

This **Managed Backup and Recovery Service Agreement** (“Service Agreement”) sets forth the specific terms and conditions under which LightEdge Solutions, Inc. (“LightEdge”) shall supply certain Services to Customer. The Master Service Agreement entered into between LightEdge and Customer fully incorporates the terms herein and provides that this Service Agreement, and Customer’s execution of the Master Service Agreement constitutes acceptance of the terms and conditions stated herein. Capitalized terms used but not defined herein shall have the meanings set forth in the Master Service Agreement. The Initial Term length for this Service is set forth on the applicable Purchase Agreement, executed by LightEdge and Customer, making reference to this Service.

## 1.0 Terminology

**Agent:** “Agent” refers to the piece of software typically installed on the Customer Server which facilitates the transport of the Image between the Customer Server and the Service.

**Authorized Contact:** “Authorized Contact” is a representative authorized by Customer to request service changes using procedure outlined herein.

**Code Word:** “Code Word” refers to a secure password known only to Authorized Customer point of contacts and representatives of LightEdge.

**Customer:** “Customer” is party LightEdge is entering into Service agreement with.

**Data:** “Data” refers to any Customer specific content residing on or traversing through the platform providing Service such as Email, backup data, configuration files, Customer owned content or files which are held as part of Service to Customer.

**Equipment:** “Equipment” refers to all physical gear used or required to deliver Service.

**Image:** “Image” refers to the Customer Data being protected by Service.

**Off-net:** “Off-net” refers to a customer location which is not directly connected to the LightEdge network with a LightEdge managed circuit.

**On-net:** “On-net” refers to a customer location which is directly connected to the LightEdge network with a LightEdge managed circuit.

**Server:** “Server” refers to the Customer computer or virtual machine receiving “Service”.

**Service:** “Service” refers to the systems, equipment and interfaces used to provide Backups to Users. The use of Service in this document is specific to the service outlined in this document. Use of the term Service in any other LightEdge documentation in no way supersedes the definitions of Service outlined herein.

**Users:** “Users” refers to the any person authorized by Customer to utilize Service.

## 2.0 Service Description

### 2.1 General

LightEdge Managed Backup and Recovery Service is an end-to-end offering for delivery and management of Backup/Restore of Customer Data.

LightEdge will procure the Agent(s) and install/configure such Agent(s) on the targeted Customer platforms or provide the Agent software to the Customer along with appropriate installation instructions. LightEdge will not be responsible for any failure on Customer’s part to properly install Agent(s). LightEdge will not be responsible for any modifications made to the Agent by the Customer. LightEdge will provide updates and maintenance to the Agent at their discretion. Select versions of the following Operating systems are supported:

- UNIX
- Linux
- NetWare/OES
- Windows
- Mac OS X
- Solaris

Description of the Operating systems above in no way represents that Operating system is fully supported on all LightEdge Service variations.

The LightEdge Managed Backup and Recovery Service is designed to provide service to enterprise server operating systems. LightEdge reserves the right to refuse delivery of service to equipment deemed outside the target of the product such as, but not limited to, workstations, laptops, mobile devices, home users and equipment other than computers.

Service stores Image on a platform separate and in no way dependent on Customer Server.

Service retains Customer Image for fourteen (14) days by default.

### 2.2 Levels

Service will be made available to Customer via one or more of the following levels:

**Local Grid:** LightEdge will provide Service to on-net Customer Server(s) co-located in a LightEdge data center. Single Image will be stored on the nearest redundant Service platform. Sole determination for geographic location of Image will rest with LightEdge.

**Remote Grid:** LightEdge will provide Service to on-net Customer Server(s). This includes either Customer Server(s) co-located in a LightEdge data center or Customer Server(s) located at a remote site directly connected to the LightEdge network. Single Image will be stored on nearest redundant Service platform that is at minimum one hundred (100) miles geographically disparate from the data center holding the Customer’s Servers. Sole determination for geographic location of Customer Data will rest with LightEdge.

Customer will be responsible for supplying sufficient network bandwidth between server and LightEdge platform to support product.

**Internet Grid:** LightEdge will provide Service to off-net Customer Server(s). This includes either Customer Server(s) that have no network path connecting them to LightEdge other than via the Internet. Customer will be responsible for supplying suitable environment for Server(s) and providing connectivity from Server(s) to their Ethernet switching stack. Customer will be responsible for ensuring that Server(s) can communicate to LightEdge backup equipment.

Customer will be responsible for supplying sufficient Internet bandwidth between server and LightEdge platform to support product.

Image will be stored on a single redundant grid.

**Replicated Grid:** LightEdge will replicate an existing Image to a geographically diverse backup location. Sole determination for geographic location of replicated Image will rest with LightEdge.

Customer is responsible for procuring Local Grid, Remote Grid or Internet Grid services from LightEdge to form the primary Image. This primary Image will be replicated with the Replicated Grid product. This product is not inclusive of Agents, connectivity or server backup necessary to pull Image onto Service.

Single Replicated Image will be stored on nearest redundant grid that is at minimum one hundred (100) miles geographically disparate from the data center holding the Customer’s primary Image. Sole determination for geographic location of Customer Data will rest with LightEdge.

