

SERVICE SPECIFIC CONDITIONS FOR CLOUD BACKUP AND RECOVERY SERVICES

Service Specific Conditions for Cloud Backup and Recovery Services

These Service Specific Conditions for Cloud Backup and Recovery Services apply in addition to the Wavenet Master Service Agreement (“MSA”) to the Customer’s use of the Cloud Backup and Recovery Services. All definitions from the MSA shall apply to these Service Specific Conditions for Cloud Backup and Recovery Services.

1. DEFINITIONS

In these Service Specific Conditions, the following words shall have the following meanings:

“**Agreed Backup Space**” means the amount of storage space stipulated in the Order that will be available for the storage of Customer Data either locally or on the Wavenet Data Repository;

“**Backup Agent**” means software installed directly onto the Customer Protected Workload(s) to help to protect such Customer Protected Workload(s) from loss or corruption;

“**Backup Server**” means a Customer-supplied workload, usually a virtual machine which has been configured with the Backup Software at the Site Address for the purpose of managing the Cloud Backup and Recovery Services;

“**Backup Software**” means the software installed on the Backup Server and used to collect the Customer Data and direct it to the Local Repository and/or Wavenet Data Repository;

“**Cloud Backup and Recovery Cover Period**” means 00:00 to 23:59 seven (7) days a week;

“**Cloud Backup and Recovery Services**” means the provision of automated, backup services to allow the Customer to backup the Customer Protected Workload(s);

“**Communication Link**” means a secure transmission channel for the connection of the Customer Protected Workload(s) to the Wavenet Data Repository;

“**Customer Data**” means backups of the Customer Protected Workload(s);

“**Customer Protected Workload(s)**” means the Customer server(s) from which Customer Data will be collected for direction to a Local Repository or the Wavenet Data Repository;

“**Customer Recovered Workload(s)**” means server(s) created by Wavenet in the event of a Disaster on Invocation for the Customer from data stored as part of the Cloud Backup and Recovery Services;

“**Wavenet Data Repository**” means Wavenet storage located at a Wavenet location or at a secure third party location that will hold the Customer Data and from which the Customer Recovered Workload(s) will be restored in the event of an Invocation;

“**Immutable**” and “**Immutability**” means stored data that cannot be changed or deleted;

“**Local Repository**” means a storage location at the Customer Premises;

“**Scheduled**” means at the time stipulated by the Customer in the Backup Software;

“**Scheduled Maintenance Period**” means a regular maintenance period published by Wavenet from time to time or one that has been agreed in writing by the parties in advance;

“**Virtual Server**” means the workload being protected or Recovered; and

“**Virtualised Infrastructure**” means the computer hardware and software used for the creation of a Virtual Server.

All other capitalised terms that are not defined in these Service Specific Conditions shall have the meanings stated in the MSA and/or the Service Specific Conditions for Business Continuity and Disaster Recovery Services.

2. CLOUD BACKUP SERVICES

- 2.1. Wavenet will provide a Scheduled automated and remote backup of the Customer Protected

Workload(s) during the Cloud Backup and Recovery Cover Period.

3. WAVENET RESPONSIBILITIES

3.1. Wavenet shall:

- 3.1.1. provide, during the Cloud Backup and Recovery Cover Period, at the Scheduled times an automated, remote backup mechanism to enable the Customer to backup data from the Customer Protected Workload(s);
- 3.1.2. if required, assist with the installation of the Backup Software on the Backup Server at the Site Address in order to facilitate the backup mechanism;
- 3.1.3. if required, assist with the installation of Backup Agents onto the Customer Protected Workload(s);
- 3.1.4. if required, provide a pre-configured Wavenet Data Repository for installation at the Customer Premises, for the purpose of holding backups at the Customer Premises. This Local Repository will contain the amount of disk space stipulated in the Order for holding local backups;
- 3.1.5. provide an off-site Wavenet Data Repository configured with the amount of disk space stipulated in the Order for the backup of the Customer Data;
- 3.1.6. ensure the Wavenet Data Repository and Local Repository supplied by Wavenet are capable of Immutability and unless agreed in writing Wavenet recommends the use of the Immutable feature;
- 3.1.7. backup only those Customer Protected Workload(s) stipulated in the Order as in-scope for the Cloud Backup and Recovery Services;
- 3.1.8. allow the Customer’s Data to be directed at the Scheduled times by means of the Communication Link during the Cloud Backup and Recovery Cover Period from the Customer Protected Workload(s) to the Local Data Repository and then onwards to the Wavenet Data Repository;
- 3.1.9. allow the Customer to recover the Customer’s backed-up data at any time from the Local Data Repository or the Wavenet Data Repository;
- 3.1.10. where the Customer is subscribing to Services that will allow the Customer to Invoke in the event of a Disaster and where a Backup Server is stipulated in the Order:
 - 3.1.10.1. create a Backup Server within the Response Time;
 - 3.1.10.2. create a recovery environment either virtual or physical as stipulated in The Order to include the Backup Server and the Customer Recovered Workload(s) within the Recovery Facility; and
 - 3.1.10.3. allow the Customer to recover the Customer backed-up data from a Customer Recovered Workload(s) using the Backup Server within the Response Time and subject to clause 4.1.4 where the Recovery Facility is not situated at the

