

TERMS AND CONDITIONS FOR THE CONVERGED PRIVATE NETWORKS SERVICE

1. Ordering

- 1.1 The client shall order the CPN Service by first completing a Customer Requirements Form ("CRF") provided by Excalibur, together with the Order.
- 1.2 Excalibur shall validate any order received before accepting it as an order. Excalibur reserves the right not to process a CRF which is incomplete or not completed in accordance with the guidance section of the CRF. Excalibur shall not be responsible for any delays to a CPN order caused by incomplete or incorrectly completed CRFs.
- 1.3 Excalibur shall either provisionally accept or reject the order submitted by the client. Excalibur shall not be obliged to give any reason for the rejection of an order. Provisional acceptance shall be provisional on any further information required being supplied by the client. Provisional acceptance shall not be binding on Excalibur as regards any desired installation or commencement dates which shall be indicative in nature only.
- 1.4 The client will be required to accept the terms and conditions for the supply by Excalibur of the access services required.

2. Service Provision

- 2.1 Excalibur reserves the right not to provide the CPN Service to any site and to withdraw its provisional acceptance of an order for reasons including, but not limited to: a) The distance between a site and the point of presence of Excalibur or its underlying service provider; b) If a site survey finds that a site is not suitable for the provision of the Ethernet or Broadband based backup Service; or c) If the Client does not agree to accept Excalibur's standard terms and conditions for the access service chosen.
- 2.2 Subject to clause 2.1 above Excalibur will issue a final acceptance of the order to the Client.
- 2.3 The parties will agree on a per site basis a timetable for the implementation of the CPN Service taking into account the lead times required for those elements of the service which Excalibur is to source from third party service providers. Excalibur shall be entitled to revise such timetable, after appropriate liaison with the Client, if it encounters delays (including, but not limited to, complications connected with any site survey) which could not reasonably have previously been foreseen.
- 2.4 Excalibur shall be responsible for the provision of the CPN Service including configuration of the network, any internet access and the provision of the firewall where applicable. Excalibur will provide the agreed access services up to the Service Demarcation Point, as defined in the Service Literature.
- 2.5 The Client shall be solely responsible for the provision of appropriate technical expertise, knowledge and resources sufficient to correctly integrate and configure the Client's and/or its End Users' LAN systems, applications and interfaces with the CPN Service, the Client being responsible for such integration and configuration (including configuration of all its relevant clients, servers and networking equipment to interact with the CPN Service). Excalibur does not provide LAN integration as part of the CPN Service, the Service being delivered by means of an outward Client facing port. The Client shall ensure that its and/or its End User's LAN is capable of integration with the CPN Service (including, but without limitation, any hardware or software required for such integration). The CPN Service does not include the provision of advice on LAN integration, configuration or specification other than specifying from time to time the packet methodologies which are compatible with the Service. Where class of service has been specified on the Order the Client shall select its packet methodology from those available to it and it shall be the responsibility of the Client to ensure that any packets to be transmitted shall be marked accordingly.
- 2.6 Excalibur will use reasonable efforts to install the CPN Service (including access services) in accordance with the agreed timetable and perform the commissioning tests within two working days thereafter. The Client acknowledges that all timeframes are estimates only. Excalibur has no liability for any failure to meet any of the dates included in the agreed timetable or for any failure to meet any service levels or to repair a fault within any given timeframe.
- 2.7 Where Centralised Internet Access ("CIA") has been ordered a hosted firewall service will be provided by Excalibur where ordered by the Client. Excalibur will use its all reasonable endeavours to provide as secure a protection as possible but the Client acknowledges that no firewall is completely secure or proof against all external threats such as viruses, malware and other unauthorised intrusions. Excalibur shall have no liability to the Client or the End User for any direct or indirect costs suffered by the Client and/or End User in the event of any penetration of the firewall by any third party or third party software save in cases of fraud or negligence on the part of Excalibur or an employee or sub contractor of Excalibur.
- 2.8 Where the Client opts to use its own firewall application Excalibur shall have no liability to the Client or End User for any malfunction, failure or inadequacy of such application whether or not it has been approved by Excalibur.
- 2.9 The Client shall include provisions equivalent to those contained in clauses 2.7 and 2.8 above in its terms and conditions with its Customers and End Users for the CPN Service.