### 2.3 Availability

For the purpose of this section alone “Availability” shall be defined as ability of LightEdge to fulfill initial order for Service. Once Service has progressed past installation phase and has been delivered to Customer as a working Service this section shall no longer apply.

The availability of Service is dependent on existence of a suitable network transport from LightEdge Service platform to Server(s). Service requires dedicated Ethernet transport. LightEdge reserves the right to limit availability of Service even if suitable network transport exists between LightEdge and Customer Server.

Service can be provisioned and used over the Internet with limitations. Use of Service across any network transport other than that defined above shall absolve LightEdge of any liability should Service be adversely affected.

LightEdge also reserves the right to limit Service availability in the event that necessary service components including, but not limited to, electrical power, cooling capacity, cabling, rack space, switching/routing/network infrastructure, application software, etc. are either unavailable or unattainable at a reasonable cost to LightEdge.

## 2.4 Delivery

LightEdge will deliver service to Customer using one of the following variations.

**Hosted:** If Server is located in a LightEdge data center then Customer will be responsible for supplying dedicated 100/1000 Ethernet port on each Server being backed up. LightEdge will supply either a 100megabit or 1000megabit Ethernet port to Customer dependent on amount of data being backed up. LightEdge will be responsible for ensuring that Customer Server(s) can communicate to Service.

**On-net:** If Server is on-net but not within a LightEdge data center then Customer will be responsible for supplying suitable environment for Server(s) and providing connectivity from Server(s) to nearest LightEdge network point. If Customer network gear is not managed by LightEdge then Customer will be responsible for ensuring that Server(s) can communicate with the LightEdge Service. If Customer network gear is wholly managed by LightEdge then LightEdge will be responsible for ensuring that Server(s) can communicate with the Service.

**Off-net:** If Server is off-net then Customer will be responsible for procuring private network connectivity of a suitable type and speed to support their Service needs. This product is not inclusive of network connectivity or costs associated with such network connectivity.

## 2.5 Features

Description of the features below in no way entitles Customer to any particular feature.

**File Level Backup:** The Service has the ability to backup Image at the file level and then sends that data directly to Tape or Disk Storage.

**Job Definition:** LightEdge will help define and create backup jobs based on input provided by the Customer, including selections, job scheduling, job frequency and backup retention time frames.

**Job Scheduling:** By default, each Server being backed up by LightEdge shall be included in no more than one daily backup job. Multiple backup schedules per day may be available and may incur additional charges. By default Image Retention is set for fourteen (14) days. Customer can request an increase in Image Retention of up to thirty (30) days at no additional cost. For additional cost Image retention can be scheduled for up to one (1) year. Complex retention policies including weekly, monthly and yearly retention are possible with this Service.

**Data Restoration:** Customer shall have the ability to do self-directed restores of data utilizing the Backup Application interface. LightEdge assumes no responsibility for the loss of data for restores that overwrite live data. If Customer requests assistance with restoration of data, additional charges may apply.

At Customer's request, LightEdge will provision a single User account that will allow the Customer to access the Web-based file restore application. The User account will be secured with a complex password. LightEdge will also provide training documentation so that Customer is familiar with the operation of the Web-based file restore Application. Customer is responsible for safeguarding the User account information.

Access to the restore interface will be limited to the customer servers receiving Managed Backup services. Access to the restore interface from other machines must be requested by customer. LightEdge reserves the right to refuse such requests.

## 2.6 Moves, Adds and Changes

This section intentionally left blank.

## 2.7 Limitations

Use of this Service does not warrant long-term archival capabilities. In the event of a platform upgrade or replacement Customer will be required to restore any backups that have been retained beyond ninety (90) days.

## 3.0 Service Options

The following options may be added to Customer Service. Description of Service options herein in no way entitles Customer to feature. Options described below may have additional cost associated with them. Options described below may not be compatible with all variants of the LightEdge Managed Backup and Recovery product.

## 3.1 Application Agents

The Service has the ability to backup the applications and Server configurations as listed below:

**Microsoft SQL Agent:** The SQL Agent supports various versions of Microsoft SQL.

**Microsoft Exchange Agent:** The Exchange Agent supports various versions of Microsoft Exchange.

**Microsoft Cluster Agent:** The Cluster Agent offers for supports Microsoft Windows Clusters in Active/Active and Active/Passive configurations. The Cluster Agent offers support of both Exchange and SQL in select configurations.

These special Agents may not be compatible with every Server configuration. Backup configuration with these Agents will be configured on a best effort basis. Restoration of backups made with these Agents may require downtime of the Customer Server and/or application.

## 3.2 Professional Services

LightEdge offers the following Professional Services for an additional fee:

- Backup and Restoration testing
- Complex Backup configuration
- Designing backup and DR solutions
- Backup Network Design
- Training

## 3.3 Additional Ethernet Ports for Backup Traffic

Dedicated and Collocated Hosting Customers can request additional Ethernet Ports and Networking be configured for their Backup traffic. These ports may be 10/100 or 10/100/1000 ports. Additional fees may apply for this infrastructure.

