

## SERVICE SPECIFIC CONDITIONS FOR SHADOW-PLANNER HOSTED SERVICES

### Service Specific Conditions for Shadow-Planner Hosted Services

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

#### 1. DEFINITIONS

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

**"Authorised Users"** means the number of authorised users of the Software stipulated as such in the Order. For the avoidance of doubt the Authorised Users shall not apply to all Modules but will be specified in the Order where applicable;

**"Credits"** or **"Credit Limit"** means the pre-paid maximum number of calls or SMS messages purchased by the Customer for use by its Nominated Contact or users;

**"Documentation"** means all user manuals, instructions, descriptions of functionality of Modules and other documentation provided in electronic format or otherwise, provided by Wavenet to the Customer for use with the Shadow-Planner Services;

**"Hosted"** means the hosting of the Software through the Shadow-Planner Hosted Services;

**"Incident"** means a failure of the Software to substantially conform to the specifications stipulated in the Documentation;

**"Infringement Claim"** means any claim or action that the use by the Customer of the Software (or any part thereof) in accordance with the terms of the Agreement or the provision, possession, development, modification or maintenance by Wavenet of the Software (or any part thereof) infringes the Intellectual Property Rights of a third party;

**"Modules"** means any individual applications available within the Shadow-Planner Software Suite;

**"Nominated Contact"** means a person nominated by the Customer who is responsible for the administration of user access to functionality provided by Shadow-Planner Services on behalf of the Customer in the manner stipulated in these Service Specific Conditions;

**"Provisioned Users"** means the number of Customer users that can simultaneously access the Software without an adverse effect on the performance of the Software, as stipulated in the Order;

**"Public Electronic Communications Network"** means a public communications network as set out in clause 151 of the Communications Act 2003 (UK) and includes an Electronic Communications Network falling within clause 32(1) of the Communications Act 2003 (UK) as amended and replaced from time to time and any similar network;

**"Release(s)"** means:

any material change or amendment to, or upgrade, patch or fix or new version of the Software provided by Wavenet; or any new release, or new version of a current release of the Software which (in either case) from time to time is publicly marketed and offered for purchase by Wavenet in the course of its normal business;

**"Shadow-Planner Hosted Services"** means the Microsoft Azure Tenancy and subscriptions used to deliver the Shadow-

Planner Services and accessed by the Customer as set out in clause 3 of these Service Specific Conditions.

**"Shadow-Planner Mobile App"** means the mobile app provided by Wavenet to the Customer which allows access to user defined playbooks, documents, and contact information for use during an incident via a mobile device, using either iOS or Android operating systems. For the avoidance of doubt, minimum levels of operating systems version are required to use the mobile app;

**"Shadow-Planner Mass Communications Module"** or **"Shadow-Planner Mass Communications Services"** is a service provided by Wavenet that allows the Customer to send text and/or email messages to groups of individuals whose details have been stored in the Shadow-Planner Software Suite;

**"Shadow-Planner Services"** means the services provided by Wavenet in accordance with the terms of these Service Specific Conditions;

**"Shadow-Planner Software Suite"** means the complete software suite, including all the Modules known as Shadow-Planner and to which Wavenet holds all rights, title and interest in source and object code;

**"Software"** means the Modules listed in the Order under Shadow-Planner Hosted Services and any Release of the Modules;

**"Support Line"** means the telephone number to be provided by Wavenet to the Customer on signature of the Agreement;

**"Technical Support"** means help and assistance provided to the Nominated Contact regarding actual or suspected faults, defects or inconsistencies in the Software and any problems concerning the hosting and installation of the Software;

**"Virtual Server"** means one or more self-contained software environments Hosted within the Shadow-Planner Software Suite public cloud service;

**"Website"** means Wavenet's Shadow-Planner Hosted Services login website, the details of which will be provided to the Customer on signature of the Agreement

All other capitalised terms that are not defined in these Service Specific Conditions shall have the meanings stated in the MSA.

#### 2. LICENCE, SERVICES AND TERM

2.1. In consideration of the Charges paid by the Customer to Wavenet, Wavenet hereby agrees to grant to the Customer a non-exclusive, non-transferable licence for the duration of the term of the Agreement on the terms specified in these Service Specific Conditions to use:

- 2.1.1. the Hosted Software on the Website; and
- 2.1.2. the Documentation.