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- Service Centre, then during the Response Period;
- 3.1.11. after the end of an Invocation, securely destroy the Customer Data on the Customer Recovered Workload(s), unless agreed otherwise in writing with the Customer (which may incur additional Charges);
 - 3.1.12. securely delete the Customer's backed-up data on the Wavenet Data Repositories at the end of the term of the Agreement for the Cloud Backup and Recovery Service;
 - 3.1.13. keep the Customer Data stored in the Wavenet Data Repository for thirty days after termination or expiry of the relevant Agreement under which Cloud Backup and Recovery Services are rendered or the Agreement (as applicable), thereafter Wavenet will remove the Customer Data from the Local Repository and/or Wavenet Data Repository supplied as part of the Agreement, at Wavenet's sole discretion, unless agreed otherwise in writing with the Customer; and
 - 3.1.14. monitor the infrastructure supporting the Cloud Backup and Recovery Service 24/7/365
- 3.2. Wavenet grants the Customer a non-exclusive licence to use the Backup Software as specified herein in the manner stipulated in these Service Specific Conditions in object code form solely for purposes of the Cloud Backup and Recovery Services during the term of the Agreement for the Cloud Backup and Recovery Services.
 - 3.3. Unless otherwise agreed as part of the Cloud Backup and Recovery Services, and/or as stipulated in the Order as in-scope for the Cloud Backup and Recovery Services, Wavenet will not back-up Customer Data stored in the Wavenet Data Repository. For greater resilience and durability, the Customer Data can be copied across more sites, which will be subject to additional Charges as specified in the Order.

4. CUSTOMER RESPONSIBILITIES

- 4.1. The Customer shall:
 - 4.1.1. where requested by Wavenet, attend a project initiation workshop to ensure Wavenet and the Customer are appraised of the Cloud Backup and Recovery Services rendered under these Service Specific Conditions;
 - 4.1.2. provide and configure hardware platforms with relevant operating systems, software and drivers as required prior to the installation of the Backup Software;
 - 4.1.3. allow Wavenet access to its premises and equipment as necessary to enable Wavenet to install, remove or maintain the Backup Server and/or the Local Data Repository and/or Backup Agents, as necessary to provide the Cloud Backup and Recovery Services. Such access may be required outside Normal Working Hours;
 - 4.1.4. provide and maintain such Communication Link as is necessary to allow Wavenet to render the Cloud Backup and Recovery Services (to be installed subject to arrangement with Wavenet) effectively where Wavenet is not the provider of the necessary Communication Link, and maintain responsibility for any associated Charges;
 - 4.1.5. ensure that the Communication Link specifications and the amount of storage space on all the Wavenet Data Repositories stipulated in the Order are increased and upgraded through a change to this Agreement whenever necessary in order to allow effective rendering of the Cloud Backup and Recovery Services;
 - 4.1.6. (if supplied) take all reasonable care of the Local Data Repository situated at the Customer's premises and not alter, tamper or attempt to repair it. The Customer shall ensure that the Local Data Repository is located in a suitable computer room environment (as approved by Wavenet during installation) and is covered for all risks by appropriate insurance at all times for the full replacement value of the Local Data Repository;
 - 4.1.7. keep any encryption keys created for use of the Cloud Backup and Recovery Service safe and secure and ensure that they are available for data to be successfully restored;
 - 4.1.8. ensure that the Backup Software subscription is updated through an agreed amendment whenever the specifications of the Backup Software is changed;
 - 4.1.9. upon termination of this Agreement, allow Wavenet access to the Customer's premises as required during Normal Working Hours to remove the Local Data Repository (If supplied) from the Customer's premises;
 - 4.1.10. immediately upon the expiry or earlier termination of the relevant Contract, the limited licence granted by subscribing to the Cloud Backup and Recovery Services shall automatically expire and the Customer shall immediately cease any and all associated use of the Backup Software and any associated Backup Agent;
 - 4.1.11. be responsible for the configuration of the Backup Software to ensure all required Customer Protected Workload(s) are included in the Cloud Backup and Recovery Service at the Scheduled times when the backups will be taking place;
 - 4.1.12. be responsible for monitoring all backups and resolving any issues. Issues requiring support from Wavenet can be raised using Wavenet CSM portal;
 - 4.1.13. ensure that Customer Data stored in the Local Data Repository or Wavenet Data Repository is retained for the required length of time and Immutable for the required length of time;
 - 4.1.14. provide an email address for email notification to be sent by Wavenet as specific storage thresholds are reached. This will help

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the Customer take remedial steps before exceeding any stipulated storage limits;

- 4.1.15. where Backup Agents are required, ensure that the Customer has sufficient backups prior to installing any Backup Agent; and
- 4.1.16. register with Wavenet CSM portal to report any issues with the Cloud Backup and Recovery Services.