## 3.4 Offsite Tape Archival

LightEdge has partnered with a certified storage company to provide offsite storage for tape archival purposes. Customers may contract for this service and will be billed according to the frequency of the offsite backup jobs and the number of tapes kept offsite per month.

As scheduled by the Customer, LightEdge Solutions staff will generate a scheduled replica of a data backup to tape (LTO-3 media). Each tape is capable of storing 400G of uncompressed data. LightEdge reserves the right to switch media type. This replica is then securely transported to a dedicated, secure and environmentally-controlled vault in its records center in Des Moines, Iowa. A specific area within a vault will be consigned to house this media.

In the event the return of a particular tape from the LightEdge off-site facility is required, the Customer will contact LightEdge Solutions support and request that retrieval of the media occurs for the date that the replicated media image was created. LightEdge will retrieve the tape(s) from the offsite location and coordinate recovery efforts with the Customer. Customer is responsible for executing the restoration from tape to a specific location on disk.

The availability of Service is dependent on a predetermined schedule for sending tapes off-site. Availability of tape retrieval is limited by the off-site tape archival facility drivers' schedules and/or the ability of LightEdge to retrieve tapes upon Customer request.

## 3.5 Tape Offload

LightEdge will perform a new backup of data or will offload the data from an existing backup directly to dedicated tape(s). This tape(s) will either be shipped to Customer or will be stored in a secure location for future use. Storage of such tape(s) is not included in this service.

## 3.6 Disk Offload

LightEdge will perform a new backup of data or will offload the data from an existing backup directly to dedicated external hard drive. This hard drive(s) will either be shipped to Customer or will be stored in a secure location for future use. Storage of such disk(s) is not included in this service.

Customer shall be responsible for any travel expenses incurred by LightEdge in the course of providing onsite installation service.

### 3.7 Backup Seeding

For certain products LightEdge may be able to pre-seed Service with Image. If successful this data pre-seeding may dramatically shrink the time required to run an initial backup of customer server(s). Backup seeding may be required to provide backup services to customers. If Backup seeding is deemed necessary to begin backup services Customer will be responsible for any and all charges incurred to provide backup seeding services.

Backup seeding will be performed at current LightEdge time & material rates. LightEdge makes no representations as to viability or success of such seeding attempts and they are performed on a best-effort basis.

### 3.8 On-demand Backups

LightEdge can perform an on-demand backup at customer request. On-demand requests for a Server will be subject to a one-time fee based on current LightEdge on-demand rates. Such rates may vary dependent on Customer request or on technical requirements such as the agents required to successfully backup Customer Server. Customer will define the retention time for the on-demand backup. Customer will be subject to usage billing at contracted rate for on-demand backup data as long as such data is retained on the LightEdge Service platform. Retention for on-demand backups shall not be less than (1) day.

On-demand backups are subject to the same terms and liabilities as standard scheduled backups. If Customer Server is unavailable or does not comply with all of the terms herein LightEdge reserves the right to deny Customer request for on-demand backup.

On-demand requests are subject to time constraints based on LightEdge Service availability. LightEdge reserves the right to refuse Customer request for an on-demand backup or to perform on-demand backup at a time other than that request by Customer.

### 3.9 Encryption

For certain products LightEdge is able to encrypt your data. This encryption protects the data while at rest on storage medium. The data would still be visible and accessible by any LightEdge storage administrator.

## 4.0 Service Delivery

### 4.1 General

It is Customer's responsibility to ensure that all Users' computers are able to connect to Service and are configured properly. This includes but is not limited to Ethernet switches, Ethernet cabling, workstations, servers and operating systems.

### 4.2 Installation

Upon procurement of the Backup Software License, LightEdge will contact Customer and coordinate the installation and configuration of the Agents. LightEdge will assist Customer as necessary in the configuration and testing of Backup Jobs. Once LightEdge has verified that the Backup Jobs are running properly, the Service will be considered active and billing will commence.

Standard installation timeframe for Service is defined elsewhere in this Service Agreement.

Installation expedite are available with this Service. Installation expedite requests will be subject to current expedite fees. Expedite requests will also be subject to a pass through of any and all fees billed to LightEdge by other vendors in the support of the expedite request.

Expedite requests are serviced in a best effort manner. LightEdge does not warrant or represent that Service installation expedites will actually expedite delivery of Service. Customer shall be subject to any and all expedite fees regardless of the outcome of the expedite request.

If additional configuration work is required due to limitations of the Customer systems, including but not limited to servers, workstations or network, then LightEdge reserves the right to bill customer at current hourly rates for additional configuration time.

Except as otherwise defined within this agreement LightEdge is NOT responsible for and will not be obligated to provide any assistance in configuration, installation, administration, troubleshooting, maintenance, or repair of equipment or software, or integration of equipment or software into Customer's internal network. Such services may be available at additional cost.

### 4.3 Installation Options

This section intentionally left blank.

### 4.4 Cabling

This section intentionally left blank.

