

**SPECIFIC CONDITIONS H5 –BACKUP SERVICES**

These Specific Conditions govern the Backup Services that may be provided by the Company under an Order Form with any other document or terms and conditions referred to in the Order Form including but not limited to the General Conditions for the Supply of Products and/or Services (the Conditions”), which shall be deemed to be incorporated into the Contract for the performance of any Backup Services performed under these Specific Conditions.

**1 DEFINITIONS**

- 1.1 Capitalised terms used in these Specific Conditions have the following meanings for the purposes of these Specific Conditions only;
- “Agreed Backup Space” means the amount of storage space as set out in the Order Form that will be available for the storage of Customer data on the Data Vault;
  - “Backup Service” means the provision of automated, remote backup services to allow the Customer to backup the Customer Protected Data;
  - “Backup Software” means the software installed on one or more Customer servers or installed on the Customer’s On-Site Appliance(s) and used to collect the Customer data and direct it to the Data Vault;
  - “Communication Link” means a secure transmission channel for the connection of the Customer Protected Data to the Data Vault;
  - “Cover Period” means 00:00 to 23:59 7 days a week including such Bank and Public Holidays which are applicable to the country where the Customer Premises are located;
  - “Customer Protected Data” means Customer data which is collected from Customer servers, applications or other Customer subscribed services for onward direction to the Data Vault;
  - “Data Vault” means the Company’s repository that will act as the final collection point of the Customer data;
  - “Growth Charges” means the charges, that will be payable by the Customer in the event the Customer exceeds the Agreed Backup Space;
  - “On-Site Appliance” means any appliances which are supplied by the Company with installed Backup Software and which are installed at the Customer Premise and connected to the Customer’s local area network to act as collection target of the Customer data from the Customer Protected Data and which directs the collected Customer data to the Data Vault;
  - “Scheduled” means at the time stipulated by the Customer;
  - “Scheduled Maintenance Period” means the maintenance period, which is notified to the Customer in advance where reasonably possible;
- 1.2 All other capitalised terms used in these Specific Conditions that are not defined in paragraph 1.1 have the meanings stated in the Conditions.

**2 SERVICE COMMENCEMENT DATE**

- 2.1 The Commencement Date of the Backup Services is the date specified as such in the Order Form or if no date is specified the Effective Date.

**3 MINIMUM TERM AND DURATION**

- 3.1 The Minimum Term for Backup Services is as set out in the Order Form, or if no Minimum Term is specified, twelve (12) calendar months from the Commencement Date.
- 3.2 Subject to earlier termination in accordance with the terms of this Contract, this Contract will continue for the Minimum Term. Upon the expiry of the Minimum Term, this Contract will renew automatically for a further period of twelve months (a “Rollover Period”), unless terminated by the Customer giving not less than 12 (twelve) months’ notice in writing to the Company prior to the end of the Minimum Term.
- 3.3 At the end of a Rollover Period (and each subsequent Rollover Period), this Contract will renew automatically for a further Rollover Period, unless terminated by the Customer giving not less than 12 (twelve) months’ notice in writing to the Company prior to the end of the then current Rollover Period.

**4 BACKUP SERVICES**

- 4.1 The Backup Services provides scheduled automated and remote backup of the Customer’s Protected Data during the Cover Period
- 4.2 The Company:
- 4.2.1 shall provide during the Cover Period at the Scheduled times an automated, remote back up mechanism to enable the Customer to backup the Customer’s Protected Data;
  - 4.2.2 may (in order to facilitate the backup mechanism) install the Backup Software on a Customer server or On-Site Appliance at the Customer Premises;
  - 4.2.3 shall provide on the Data Vault the amount of storage space as set out in the Order Form for the backup of the Customer data;
  - 4.2.4 shall 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 Servers to the DS Client and then onwards to the Data Vault;
  - 4.2.5 shall allow the Customer to recover the Customer’s Protected Data at any stage online from the Data Vault;
  - 4.2.6 shall delete the Customer’s backed-up data on the Data Vault following termination or expiry of this Contract.
- 4.3 The Company grants the Customer a non-exclusive licence to use the Backup Software as specified herein in the manner set out in these Specific Conditions in object code form solely for purposes of the Backup Services during the term of this Contract.
- 4.4 The Company shall have the right to suspend the Backup Services without any liability whatsoever:
- 4.4.1 forthwith for reasons of emergency, including but not limited to fire, flood, explosion and the Company shall use all reasonable endeavours to resume the Services as soon as is practically possible; and
  - 4.4.2 during the Scheduled Maintenance Period.
- 4.5 The Company shall inform the Customer as soon as is practically possible of a suspension of the Backup Services pursuant to clause 4.4.

