom validates the SLA Event based on Broadcom's data and records.

SLA Credits will be issued to the person or entity that Broadcom invoices for the SaaS Offering, as a separate credit memo that can be applied towards a future invoice for that SaaS Offering instance. If your subscription term for the SaaS Offering expires or is terminated prior to the issuance of a Service Credit, the Service Credit will become void as of the date of the expiration or termination.

The Service Credits specified in this SLA are your sole and exclusive remedies for any SLA Events occurring during your subscription term for the SaaS Offering or for any other claim in connection with this SLA.