### 4.5 Service Upgrades & Modifications

LightEdge may use other methods to provide Customer with equivalent Service. LightEdge reserves the right to replace Customer Service with equivalent or upgraded Service at any time during contract duration. LightEdge will make an effort to coordinate any such Service change with the Customer prior to such change. If LightEdge is unable to coordinate an acceptable time for a Service change with the Customer LightEdge reserves the right to make such a Service change during a Scheduled Maintenance window.

### 4.6 Service Termination

LightEdge makes no guarantee of Service availability beyond the termination date.

LightEdge shall not be responsible for retaining any of your Data after termination date of Service. Your Data may be deleted on the day of Service termination. LightEdge will not restore, provide on any storage media or send out any Data pertaining to terminated Service, unless specifically noted in a customized service agreement. It is Customer's responsibility to back-up and migrate Data prior to termination of Service.

## 5.0 Equipment

### 5.1 Equipment Requirements

No Equipment is provided to Customer as part of this Service.

### 5.2 Equipment Procurement

This section intentionally left blank.

### 5.3 Equipment Configuration

The section intentionally left blank.

### 5.4 Equipment Lifecycle

LightEdge is responsible for the maintenance and replacement of the Equipment used to provide Service.

## 6.0 Service Support

### 6.1 Authorized Contacts

LightEdge Solutions provides reliable and secure managed services by requiring technical support and information requests come only from documented, authorized client-organization contacts. Additionally, in compliance with federally regulated CPNI (Customer Proprietary Network Information) rules, a customer contacting LightEdge Solutions to request an add, move, or change and/or to request information on their account, must provide LightEdge representative with customer's Code Word. Code Word is not required or verified to open trouble tickets related to service issues, however, any subsequent information/updates or authorization of intrusive testing related to the trouble ticket will require the Code Word.

Customer shall provide a "contact list" which will contain one ("1") Administrative contact and may contain up to three ("3") Technical contacts per service. Administrative and Technical contacts are authorized to request service changes or information, including the contact name, contact e-mail address and contact phone number for each contact but must provide customer Code Word for any CPNI related requests. Requests to change a contact on the list or to change the Code Word must be submitted by the Administrative contact. Requests to replace the Administrative contact shall be submitted via fax to LightEdge on customer company letterhead. All requests are verified per procedure below.

- Requests for CPNI, configuration information or changes are accepted only from documented, authorized client-organization contacts via e-mail, fax or phone and will require Customer's Code Word. E-mail and fax requests must be submitted without the Code Word. Customer contact will be called to verify Code Word. E-mail requests that include the Code Word will be denied and the client Administrative Contact will be notified and required to change the Code Word.
- E-mail and fax requests are verified with a phone call to the documented client contact. Phone call requests must be validated with an e-mail request from a documented client contact.

## 6.2 Helpdesk

Customers must contact LightEdge Support to report service trouble or an outage with LightEdge Technical Support. LightEdge Technical Support will be available seven (7) days per week; twenty-four (24) hours per day; three hundred sixty-five days (365) days per year. LightEdge Technical Support provides support for network monitoring, trouble ticket resolution, and fault isolation up to the termination Equipment.

LightEdge Technical Support will accept trouble and outage related support calls from any customer representative. LightEdge will not perform any requested activity which may cause Service disruption or perform any changes to Service unless request is initiated by an Authorized Contact. LightEdge reserves the right to delay response on support tickets opened by anyone other than the Authorized Contact.

Communication between Customer and LightEdge not initiated by Authorized Contact will not be subject to SLA remedies.

All communications with Customer will be in the English language.

## 6.3 Support Limitations

LightEdge Technical Support is not responsible for end-user support of issues not directly related to Service. This includes (but is not limited to) Customer operating systems, Customer equipment, or Customer application support.

## 6.4 Monitoring

LightEdge performs monitoring of Service availability. If Service is unavailable LightEdge support personnel are notified immediately and will begin efforts to restore service.

## 6.5 Notifications

If requested by Customer LightEdge will notify Customer within fifteen (15) minutes of a Service outage via e-mail (to pager) notification Services. LightEdge will monitor connections to the IP address of the customer router. An outage is defined as any fifteen (15) consecutive minutes where the connection is unavailable. If an outage is determined, LightEdge will generate an e-mail notification to Customer. Customer is responsible for providing their own pager(s), a suitable e-mail-pager gateway, and up to two (2) corresponding e-mail addresses.

## 6.6 Maintenance

Customer is responsible for maintaining and updating Authorized Contact list with LightEdge. LightEdge will not be held responsible for maintenance notifications missed due to out-of-date Authorized Contact information.

### 6.6.1 Scheduled Maintenance

Maintenance window for disruptive work to Service will be limited 12:00 P.M. to 4:00 P.M., Central Daylight Time (CDT), any day with requirement of one (1) calendar week notification to Customer prior to maintenance.

LightEdge will send an e-mail notification of such disruptive maintenance to Service to Authorized Contacts of Customer. Once notification is sent to Customer this will be considered a "Scheduled Maintenance". Any Service SLAs will NOT apply during a Scheduled Maintenance.

