

## SERVICE SPECIFIC CONDITIONS FOR DATA REPLICATION SERVICES

### Service Specific Conditions for Data Replication Services

These Service Specific Conditions for Data Replication Services apply in addition to the Wavenet Master Service Agreement ("MSA") to the Customer's use of the Data Replication Services. All definitions from the MSA shall apply to these Service Specific Conditions for Data Replication Services.

#### 1. DEFINITIONS

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

**"Agreed Repository Space"** means the amount of storage space stipulated in the Order that will be available for the storage of Customer data on the Replication Repository;

**"Communication Link"** means a secure transmission channel for the connection of the Customer Protected Workload to the Replication Repository;

**"Customer Protected Workload"** means servers and/or storage which Wavenet and the Customer have agreed in writing to replicate using the Data Replication Service;

**"Customer Recovered Workload"** means servers or storage which are created by Wavenet for the Customer in the event of an Invocation in accordance with clause 3.1.4;

**"Data Replication Service"** means the automated and continuous replication of the data on the Customer Protected Workload and the restoration of the replicated data in the manner set out in these Service Specific Conditions;

**"Growth Charges"** means the charges that will be payable by the Customer in the event that the Customer exceeds the Agreed Repository Space;

**"Initial Copy"** means a copy of the contents of the Customer Protected Workload;

**"Recovered Data"** means a copy of the replicated data as it appears at the Recovery Point Objective;

**"Recovery Point Objective"** means the point in time when the last data transaction has been successfully received by the Replication Repository;

**"Relocatable Recovery Services"** means (where applicable) the Services set out in the Service Specific Conditions Relocatable and Mobile Recovery Services to this Agreement which specifically provides for the availability of the Customer Recovered Workload as part of the Recovery Facility stipulated in the Order to be made available in accordance with the Service Specific Conditions Relocatable and Mobile Recovery Services;

**"Replication Software"** means (where required) software installed on the Customer Protected Workload or Virtualised Infrastructure of the Customer that will monitor and transmit activity committed by the Customer Protected Workload from the point when the Initial Copy was taken to the Replication Target;

**"Replication Repository"** means the Wavenet repository that will act as the final collection point of the Customer data and from which the Customer Recovered Workload will be created in the event of an Invocation;

**"Replication Target"** means the Wavenet provided Workload at the Service Centre which acts as a collection target for the Customer Protected Workload and directs replicated data to the Replication Repository;

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

**"Supported Operating System"** means a server or storage-based operating system on the Customer Protected

Workload approved by Wavenet in writing, as being an operating system supported by the Replication Software and suitable for replication through the Data Replication Service;

**"Virtualised Infrastructure"** means computer hardware used for the creation of a Virtual Workload;

**"Volume Consistency"** means consistency of the point in time of the Recovery Point Objective of the Customer Protected Workloads by the Wavenet Replication Service; and

**"Workload"** means any system, server or virtual machine.

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. DATA REPLICATION SERVICES

2.1. Wavenet shall, subject to clauses 2.2 and 4.1.15, provide the Data Replication Service

2.2. Any failure by the Customer to provide the information necessary to agree the Customer Protected Workload prior to the Start Date will in no way postpone the Start Date or suspend or prejudice Wavenet's rights under this Agreement.

#### 3. WAVENET RESPONSIBILITIES

3.1. Wavenet:

3.1.1. may, in order to facilitate the replication mechanism, require installation of the Replication Software. The Customer agrees that where such installation is carried out by a party other than Wavenet, Wavenet's prior written approval shall be required and such approval may be subject to conditions, including but not limited to a requirement for Wavenet to approve the installation once it has taken place;

3.1.2. shall take an Initial Copy and place it on the Replication Repository;

3.1.3. shall allow the Customer's data to be directed from the Customer Protected Workload by means of the Communication Link to the Replication Target and then onwards to the Replication Repository;

3.1.4. shall, subject to clause 4.1.20, provide the Customer within the Response Time with access to the Customer Recovered Workload containing the Recovered Data as it appeared at the Recovery Point Objective and keep it available for the duration of the Response Period;

3.1.5. shall keep the Customer's replicated data on the Replication Repository until the end of the Term of this Data Replication Service; whereafter Wavenet will destroy the Customer data on the Replication Repository;

3.1.6. shall, after the end of an Invocation, destroy the Recovered Data on the Customer Recovered Workload, unless agreed otherwise in writing with the Customer (which may incur additional charges); and

3.1.7. shall, where reasonably practicable, inform the Customer of a planned upgrade to its systems which will require the Customer to check that its Customer Protected Workload and/or Customer