3. Service Cessation and Cancellation

- 3.1 The Client may terminate the CPN Service or part thereof or one or more access services by following the procedure for termination set out in the Service Literature. The CPN Service to a site may be terminated by the Client on ninety (90) days' written notice to Excalibur provided that the minimum term (as set out in the Order) has expired.
- 3.2 Excalibur may terminate the CPN Service or part thereof on 3 months' written notice to the Client provided that such notice extends the termination date beyond the end of the minimum term as set out in the Order for that circuit.
- 3.3 Excalibur may terminate the CPN Service immediately by notice to the Client if required to do so by a direction of Ofcom.
- 3.4 If the Client terminates the CPN Service or part thereof before the end of the minimum term Excalibur shall be entitled to invoice the Client with (a) Excalibur's recurring Charges for any Ethernet access service so terminated from the effective date of termination for the remainder of the minimum term, and/or (b) with Excalibur's standard cease Charge for in-term termination for any DSL access service so terminated.
- 3.5 If the Client terminates the CPN Service or a part thereof after the end of the minimum term Excalibur shall be entitled to invoice the Client with Excalibur's standard cease Charge for out-of-term termination for any DSL access service so terminated.
- 3.6 The Client agrees that if the CPN Service or part thereof is terminated for any reason it will inform the End User of that fact and that the End User needs to make alternative arrangements. This clause shall survive the termination of such Service.
- 3.7 If the Client cancels an ordered Service or any part of it, notwithstanding that such order has only been provisionally accepted by Excalibur, the Client agrees to reimburse Excalibur for any costs it has incurred in preparing to deliver the CPN Service in addition to Excalibur's standard cancellation charge, which will be found in the Service Literature. Excalibur will take all reasonable steps to mitigate any such costs.
- 3.8 If the Client or its End User cancels a planned installation after 12:00 p.m. midday on the Business Day immediately prior to the installation date Excalibur shall be entitled to charge the Client with the full amount which it would otherwise have charged for the aborted installation or, in the case of planned out of hours installations,

1.5 times its standard installation charge for planned installations after 17:30 on Business Days and Saturdays and 2 times its standard installation charge for planned installations on Sundays.

3.9 If the Client requests a change to the agreed timetable for delivery of the CPN Service to a site (and this has been accepted by Excalibur) and subsequently cancels the order any cancellation charge will be calculated on the revised timetable date. 3.10 Any CPN Service will cease automatically, either in part or in whole, if the underlying access service or services is/are ceased. However the Client will remain liable for any recurring fixed Charges for the remainder of the fixed term of the affected CPN contract.

4. Changes

4.1 Changes to the CPN Service will be made according to the processes and procedures set out in the Service Literature, which defines a set of standard allowable changes. Any such changes will be carried out according to the timescales set out in the Service Literature, and, subject to paragraph

4.2 below, charged in accordance with Excalibur's standard price from time to time.

4.2 Any changes required which do not fall within the standard allowable changes or any changes which require consultation between Excalibur and the End User and/or any other third party will be assessed on a case by case basis. Such changes will attract Excalibur's standard professional service charges.

5. Service Assurance and Problem Management

5.1 The Client's nominated contacts will be the only point of contact with Excalibur for the notification of faults with the CPN Service and their resolution. The Client acknowledges that Excalibur will not accept fault reports directly from an End User and agrees that it will advise its Customers and End Users to report all faults to the Client.

5.2 Excalibur and/or the supplier of such equipment will provide the maintenance of any equipment installed on a site as part of the Service on the Excalibur side of the Service Demarcation Point.

5.3 The Client will be responsible for initial fault diagnosis and will report a fault to Excalibur only where it reasonably believes the fault is not caused by any End User installed equipment or any malfunction on the End User side of the Service Demarcation Point. Excalibur shall be entitled to charge the Client with any costs which it has incurred in this respect if a visit results in the fault being traced to any End User installed equipment or any such malfunction (or if Excalibur or its sub contractor fails to gain entry to the End User site). Excalibur shall also be entitled to invoice the Client for configuring, testing and despatching replacement routers in the event that no fault is subsequently found in the original router or its configuration or where a fault has been incorrectly diagnosed by the Client.