### 6.6.2 Emergency Maintenance

LightEdge reserves the right to perform emergency Service maintenance as needed outside the Scheduled Maintenance window, in which case LightEdge will make a reasonable effort to notify the Customer if feasible under the circumstances. Any such maintenance will be considered an "Emergency Maintenance". All Service SLAs will apply during Emergency Maintenance.

## 6.7 Backups

LightEdge will maintain backups of the Service platform for Disaster Recovery purposes only.

Execution of Disaster Recovery for this Service is further defined in LightEdge's Customer Operations Recovery Plan.

## 6.8 Changes

LightEdge reserves the right to bill Customer for Service changes or reconfigurations requested by Customer that exceed the scope of the managed Service or for Service changes that LightEdge must undertake due to changes initiated by the Customer such as, but not limited to:

- Customer initiated request to move LightEdge equipment to a different physical location
- Customer request to configure Service for their benefit and not specifically tied to delivery of LightEdge service. For example:
  - Turning up a port for customer managed gear
  - Activating a feature or function not required to deliver Service
  - Enhancing or extending Service for the sole benefit of Customer

## 7.0 Billing

### 7.1 Service Activation Date

Billing for the Service will begin on the Service Activation Date. The Service Activation Date shall be the earlier to occur of

- 1) the date on which Service is activated on first newly contracted Customer Server or device by LightEdge
- 2) 90 days from the date this Agreement is signed by Customer.

Customer is responsible for ensuring LightEdge has the ability to install any necessary software in a timely fashion.

### 7.2 Service Billing

In addition to the fees and terms outlined in the Purchase Agreement Customer is subject to the additional Service billing terms defined below.

#### 7.2.1 Monthly Commitment

Customer must maintain a Minimum Monthly Commitment Level ("MMCL") of Service. MMCL shall be defined as the dollar amount specific to this Service contained within the executed Purchase Agreement. Should Customer's use of the Service drop below the MMCL during the contract term, Customer will be billed and obligated to pay at minimum the Monthly Charge contained within the executed Purchase Agreement. Increases in service quantities may be made at any time.

Changes in the MMCL are allowed within 30 days of the install date. After 30 days, monthly billings cannot drop below this amount for the duration of the contract.

#### 7.2.2 Storage Overage Billing

LightEdge will make available to the Customer additional storage space (above the initial Contracted Amount or agreed upon MMCL) on a demand basis (this is referred to as "Overage Usage"). Overage Usage will be assigned in increments of no less than one (1) gigabyte.

Storage Usage will be monitored and recorded on a daily basis. Calculation will be made to determine the total Storage in use by a Customer on each date. If the total Storage Space in use exceeds the MMCL, Customer may incur an Overage bill. Monthly Overage charges will be based on the "High Water Mark" during the course of a calendar month. The High Water Mark is the maximum space in billable gigabytes utilized across all active Customer backups during the course of a calendar month. Expired jobs performed during the calendar month will not count toward billable gigabytes.

**7.3 Additional Charges and Fees**

**7.3.1 Field Technician Charge (FTC)**

The FTC is the charge incurred for each dispatch of a LightEdge technician to support Service installation or trouble. This fee shall be calculated based on the current hourly rates and shall be rounded up to the nearest full hour. This fee may be waived at LightEdge’s sole discretion for Customers of managed Services if the root cause for the dispatch is determined to be the responsibility of LightEdge.

**7.3.2 Missed Appointment Fee**

Customer or its authorized representative must be available at the Customer location for the scheduled installation appointment date to grant the Service tech access or to accept delivery of the Equipment, or to work with installation technician to turn up the service. If no one is available, the Service tech will attempt to contact Customer for minimum of an additional fifteen (15) minutes before re-scheduling the appointment.

Re-scheduling such missed appointment will incur a Missed Appointment Fee at the current applicable rate. 48 hour notice is required for all appointment re-scheduling.

**7.3.3 Travel**

Customer shall be responsible for travel expenses incurred by LightEdge during activation or support of Service as follows:

- For Customer locations in the domestic US between 30 and 100 miles from nearest LightEdge office:
  - Travel time at hourly rates (office-to-office) for any vehicular travel outside a 30 mile radius from nearest LightEdge office.
- For Customer locations in the domestic US greater than 100 miles from the nearest LightEdge office:
  - All provisions of travel to Customer locations within 100 mile radius of nearest LightEdge office;
  - Airplane, bus or train tickets at LightEdge cost;
  - Rental car, gas and parking at LightEdge cost;
  - Per diem allowance of \$40/day (food); and
  - Hotel/lodging at LightEdge cost.
- Other Customer locations require signed agreement between LightEdge and Customer.

**7.3.4 Minimum Retention Period – Moves**

In the event Customer terminates the Service before the expiration of the contracted period, due to a move, then Customer shall pay the termination charges in accordance with the Customer’s Service Agreement. LightEdge will waive the termination charges, if Customer purchases another Service from LightEdge at a new location, which is of the same or greater value and subscribes to a new minimum contracted period of at least twelve (12) months. Additional Equipment charges may apply depending on the type of the new Service that is being purchased by Customer. If service is not available at new location, customer is subject to termination charges per the Master Service Agreement.