## SERVICE SPECIFIC CONDITIONS FOR DATA REPLICATION SERVICES

Recovered Workload remains compatible after such upgrade

- 3.2. Wavenet will not be liable for any loss or damage caused by the reboot of the Customer Protected Workload as set out at clause 7.2.
- 3.3. Where required Wavenet grants the Customer a non-exclusive licence to use the Replication Software as specified herein in the manner stipulated in these Service Specific Conditions in object code form solely for purposes of the Data Replication Service during the Term of the Data Replication Service.
- 3.4. Wavenet's liability for the replicated data is limited to the recovery of the replicated data to the last Recovery Point Objective.
- 3.5. No liability or responsibility can be accepted by Wavenet for the integrity of the replicated data and it is the sole responsibility of the Customer to ensure that the replicated data is accessible and free from error or defect prior to such data being replicated to the Replication Repository.

### 4. CUSTOMER RESPONSIBILITIES

- 4.1. The Customer shall:
  - 4.1.1. as a precondition to the Data Replication Service, subscribe to Wavenet's Relocatable Recovery Services in order to allow Wavenet to create the Customer Recovered Workload for the purposes of the Data Replication Service which will be made available at the Recovery Facility;
  - 4.1.2. provide and configure the Supported Operating System, software and drivers prior to the installation of the Replication Software;
  - 4.1.3. allow Wavenet access to the Customer Premises and equipment as necessary to enable Wavenet to install, remove or maintain the Replication Software and to take the Initial Copy as necessary. Such access may be required outside of Normal Working Hours (which may incur extra charges);
  - 4.1.4. ensure that sufficient space is available on the Customer Protected Workload to accommodate, where required, the Replication Software and its normal operation;
  - 4.1.5. ensure that it has made sufficient backup copies of all data on the Customer Protected Workload prior to the installation (where required) of the Replication Software and prior to any reboot of

the Customer Protected Workload as stipulated in clause 7.2;

- 4.1.6. only use the Replication Software in the manner specified by Wavenet from time to time;
- 4.1.7. not have any right to receive the source code and/or design documentation relating to the Replication Software;
- 4.1.8. not make any copies of the Replication Software except as reasonably required for backup purposes;
- 4.1.9. not, nor shall the Customer allow any third party to:
  - 4.1.9.1. assign, transfer or sub-licence the licence granted under this Agreement
  - 4.1.9.2. to use the Replication Software without Wavenet's prior written approval and any attempt to do so shall be void;
  - 4.1.9.3. decompile, disassemble, decrypt, extract, or otherwise reverse engineer or attempt to reconstruct, or discover any source code or underlying ideas, algorithms, or file formats of, or used in, the Replication Software by any means whatsoever;
  - 4.1.9.4. remove or conceal any product identification, copyright or other notices contained in or on the Replication Software or accompanying documents; and/or
  - 4.1.9.5. modify the Replication Software, incorporate it into or with other software, or create a derivative work of any part of the Replication Software;
- 4.1.10. permit Wavenet and/or its licensors to audit the Customer's usage of the Replication Software through automated electronic means or by using records from the Customer Protected Workload, during Normal Working Hours upon reasonable notice;
- 4.1.11. upon termination or expiry of the Data Replication Service immediately cease all use of the Replication Software, de-install it, and return or destroy (at Wavenet's sole discretion) all copies of the Replication Software, all portions thereof and the accompanying documentation and so certify to Wavenet that it has done so;
- 4.1.12. take all reasonable care of the Replication Software installed on the Customer Protected Workload and not alter, tamper or attempt to repair the Replication Software;
- 4.1.13. respond in a timely manner to requests made by Wavenet in relation to the Data Replication Service;
- 4.1.14. inform Wavenet of any upgrades to the Customer Protected Workload or any other

## SERVICE SPECIFIC CONDITIONS FOR DATA REPLICATION SERVICES

changes that may affect Wavenet's ability to deliver the Data Replication Service;