The Customer understands and acknowledges that they backed-up Customer data will be un-restorable in the event (i) that the Customer loses the encryption key referred to in clause 4.1.7 and (ii) that Immutability is not used and a ransomware or Cyber Attack renders back-ups corrupt or deleted

5. RECOVERY OF DATA

- 5.1. Subject to clause 4.1.5, the Customer's Data may be recovered:
 - 5.1.1. at any stage online from the Local Data Repository or by means of the Communications Link, from the Wavenet Data Repository; and
 - 5.1.2. where the Customer is subscribing to Services that will allow the Customer to Invoke in the event of a Disaster and where a Backup Server is stipulated in the Order, subject to clause 4.1.7 being complied with prior to the Invocation, from the Customer Recovered Workload for access by the Customer through the Backup Server.
- 5.2. The Customer Recovered Workload may be a physical server or a Virtual Server as defined in the Order.

6. CHARGES

- 6.1. Charges for the Cloud Backup and Recovery Services are charged and are payable annually in advance. Where the amount of Customer Data stored exceeds the Agreed Backup Space during the previous month, an additional Charge will be payable monthly in arrears at the prevailing rate.
- 6.2. The Customer shall be liable for payment of Charges or additional Charges payable for the provision of the Cloud Backup and Recovery Services from the Start Date irrespective of any delay to the commencement of the Cloud Backup and Recovery Services caused by any delay or failure of the Customer to provide any necessary information required by Wavenet.
- 6.3. Additional training and initial data collection can be rendered by agreement against payment of agreed additional Charges.
- 6.4. Where Wavenet has agreed to provide the Communications Link the costs associated with the provision and use of the Communications Link are separate and not included in the Cloud Backup and Recovery Services Charges.

7. ASSUMPTIONS

- 7.1. The Charges for the Cloud Backup and Recovery Services assume that the Customer utilised operating

system software and application software are supported by the Backup Software.

- 7.2. Customer Data can be made Immutable provided this feature was contracted for with effect from the Start Date.
- 7.3. Immutability cannot retrospectively be included at any time during Term without restarting new backups to a new location.
- 7.4. Any change by the Customer of the utilised operating system software and application software to software that is not supported by the Backup Software without the prior written consent of Wavenet will in no way whatsoever entitle the Customer to rely on a failure of Wavenet to comply with its obligations under this Agreement, nor will it entitle the Customer to withhold payment of the Charges payable under this Agreement.

8. GENERAL

- 8.1. The Customer shall remain responsible for the security and firewalls of the Customer Protected Workload(s), Communications Links, equipment, software, services and processes unless agreed otherwise in writing with Wavenet.
- 8.2. The Customer will provide suitably qualified personnel with whom Wavenet can liaise during the rendering of the Cloud Backup and Recovery Services.
- 8.3. Customer Data remains the responsibility of the Customer at all times and the Customer agrees that it will not use the data for any fraudulent, improper, or immoral uses or in breach of any law.
- 8.4. The Customer accepts that Wavenet will rely on information and instructions to be provided by the Customer, in order for Wavenet to render the Cloud Backup and Recovery Services. The Customer therefore agrees that:
 - 8.4.1. it will provide Wavenet with accurate and factually correct information;
 - 8.4.2. any additional and/or remedial services necessary as a result of a failure of the Customer to provide accurate and factually correct information will be regarded as additional services for which an additional Charge will be invoiced; and
 - 8.4.3. Wavenet will not be liable for any damages or losses suffered by the Customer because of Wavenet's actions or failures to act, where Wavenet relied on inaccurate and/or incorrect information provided by the Customer.
- 8.5. Wavenet shall have the right to suspend the Cloud Backup and Recovery Services without any liability whatsoever:
 - 8.5.1. forthwith for reasons of emergency, including but not limited to fire, flood, explosion and Wavenet shall use its reasonable endeavours to resume the Cloud Backup and Recovery Services as soon as is practically possible; and
 - 8.5.2. during the Scheduled Maintenance Period
- 8.6. Wavenet shall inform the Customer as soon as is reasonably practicable of a suspension of the Cloud Backup and Recovery Services under clause 8.5