2.2. Wavenet will make the Shadow-Planner Services available to the Customer through the Shadow-Planner Hosted Services.

2.3. For the purposes of clause 2.1, use of the Software shall be subject to the Authorised Users not exceeding the amount specified in the Order and shall be restricted to use of the Software as presented to the Customer by Wavenet for the purpose of processing data for normal business purposes of the Customer.

2.4. The Customer shall not and shall procure that its users shall not use the Website, or the Shadow-Planner Services, to post, publish, distribute or otherwise disseminate any defamatory, infringing,

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obscene, indecent, pornographic or unlawful material or information.

- 2.5. The Customer shall not and shall procure that its users do not modify, disassemble, reverse engineer, translate, decompile, create derivative works or otherwise alter the Website.
- 2.6. The Customer shall procure that its users do not upload, email or otherwise transmit to the Website any data containing software viruses or any other computer source code that may interrupt, destroy or limit the functionality of the Software.
- 2.7. The Customer acknowledges and agrees in relation to the Shadow-Planner Hosted Services that:
  - 2.7.1. simultaneous access to the Website by users in excess of the Provisioned Users may have an adverse effect on the performance of the Software; and
  - 2.7.2. Wavenet will not be liable in any way whatsoever, be it for losses, damages or a reduction in the Charges as a result of the Customer exceeding the Provisioned Users, nor will a reduction in the performance or function of the Software as a result of such excess use be regarded as a breach or default by Wavenet under the terms of the Agreement.
- 2.8. The Customer agrees and acknowledges that data may be transferred, processed and stored in the UK, Europe, United States of America or Canada.
- 2.9. The Customer shall indemnify Wavenet and keep Wavenet indemnified against all losses, damages, charges, costs or expenses and other liabilities (including legal fees) incurred by Wavenet as a result of failure of the Customer to comply with its obligations under these Service Specific Conditions.
- 2.10. The Customer shall have no right to grant sub-licences.
- 2.11. Wavenet may, without liability to the Customer, withdraw functionality and/or withdraw Modules where such functionality and/or Modules are not commercially viable.
- 2.12. Upon termination of the Shadow-Planner Services the Customer shall, where applicable, promptly return to Wavenet all copies of the documentation and related material in its possession and shall procure that its users cease use of the Software.

### 3. SHADOW-PLANNER HOSTED SERVICES

- 3.1. Wavenet shall, subject to payment of all applicable fees due and owing and the conditions and exclusions set forth in the Agreement, provide the Customer with access to the Software through the Public Electronic Communications Network.
- 3.2. Wavenet will make usernames and passwords available to the Nominated Contact for use by the Customer's administrator and Authorised Users to allow them access to the Shadow-Planner Services.
- 3.3. In the event that Wavenet changes the country where the server hosting the Software is located Wavenet will provide the Customer with as much notice as is reasonably practicable in the circumstances.
- 3.4. Subject to and not including any downtime specified in clause 3.5, Wavenet will use reasonable endeavours to provide the Customer with accessible Software and Customer data (or a copy) of not more than twenty-four (24) hours old, ninety-nine percent (99.9%) of the time during any calendar month period, through a URL.
- 3.5. Wavenet will use reasonable endeavours to notify the Customer in advance of any temporary periods where the Hosted Software is potentially unavailable to the Customer due to a security or Software issue.
- 3.6. Wavenet will ensure that nightly back-up copies are made of the Customer's data within the Shadow-Planner Hosted Services. Each copy shall be retained for thirty (30) days from the date on which the copy was made.
- 3.7. On request, Wavenet may restore the remainder of the retained back-up copies to a server provided that the Customer shall pay Wavenet's charges calculated on a time and materials basis at Wavenet's then current prevailing rates.
- 3.8. Wavenet will destroy the back-up copies at the end of the retainment period set out at clause 3.6.
- 3.9. Wavenet will:
  - 3.9.1. use technologies in accordance with good industry practise to seek to ensure that the Hosted Software and the Customer's data is secure. Measures may include use of firewalls and intrusion detection software and/or reviews of access and attempted access logs;
  - 3.9.2. not be liable for any losses or damages incurred as a result of any breach of the security of the hosting environment save where such breach occurs as a result of Wavenet's negligence.
- 3.10. In the event of any actual or potential threat to the security of the Hosted Software or to Customer data stored within the Shadow-Planner Hosted Services, Wavenet reserves the right to take any measures reasonably necessary to address such actual or potential threat, including without limitation, the right to suspend the Services until adequate measures can be taken to ensure its security.
- 3.11. The Customer agrees and acknowledges that access to the Public Electronic Communications Network, the internet, mobile communications networks and/or other communication media has associated risks which include the authentication of data, data security, privacy, availability of service and reliability of transmission. It is agreed and acknowledged by the Customer that Wavenet does not guarantee the accuracy or reliability of any content provided by third parties. Wavenet will not be liable for any losses or damages suffered by the Customer arising directly or indirectly from its use of the Public Electronic Communications Network, the internet, mobile communications networks and/or other communication media.
- 3.12. The Customer acknowledges and agrees that:
  - 3.12.1. Wavenet may provide the Shadow-Planner Services at its sole discretion in such a way where the same technology environment and infrastructure is used for more than one Shadow-Planner Hosted Service customer; and
  - 3.12.2. where a virtual server for the dedicated use of the Customer and on which the Customer data will be stored, is stipulated in The Order as a dedicated server(s) as part of the Shadow-