**8.0 Customer Requirements**

Customer will be required to maintain complex passwords for their User accounts where applicable. For any such passwords LightEdge will provide a secure URL that any User can access to change passwords. All User passwords are set to a ninety (90) day password expiration schedule by default.

LightEdge is not responsible for unexpected use of Services whether by ex-employees, compromised User passwords or any other misuse of Customer accounts. Customer shall be responsible for all costs incurred by such unexpected use of Service.

LightEdge controls the version of hardware and software running on its infrastructure and does not guarantee that it is compatible with any version changes made by the Customer on their network, server, OS or application infrastructure. It is the Customer’s responsibility to ensure that any version changes planned on their infrastructure is compatible with LightEdge equipment and software. LightEdge can make available a testing schedule to test interoperability (additional charges may apply). LightEdge retains

the right to change the version of software and hardware of its infrastructure and will provide Customer a notification of this change no less than sixty (60) days in advance.

The Customer is responsible for the final selection of the amount of storage required to hold their backup data (this is referred to as the “Contracted Amount”) and reflects what the Customer will pay as a minimum monthly fee for storage.

Customer shall be fully responsible for providing to LightEdge at Customer’s own expense and in a timely manner the following:

- All security for its Services and systems used or accessible in connection with Service. LightEdge is not responsible for the unexpected use of Services on the part of the Customer whether by ex-employees, compromised user passwords or any other misuse of Customer accounts;
- Cooperative testing of all Customer-provided hardware, software, and Services for compatibility with Service; and
- Designating an Authorized Contact(s) to be the point of contact to interface with LightEdge Technical Support.

**9.0 Service Conditions**

**9.1 Backup services**

Customer acknowledges that certain conditions outside of LightEdge’s control may adversely impact the ability of LightEdge to perform successful backups or restores of image. Examples of such conditions are listed below.

- Customer task, software, scheduled job or other human intervention intentional or otherwise renders portions, complete files, or complete file systems unavailable to Service
- Failure of Customer software, operating system, Agent or Service
- Network connectivity issues between Customer Server and LightEdge Service including but not limited to packet loss, lack of sufficient network capacity to support required backup bandwidth
- Backup job in seeding status

Customer acknowledges that in the event of a support issue, Customer is responsible for on-site cooperative testing with LightEdge Technical Support to assist in the diagnosis of the trouble.

Customer agrees to be bound to current terms of LightEdge Acceptable Use Policy. Terms of the Acceptable Use Policy are subject to change without notice. Customer agrees to be bound to any and all versions of LightEdge Acceptable Use Policy. Current Acceptable Use Policy can be found here: <http://www.lightedge.com/legal>

**9.2 Restore services**

LightEdge will be responsible for restoring data within the requirements of this service agreement. Customer will bear responsibility for getting server and applications up and running. LightEdge reserves the right to bill customer at standard rates for providing additional assistance relating to a restoration request.

Restorations performed from the client application will not include original ACLs or security permissions. Restorations requiring original security permissions will necessitate a restore be initiated by LightEdge.

Data contained within a backup job that has expired or has exceeded defined retention cannot be recovered.

**9.3 Offsite tape archival**

**Value of Tapes:** Customer acknowledges that the value of stored items is limited by the cost of replacing the physical media.

**Limitation of Liability:** LightEdge’s liability, if any, for loss or destruction of or damage to the materials stored offsite with LightEdge is limited to the value of tapes stated above. LightEdge retains the right to provide replacement media or replacement cost for such loss or destruction or damage. LightEdge is responsible for replacement only when reasonable care has not been applied in exercising of this service. Tapes are not insured by LightEdge against damage or loss however caused. Customer may insure tapes through third-party insurers for any amount. Customer shall cause its insurers to waive any rights of subrogation against LightEdge.

**Delivery of Tapes:** Tapes may be delivered to individuals identified as representing the Customer on LightEdge authorization forms. Standard Authorized Contact requirements apply as outlined in Section 6 herein.

**Confidentiality:** Confidential Information pertains to any information contained in the tapes. LightEdge will make commercially reasonable efforts to safeguard the confidentiality of the information.

**Destruction of Tapes:** Customer releases LightEdge from any liability for reason of destruction of tapes pursuant to written instruction from the Customer. Standard Authorized Contact requirements, as outlined in Section 6, apply to any Customer instruction for the destruction of tapes.

**Data Corruption:** Customer releases LightEdge from any liability of the corruption of Customer’s data on media sent offsite.

**Service Warranty:** LightEdge represents and warrants that this service is delivered to the Customer using commercially reasonable efforts. The warranty is limited and

shall not apply to service failures resulting from Customer’s improper use of the service. In the event of LightEdge causing a breach of service warranty of any kind, Customer’s sole remedy shall be LightEdge re-performing applicable services at no extra charge.

**No Product Warranty:** LightEdge makes no express or implied warranties of product merchantability or fitness for any particular purpose.

**Notice of Loss:** In the event of loss or destruction of or damage to a tape, LightEdge will provide notification to Customer via e-mail to an address provided by the Customer. Customer must ensure that the e-mail address is valid.