### 5 CUSTOMER RESPONSIBILITIES

- 5.1 The Customer shall:
- 5.1.1 be fully responsible for the normal operation, management, backups and restores of the Backup Services and shall ensure that adequate backups of the Customer Protected Data are sent to the Data Vault as Scheduled using the Communication Link;
  - 5.1.2 allow the Company, local or remote, access to its premises and equipment as necessary to enable the Company to install, remove or maintain the On-Site Appliance as necessary to provide the Backup Service. Such access may be required outside normal working hours;
  - 5.1.3 provide and maintain such Communication Link as is necessary to allow the Company to render the Backup Service and maintain responsibility for any associated charges;
  - 5.1.4 ensure that the Communication Link specifications and the amount of storage space in the Data Vault as set out in the Order Form are increased and upgraded whenever necessary in order to allow effective rendering of the Backup Services;
  - 5.1.5 inform the Company of any changes to the Customer Protected Data that may affect the provision of the Backup Services, this may include, but is not limited to, server changes, application changes, subscribed services and capacity usage;
  - 5.1.6 take all reasonable care of the On-Site Appliance situated at the Customer's Premises and not alter, tamper or attempt to repair the On-Site Appliance. The Customer shall ensure that the On-Site Appliance is located in a suitable computer room environment (as approved by the Company during installation) and is covered for all risks by appropriate insurance at all times for the full replacement value of the On-Site Appliance.
  - 5.1.7 ensure that any encryption keys created by the Customer for use of the Backup Services are kept safe and secure at all times and ensure that they are available for data to be successfully restored;
  - 5.1.8 upon termination of this Contract, allow the Company access to the Customer's Premises as required during normal working hours to collect the On-Site Appliance from the Customer's Premises; and
  - 5.1.9 be responsible for the configuration on the On-Site Appliance of the data to be included in the Backup Service and the Scheduled times when the backups will be taken place.
  - 5.1.10 THE CUSTOMER UNDERSTANDS AND ACKNOWLEDGES THAT THE BACKED-UP CUSTOMER DATA WILL BE UNRESTORABLE IN THE EVENT OF THE CUSTOMER LOSING THE ENCRYPTION KEY REFERRED TO IN CLAUSE 5.1.7.
  - 5.1.11 The Customer shall remain responsible for the security and integrity of the Customer's servers, Communications Links, equipment, software, services and processes unless agreed otherwise in writing with the Company.
  - 5.1.12 The Customer will provide suitably qualified personnel with whom the Company can liaise during the provision of the Backup Services.
  - 5.1.13 Customer data remains the responsibility of the Customer at all times.
  - 5.1.14 The Customer agrees that the Company will rely on information and instructions to be provided by the Customer, in order for the Company to provide the Backup Services. The Customer therefore agrees as follows:
    - 5.1.14.1 it will provide the Company with accurate and factually correct information;
    - 5.1.14.2 any additional and/or remedial services which are 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 by the Company;
    - 5.1.14.3 the Company will not be liable for any damages or losses suffered by the Customer as a result of the Company's actions or failures to act, where the Company relied on inaccurate and/or incorrect information provided by the Customer.

### 6 EXCLUSIONS

- 6.1 The following are expressly excluded from the scope of the Backup Services and these Specific Conditions:
- 6.1.1 any software licence renewals and/or security certificate renewals, save as expressly provided in these Specific Conditions or otherwise provided in the Order Form;
  - 6.1.2 any security services and therefore the Company will not be liable for any security-related attacks or impact that causes any loss to the Customer;
  - 6.1.3 the encryption of any Customer data unless otherwise expressly agreed in the Order Form;
  - 6.1.4 the provision of any assistance or services in relation to the Customer's migration or transfer to the Backup Services, which may be provided in addition, where expressly stated in the Order Form, subject always to Specific Conditions X2 – Professional Services;
  - 6.1.5 the provision of firewalls and/or local area network services, which may be provided in addition, where expressly stated in the Order Form, subject always to Specific Conditions G1 – Local Area Network Services;
  - 6.1.6 the provision of connectivity services, which may be provided in addition, where expressly stated in the Order Form, subject always to Specific Conditions J1 – Connectivity Services; and
  - 6.1.7 the provision of e-back up management services, which may be provided in addition, where expressly stated in the Order Form, subject always to Specific Conditions H2 – E-Backup Management Services.

### 7 CHARGES AND PAYMENT

- 7.1 The Charges for the Backup Services are as set out in the Order Form.
- 7.2 Unless otherwise provided in the Order Form, the Company will invoice the Charges for the Daisy Cloud Services annually in advance.
- 7.3 The Growth Charges are calculated based on the amount of customer data stored in excess of the Agreed Backup Space during the previous month and are payable monthly in arrears.
- 7.4 Additional training and initial data collection can be provided by the Company subject to additional Charges.
- 7.5 Service charges include backup storage only (Data Archiving Services is not included).
- 7.6 Where the Company has agreed upon termination or expiry of this Contract to export historic Customer Protected Data to a Customer supplied device this will be subject to additional Charges to be agreed in advance.
- 7.7 Where the Company has agreed to provide the Communications Link, there shall be additional Charges associated with the provision and use of the Communications Link.
- 7.8 Where the Company has agreed to provide a managed Backup Service, there shall be additional Charges payable by the Customer.