- 4.1.15. not change the Supported Operating System to another which is not supported by the Data Replication Service;
  - 4.1.16. inform Wavenet of any proposed changes, additions or removals of storage of the Customer Protected Workload;
  - 4.1.17. ensure backup procedures are maintained on the Customer Protected Workload;
  - 4.1.18. ensure that all storage on the Customer Protected Workload necessary to enable the replicated data to function as intended by the Customer is included in the storage selected by the Customer for inclusion in the Customer Recovered Workload;
  - 4.1.19. where requested by Wavenet, attend a project definition workshop in order to ensure that Wavenet and the Customer are appraised of the circumstances of the Data Replication Services rendered in terms of this Agreement;
  - 4.1.20. provide and maintain such Communication Link as is necessary to allow for the rendering of the Data Replication Service by Wavenet (to be installed subject to arrangement with Wavenet) where Wavenet is not the provider of the necessary Communication Link, and maintain responsibility for any associated charges; and
  - 4.1.21. upgrade its Customer Protected Workload as required to ensure compatibility with the Replication Software.
- 4.2. The Customer agrees that:
- 4.2.1. the Recovery Point Objective is subject to the last successful data transaction received by the Replication Repository, the rate of data change, the bandwidth availability of the Customer LAN and the Communications Link at the time of the Disaster;
  - 4.2.2. the Recovery Point Objective is an objective only and Wavenet does not guarantee the Recovery Point Objective;
  - 4.2.3. Wavenet will not be liable for any loss or damage whatsoever should the Recovery Point Objective not be achieved for reasons other than through failure of Wavenet to comply with its obligations under this Agreement;
  - 4.2.4. Customer service recovery in the event of an Invocation is dependent on the critical Workload and application files as stipulated in clause 4.1.18;
  - 4.2.5. the Customer remains solely responsible for the server and storage selections; and
  - 4.2.6. Volume Consistency is not guaranteed. Wavenet does not warrant, nor is it a condition or an obligation for the point in time of the Recovery Point Objective of the Customer Protected Workload to be identical.

### 5. INVOCATION

- 5.1. Wavenet shall, on Invocation, and subject to clauses 2 and 5 of the Service Specific Conditions for Business Continuity and Disaster Recovery Services within the Response Time:
  - 5.1.1. where the Site Address for the Relocatable Recovery Services is the Service Centre provide

the Customer with access to the Customer Recovered Workload on physical or Virtualised Infrastructure containing the Recovered Data at the Service Centre by means of a Communications Link; and

- 5.1.2. where the Site Address for the Relocatable Recovery Services is an address other than the Service Centre, commence with shipment of the Customer Recovered Workload to the Site Address.

### 6. CHARGES

- 6.1. Charges for the Data Replication Service are payable annually in advance but for Growth Charges which are calculated on the amount of Customer data replicated in excess of the Agreed Repository Space during the previous month which will be payable monthly in arrears at the prevailing rate
- 6.2. Wavenet may agree to provide additional training and/or initial data collection subject to additional charges
- 6.3. Where Wavenet has agreed to provide the Communications Link the costs associated with the provision and use of the Communications Link are additional and not included in the Data Replication Charges.

### 7. ASSUMPTIONS & REPOSITORY SPACE LIMITATION

- 7.1. The Charges for the Data Replication Service are based on the assumption that the Customer utilised operating software and application software are supported by the Replication Software.
- 7.2. The Customer acknowledges and agrees that:
  - 7.2.1. in order for the Data Replication Services to be rendered it may be necessary for the Customer Protected Workload to reboot (switch off and on again) immediately after the Replication Software has been installed (where required);
  - 7.2.2. Wavenet may suspend the Data Replication Service without liability to the Customer once the available Agreed Repository Space has been exceeded by ten percent; and
  - 7.2.3. in order to facilitate the replication of data the Customer will ensure that an increase in the Agreed Repository Space or a removal of the Customer Protected Workload is agreed with Wavenet no later than the point in time when seventy percent of the Agreed Repository Space has been used.

### 8. GENERAL

- 8.1. The Customer shall remain responsible for the security and firewalls of the Customer Protected Workload, Communications Link, 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 Data Replication 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, immoral uses or in breach of any law.
- 8.4. The Customer acknowledges and agrees that Wavenet will rely on information and instructions

## **SERVICE SPECIFIC CONDITIONS FOR DATA REPLICATION SERVICES**

provided by the Customer, in order for Wavenet to render the Data Replication 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 an additional service for which an additional Charge will be invoiced; and
  - 8.4.3. Wavenet will not be liable for any damage or loss suffered by the Customer as a result of Wavenet's actions or failures to act, where Wavenet has relied on inaccurate and/or incorrect information provided by the Customer.
- 8.5. Wavenet may suspend the Data Replication Service without liability:
- 8.5.1. forthwith for reasons of emergency, including but not limited to fire, flood and/or explosion and Wavenet shall use its reasonable endeavours to resume the Data Replication Services as soon as is practically possible; and/or
  - 8.5.2. during the Scheduled Maintenance Period.
- 8.6. Wavenet shall inform the Customer as soon as is practically possible of a suspension of the Data Replication Service under clause 8.5.