

SERVICE SPECIFIC CONDITIONS FOR ET WORKS SERVICES

These Service Specific Conditions for ET Works Services contain additional terms and conditions that will apply in addition to the Wavenet Master Service Agreement (“MSA”) to all agreements for the rendering of ET Works Services.

1 DEFINITIONS

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

“**Annual Subscription**” means the subscription charges for the ET Works Services;

“**ET Works Services**” means the services to be supplied to the Customer by the Subcontractor in relation to these Service Specific Conditions, as specified in the Order;

“**Customer Backup Data**” means the Customer data that will be collected for protection using the ET Works Services;

“**Documentation**” means the then current user guides, if any, that are provided by the Subcontractor to the Customer which describe the ET Works Services;

“**Products**” means any products supplied in relation to the ET Works Services;

“**Statement Of Works**” means the statement of the works to be carried out by the Subcontractor to deliver the ET Works Services; and

“**Subcontractor**” means ET Works Ltd (company registration number 03746274).

All other capitalised terms that are not defined in paragraph 1 shall have the meanings stated in the MSA.

2 SERVICES

- 2.1 Wavenet will procure the Subcontractor to provide the ET Works Services to the Customer.
- 2.2 Details of the ET Works Services procured will be specified in the Statement Of Works issued to the Customer on or around the commencement of the ET Works Services.
- 2.3 The Customer shall pay the Annual Subscription to Wavenet, which shall form part of the Charges specified in the Order and shall be payable in accordance with the MSA.
- 2.4 The Customer acknowledges that for the effective provision and use of the ET Works Services, it must ensure that: (i) the Subcontractor is allowed such access to the Customer Premises as is required to deliver the ET Works Services and; (ii) Wavenet is made aware of any changes to the Customer Equipment in a timely manner.
- 2.5 The Customer agrees and acknowledges that it will accept and comply with any terms of supply of the ET Works Services issued to it from time to time by the Subcontractor or Wavenet.

3 TESTING

- 3.1 Testing shall only be provided in respect of the ET Works Services twice per year as agreed between the Subcontractor and the Customer. Additional testing may be agreed by the Subcontractor and the Customer and shall be subject to additional charges to be determined by the Subcontractor.

4 WAVENET WARRANTIES AND OBLIGATIONS

- 4.1 Wavenet does not warrant that the functions of the ET Works Services will meet any particular requirements or that their operation will be entirely error-free or that all program defects are capable of correction or improvement.
- 4.2 Unless expressly set out in this Agreement, all warranties in the ET Works Services including any implied warranties of merchantability, satisfactory quality or fitness for purpose or ability to achieve a particular result are hereby excluded.

- 4.3 In the absence of fraud, no oral or written information or advice given by the Subcontractor or its agents or licensees shall create a warranty or give rise to any other liability other than set out in this Agreement.

- 4.4 Wavenet warrants that the ET Works Services shall:
 - 4.4.1 be performed using reasonable skill and care;
 - 4.4.2 be performed by appropriately qualified, trained and experienced personnel; and
 - 4.4.3 in the case of any Documentation provided to the Customer, be accurate, complete and free from material errors and omissions.

5 CUSTOMER OBLIGATIONS

- 5.1 The Customer shall not:
 - 5.1.1 translate, adapt, vary, modify, disassemble, decompile or reverse engineer the Products or create derivative works of the same for any purpose; or
 - 5.1.2 sell, license, lease, rent, loan, lend, transmit, network, or otherwise distribute or transfer the ET Works Services, Products and/or Documentation in any manner to third parties.
- 5.2 The Customer shall throughout the existence of the Agreement ensure:
 - 5.2.1 the Customer computer hardware used for the ET Works Services are managed in a proper manner; and
 - 5.2.2 that all persons with administrative authority over the ET Works Services are competent trained employees.
- 5.3 The Customer undertakes throughout the existence of the Agreement:
 - 5.3.1 not to cause or permit anything which may damage or endanger the Subcontractor's Intellectual Property Rights or the Subcontractor's title to them or assist or allow others to do so; and
 - 5.3.2 to notify Wavenet of any actual, threatened or suspected infringement of the Subcontractor's Intellectual Property Rights; and
 - 5.3.3 to notify Wavenet of any claim by any third party that the ET Works Services infringe any Intellectual Property Rights of any third party.
- 5.4 The Customer shall indemnify Wavenet and keep Wavenet indemnified against all losses, damages, reasonable costs or reasonable expenses and other liabilities (including reasonable legal fees) incurred by, awarded against or agreed to be paid by Wavenet arising from any claim made against Wavenet for actual or alleged infringement of a third party's Intellectual Property Rights arising out of use by the Customer of the Subcontractor's Intellectual Property Rights.

6 EXCLUSIONS FROM THE SERVICES

- 6.1 Wavenet shall be under no obligation to provide support and maintenance in respect of:
 - 6.1.1 problems resulting from any modifications or customisation of the ET Works Services or Products not made by or authorised in writing by the Subcontractor;
 - 6.1.2 any software other than the Products purchased;
 - 6.1.3 incorrect or unauthorised use of ET Works Services or operator error where these are defined as use or operation not in accordance with the Documentation;
 - 6.1.4 any fault in any computer hardware that is not supplied by the Subcontractor;
 - 6.1.5 any programs used in conjunction with the ET Works Services or Products;

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- 6.1.6 use of the elements of the ET Works Services or Products in any combination other than those specified in the Documentation;
- 6.1.7 use of the ET Works Services or Products with any other software or products that the Subcontractor has not expressly authorised in writing to be used with the Products; or
- 6.1.8 use of the ET Works Services with computer hardware, operating systems or other supporting software other than those specified in the Documentation.