**Ownership Warranty:** Customer warrants that they are the owner of the tapes stored as part of this agreement and are authorized to direct their disposition as provided by this agreement. Customer shall reimburse LightEdge of reasonable expenses incurred from a dispute regarding ownership and resulting disposition.

## 10.0 Service Level Agreements and Goals

### 10.1 General

LightEdge will be the sole party to determine whether LightEdge has not met any of the Service Level Agreements (SLA) or Service Goals specified herein. LightEdge reserves the right to change or discontinue any or all of the SLAs or Service Goals detailed below at any time without notice to the Customer.

#### 10.1.1 SLAs

Service Level Agreements (or SLAs) define availability, performance and other requirements of Service provisioning and delivery. Remedies for LightEdge not meeting the requirements are also defined. Customer must at all times cooperate with LightEdge in testing, determining and verifying that a qualifying Service outage has occurred.

#### 10.1.2 Goals

Goals define availability, performance and other objectives of Service provisioning and delivery. Goals do not include remedies and failure to meet any Service Goal does not entitle Customer to a Service credit.

### 10.2 SLA Credit Request Process and Limitations

In order to receive any of the SLA credits (specified herein) for Service, an Authorized Contact must immediately notify LightEdge Technical Support of an occurrence within the LightEdge Service that results in the inability of the Customer to access Service (“Service Outage”). A Service Outage does not include an outage that occurs during Scheduled Maintenance.

LightEdge Technical Support will investigate the reported outage and assign a Trouble Ticket number. Once LightEdge determines that the substantiated Service Outage that could qualify Customer for the SLA credit occurred (“Verifiable Trouble Ticket”), then Customer may request a Service Credit within 30 days after the event giving rise to the credit by contacting LightEdge Technical Support and asking for an SLA credit escalation. A Verifiable Trouble Ticket must accompany Customer’s request for any SLA credit regarding the Service purchased by Customer. Credits should appear on Customer’s bill for the Service within two (2) billing cycles, after such SLA credit has been approved by the LightEdge representative.

In any calendar year, Customer’s aggregated SLA credits may not exceed, for any Service, two (2) months’ worth of the monthly Service fee for the affected Service. In any billing month SLA credits may not exceed, for any Service, fifty (50) percent of the monthly Service fee for the affected Service.

For purpose of calculating SLA credits, this monthly Service fee shall mean the monthly recurring charge for such Service, but excluding, in all cases, (i) any monthly recurring fees for the Service features (e.g., domain name hosting or e-mail Service), (ii) all one-time charges, and (iii) at all times excluding the monthly recurring charge attributable to Equipment for such Service.

Credits are exclusive of any applicable taxes or fees charged to the Customer or collected by LightEdge.

SLAs dependent on packet size require use of a 64-byte packet to determine SLA eligibility.

### 10.3 SLA Exclusions

#### 10.3.1 Global SLA Exclusions

SLAs do not apply and LightEdge is not responsible for failure to meet an SLA resulting from:

- Misconduct of Customer or Users of Service.
- Failure or deficient performance of power, Equipment, Services or systems not provided by LightEdge.
- Delay caused or requested by Customer.
- Service interruptions, deficiencies, degradations or delays due to any access lines, cabling or equipment provided by third parties.
- Service interruptions, deficiencies, degradations or delays during any period in which LightEdge or its representatives are not afforded access to the premises where access lines associated with Service are terminated or LightEdge Equipment is located.
- Service interruptions, deficiencies, degradations or delays during any period when a Service Component is removed from Service for maintenance, replacement, or rearrangement purposes.
- Customer’s election to not release a Service Component for testing and/or repair and to continue using the Service Component.
- Force Majeure conditions such as fire, explosion, lightning, powersurges or failures, strikes or labor disputes, water, acts of god, the elements, war, civil disturbances, terror, acts of civil or military authorities, fuel or energy shortages, acts or omissions of suppliers or other causes beyond LightEdge’s control, whether or not similar to the foregoing.
- Service interruptions, deficiencies, degradations or delays during any period when a Service Component is removed from Service for maintenance, replacement, or rearrangement purposes by Customer staff.
- Service interruptions, deficiencies, degradations or delays in Service caused by any piece of equipment, configuration, routing event or technology not under the management and control of LightEdge.

- Failure to adhere to LightEdge recommended configurations on unmanaged equipment.

In addition, Service SLAs do not apply:

- If Customer is entitled to other available credits, compensation or remedies under Customer's Service Agreement for the same Service interruption, deficiency, degradation or delay.
- For Service interruptions, deficiencies, degradations or delays not reported by Customer to LightEdge.
- Where Customer reports an SLA failure, but LightEdge does not find any SLA failure
- When Service is dependent upon other Service with lower SLA.
- If Customer has over 30 day past due balance on any billing or service with LightEdge.
- After date of Service contract termination.

If Customer elects to use another provider or method to restore Service during the period of interruption, Customer must pay the charges for the alternative Service used.