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Planner Hosted Services, Wavenet will provide the Customer with a Virtual Server.

- 3.13. Wavenet reserves the right to change the hosting environment at its reasonable discretion provided the change does not have a materially detrimental impact on the Shadow-Planner Services.

### 4. SHADOW-PLANNER MASS COMMUNICATIONS MODULE

- 4.1. Where the Shadow-Planner Mass Communications Module has been specified in the Order, the following provisions will apply:

- 4.1.1. neither Wavenet nor its third party network provider modify the content of electronic communications sent or received through Wavenet's third party network provider's systems or the selection of the addresses of the recipients. Wavenet does not accept liability for any content transmitted and full liability for content shall rest on the Customer. The Customer agrees to comply with all relevant legislation and regulations applicable in its jurisdiction and in the jurisdiction of all persons to whom it directs communications when using Wavenet's third party network provider's services. By using Wavenet's third party network provider's services the Customer also agrees to be bound by any relevant rules of use;
- 4.1.2. the Customer shall be responsible for answering and defending any complaints that Wavenet receives from any relevant regulatory body resulting from the Customer's use of any of Wavenet's third party network provider's services. Wavenet will forward any complaints to the Customer as soon as reasonably practicable. The Customer will be liable for any fines or penalties imposed by any regulatory body on the Customer, Wavenet or any of Wavenet's third party network providers, due to the Customer's or its user's contravention of this Agreement; and
- 4.1.3. due to the nature of the Public Electronic Communications Network and the telecommunications network, Wavenet cannot guarantee the security of email or SMS messages sent through Shadow-Planner Hosted Services system nor can it guarantee that all email or SMS messages sent will be delivered.
- 4.1.4. Wavenet will provide 5000 SMS credits (the "**Credits**") for use by the Customer in each contracted year.
- 4.1.5. If the Credits are not used in the relevant contracted year, they cannot be carried over into the next contracted year and shall expire.
- 4.1.6. SMS credits will reset back to 5000 credits at the beginning of each contracted year.
- 4.1.7. In the event that the Customer has utilised its Credits in a contracted year, it may nonetheless continue to utilise the Shadow-Planner Mass Communications Module in order to send SMSs subject to payment of Charges of £0.066p per SMS. Such Charges shall be levied by Wavenet at the end of the relevant contracted year.

### 5. SHADOW-PLANNER MOBILE SERVICES

- 5.1. Where the Shadow-Planner Mobile App has been specified in The Order, the Customer acknowledges and agrees that in addition to the Documentation, the following provisions will apply:
- 5.1.1. the Customer agrees to bring the instructions and the Customer's obligations contained in this Agreement and in the Documentation to the attention of its Nominated Contact(s), The Nominated Contact(s) and each of the Authorised Users will procure their compliance with such instructions and obligations; and
- 5.1.2. if the Software is downloaded from the Apple iTunes Application Store or Google Playstore, then the Customer acknowledges and agrees to the following additional terms: (a) Apple has no liability for the Software and its content; (b) the Customer's use of the Software is limited to a non-transferable license to use the Software on any iPhone™, iPad™ or iPod Touch™ that the Customer owns or controls as allowed by the Application Store Terms of Service; (c) Apple has no obligation whatsoever to furnish any maintenance or support services for the Software; (d) to the extent permitted by applicable law, Apple has no warranty obligation to the Software and the Customer will be responsible for any claims, losses, liabilities, damages, costs, or expenses attributable to any failure to conform to any warranty set forth in this Agreement; (e) Apple is not liable for any claims relating to the Software or the Customer's possession and/or use of the Software, including, but not limited to: (i) product liability claims; (ii) any claim that the Software fails to conform to any applicable legal requirement; and (iii) consumer protection claims; (f) Apple is not liable for any third-party claims that the Software infringes a third party's intellectual property rights; and (g) Apple and its subsidiaries are third party beneficiaries of this Agreement with respect to any Software, and that Apple will have the right to enforce the Agreement against the Customer as a third party beneficiary.

### 6. CHARGES

- 6.1. The Charges payable for the Shadow-Planner Services shall be payable in accordance with the MSA.
- 6.2. The Customer acknowledges and agrees that the Charges payable under this Agreement for Shadow-Planner Hosted Services have been calculated based on the Modules selected and the Provisioned Users stipulated as such in the Order. In the event of the Provisioned Users increasing to more than the amount stated in the Order:
- 6.2.1. the Customer will inform Wavenet as soon as possible prior to such increase and in any event no later than thirty (30) days after such increase as to the exact extent of the increase; and
- 6.2.2. the Charges payable under this Agreement will be increased by Wavenet on a pro rata basis in

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accordance with the increased number of Provisioned Users; and

6.2.3. where the Customer fails to inform Wavenet of an increase in the Provisioned Users within the time period stipulated in clause 6.2.1, Wavenet will be entitled to suspend without liability, deduction or set-off the Shadow-Planner Services and the licence granted under these Service Specific Conditions until such time as the Customer has complied with clause 6.2.1.

6.3 The Customer acknowledges and agrees that where the Shadow-Planner Services includes the Shadow-Planner Mass Communications Module, Charges will include the licence of Shadow-Planner Services and the subscription element of the Shadow-Planner Mass Communications Service.

payment of additional Charges, Wavenet may provide additional training to Customer staff, in respect of new Releases and/or new Shadow-Planner Services. The delivery of such training shall be provided by Wavenet to the Customer subject to a separate training agreement between the parties.

10.2. The provision of additional services will be charged on a time and materials basis, at Wavenet's current rate at the time the training is requested and invoiced in accordance with the terms of the MSA.

### 7. WAVENET'S WARRANTIES

7.1. Wavenet warrants that for the period that Wavenet is rendering Shadow-Planner Services, it either legally and beneficially owns or has a licence to use (including the right to sub-license) all Intellectual Property Rights in the Software and the use of the Software and use and possession of any associated documentation by the Customer will not infringe the Intellectual Property Rights of any third party.

### 8. RELEASES

8.1. The warranties in these Service Specific Conditions will apply to any Release which is provided to the Customer during the Term.

8.2. Wavenet has no obligation to create Releases and nothing in this Agreement shall be construed as creating any such obligation.

8.3. Without in any way limiting or amending the foregoing, Wavenet may from time to time at its sole discretion develop Releases and certain additional functionality or improvements that are in the nature of enhancements, modifications, updates, upgrades, patches or fixes for the Software and apply these to the Hosted Software.

### 9. INTELLECTUAL PROPERTY RIGHTS

9.1. The Agreement shall not confer any right upon the Customer to use Wavenet's trademarks or any confusingly similar names without Wavenet's written consent and at all times such trademarks shall remain the exclusive property of Wavenet or its group companies.

9.2. The Customer acknowledges that all Intellectual Property Rights created or subsisting in the Shadow-Planner Services or any information created by Wavenet pursuant to the Shadow-Planner Services shall be owned by Wavenet, its group companies or its or their licensors unless stated otherwise in the Agreement.

9.3. The Customer grants to Wavenet a licence to utilise the Intellectual Property Rights of the Customer such as is required to deliver the Shadow-Planner Services to the Customer.

### 10. ADDITIONAL SERVICES

10.1. At the written request of the Customer, subject to the availability of resources, acceptance by Wavenet, and