**10.3.2 Service SLA Exclusions**

SLAs do not apply and LightEdge is not responsible for failure to meet an SLA resulting from:

- Failure to provide suitable secure environment for on premise devices including but not limited to: secure mounting/racking, appropriate cooling and air handling, secure from theft, loose wires bundled neatly, etc.
- Use of Service across any circuit or path without sufficient bandwidth to support Service. This could include but is not limited to Internet (whether delivered and/or managed by LightEdge or not), public peering arrangements, and 3<sup>rd</sup> party cross connects.

**10.4 Availability SLAs and Goals**

"Availability" SLAs apply only when service is completely unavailable due to any sort of issue. After Customer opens a ticket on Service issue LightEdge Technical Support will classify the issue. If LightEdge Technical Support determines that Customer service is 100% unavailable the issue will be categorized as a "Service Availability" issue and all SLA remedies applicable to Service Availability will apply. Any SLA remedies not specifically defined as "Service Availability" SLAs will not apply to same "Service Availability" issue.

**10.4.1 Availability SLA**

For purpose of the Availability SLA, the duration of a Service Outage shall be deemed to commence upon the opening of a Verifiable Trouble Ticket by LightEdge Technical Support, in response to the Customer request, and ends when the Service Outage ends. Trouble tickets, where the Service Outage cannot be verified with LightEdge's standard diagnostic procedures, do not count towards the Availability SLA.

SLA	Remedy
99.9% availability	Each hour service is unavailable above SLA goal qualifies the Customer for a credit of 5% of MRC up to a maximum of 50% of MRR for affected service.

**10.4.2 Service Repair Goal**

For purpose of the Service Repair Goal, the duration of a Service Outage shall be deemed to commence upon the determination by LightEdge Technical Support that Service Repair is necessary and ends when the Service Repair has been completed.

LightEdge will make all reasonable efforts to resolve problems resulting from Customer initiated trouble tickets for this Service based on the Goal below.

Goal	Remedy
4 hours	Failure to meet the goal does not qualify the Customer for any Service credit.

**10.5 Performance SLAs and Goals**

There are no Performance SLAs or Goals with this Service.

**10.6 Other SLAs and Goals**

"Other" SLAs apply whenever SLA goal has not been met. "Other" SLA credits will qualify for consideration even when "Service Availability" or "Service Performance" SLA credits are requested against the same Customer issue.

**10.6.1 Standard Service Installation Interval Goal**

The Standard Service Installation Interval is measured from the date on which the Customer contract is countersigned by LightEdge to the Service Activation Date as defined in Section 7.1.

Goal	Remedy
14 days	Failure to meet the goal does not qualify the Customer for any Service credit.

**10.6.2 Monitoring Goal**

The Monitoring Goal is measured from the time an outage is detected by LightEdge monitoring systems until such outage is reported to customer by the LightEdge notification method. The goal is considered met once the LightEdge monitoring system sends a notification to the customer. Receipt of the notification by the customer or lack of receipt will not be considered to be part of goal.

Goal	Objective
15 minutes	Failure to meet the goal does not qualify the Customer for any Service credit.

**10.6.3 Storage Capacity SLA**

The Storage Capacity SLA refers to the minimum monthly commitment level (MMCL) of storage space Customer has contracted for. An event is defined as each instance in which service attempts to run a "job" and storage contracted for is unavailable. Storage needs exceeding the Customer MMCL are not subject to SLA remedies.

Goal	Remedy
100%	Each failure to meet the goal qualifies Customer for a credit of 10% of MRC per event

**10.6.4 Restoration SLA**

The Restoration SLA is measured from the time a ticket is opened requesting a restore of Data to the time that restoration job is started. Due to the potential variation in restoration job sizes no guarantee can be made as to when the restoration will be complete. During periods of force majeure the Restoration SLA will not apply.

For emergency goal to apply customer must state that restoration request is an emergency and this must be noted as such in the restoration request ticket. Emergency goal shall not apply for an unstated emergency request.

Goal	Remedy
1 hour for emergency 4 hours for standard	Each failure to meet the goal qualifies Customer for a credit of 10% of MRC per event

**10.6.5 Recoverability SLA**

The Recoverability SLA refers to the integrity of the data being stored on Service.

LightEdge guarantees that data backed up by Service shall be recoverable without data corruption. File shall be considered corrupt only if restored file does not substantially match original file.

Recoverability SLA shall not apply to files that have not been backed up by Service, Data that has been corrupted on original Server prior to backup by Service, open files that cannot be successfully backed up, data that was backed up as part of a failed backup job or transient data structures such as but not limited to Windows registry files, swap files or Unix device files.

Recoverability SLA shall only apply if Customer utilizes Agents and best practices recommended by LightEdge. Recoverability SLA shall not apply to SQL, Exchange or other applications not backed up via recommended application Agent. Recovery SLA shall not apply to data backed up by 3<sup>rd</sup> party application or service prior to backup by LightEdge Service.

Recovery SLA shall not apply to any data offloaded to external media at the request of customer such as but not limited to tape or external disk drive.

Goal	Remedy
100%	Each failure to meet the goal qualifies Customer for a credit of 100% of Service provided for affected Server not to exceed single billing period