5.4 The Client will report any faults using the procedure set out in the Service Literature. 5.5 The Client is responsible for fault resolution for the underlying access services as set out in the Service Literature for the appropriate service. 5.6 Excalibur reserves the right to perform any routine or scheduled maintenance that may limit or suspend the availability of the CPN Service and shall provide reasonable prior notice of any such maintenance. Excalibur also reserves the right to perform any emergency maintenance that may limit or suspend the availability of the CPN Service and shall use reasonable endeavours to provide prior notice to the Client provided that, where Excalibur is unable to provide prior notice, it shall provide such notice as soon as reasonably practicable after the commencement of such maintenance. Any suspension in the availability of the CPN Service pursuant to this clause 5.6 shall not be deemed to be a breach by Excalibur of any of its obligations under these terms and conditions. Excalibur shall use reasonable endeavours to ensure that maintenance is carried out with minimum disruption to the Client.

6. Service Constraints

6.1 The Client acknowledges and accepts that there may be certain technical limitations to the access services provided for the CPN Service. These are set out in the Service Literature for the access service in question.

7. Equipment

7.1 Equipment provided by Excalibur or by its sub contractors for the delivery of the CPN Service and any access service ("the Equipment") remains the property of Excalibur or its sub contractors, as the case may be, and neither the Client nor the End User shall acquire any property in it. Excalibur will provide the network terminating equipment and the end user premises router. .

7.2 The Client shall (or shall procure that the End User shall) provide a suitable place, conditions, connection points and electricity supply for the Equipment according to Excalibur's reasonable instructions and carry out any site preparation work reasonably required by Excalibur.

7.3 The Client shall (or shall procure that the End User shall) obtain all necessary third party consents required in relation to building alterations or additions, access to land or other permission required to install the Equipment or, where this is carried out by Excalibur or its sub contractor, shall render all reasonable assistance required by Excalibur.

7.4 The End User is responsible for the Equipment and shall be liable to Excalibur for any loss or damage to it save where such loss or damage is caused by fair wear and tear, is caused by Excalibur, its sub contractor or anyone authorised to act on their behalf. The End User shall take all reasonable steps to prevent any damage to the Equipment and to prevent anyone (except anyone acting on Excalibur's or Excalibur's sub contractor's behalf) from adding to it, modifying it or interfering with it in any way.

7.5 The Client shall include provisions equivalent to clauses 7.1 to 7.4 above in its contracts for the CPN Service with its Customers and End users.

8. Connection

8.1 Any equipment connected to the CPN Service must be technically compatible with the CPN Service and connected and used in compliance with any applicable instructions, standards or laws. Any such equipment should not cause any damage to the Excalibur network, the CPN Service, the Equipment, any other customer's network or the network of any underlying service provider.

8.2 The Client agrees to, and agrees to procure that its Customers and End Users will, only connect equipment to the CPN Service by using the CPE provided by Excalibur.

8.3 If the Client, its Customers or its End Users become aware that any equipment connected to the CPN Service does not comply with the relevant instructions, standards or laws they should immediately disconnect the equipment or ensure its immediate compliance. Failure to disconnect non-compliant equipment will result in Excalibur disconnecting it at the Client's expense. 8.4 Excalibur will not be liable for any failure to meet any service levels or any failure of the CPN Service or any other obligations if such failure has been found to be caused by the connection of any equipment other than in compliance with this clause 8.

9. Access

9.1 Excalibur and/or its sub contractor will conduct any required site visits during normal working hours, that is to say between 08:00 and 17:00 Mondays to Fridays (excluding UK public and bank holidays). In the event that the Client requests a site visit outside such hours this will be the subject of an additional Charge. Such charge will not apply to visits to repair faults.

9.2 The Client will procure that the End User will provide access to the site to Excalibur and/or its sub contractor for the purposes of site surveys, installation or otherwise as required for the provision of the CPN Service and any access services. The Client shall provide and procure that the End User provides a suitable and safe working environment for Excalibur's employees and authorised sub contractors at the site. The Client shall indemnify Excalibur and its sub contractors for death or personal injury claims or actions threatened or brought against them resulting from the Client's breach of this clause 9.2, save where such claim or action results from Excalibur's negligence or that of its employees, sub contractors or agents acting in the course of their employment or agency.

9.3 Excalibur agrees to observe and ensure that its employees observe the Client's and/or the End User's reasonable security and safety requirements insofar as these are communicated to Excalibur or its employees. 9.4 It is the responsibility of the End user to make good or re-decorate any areas of the site affected by the installation of the CPN Service or any access services save where any damage is caused by Excalibur's negligence in which case the limitation of liability provisions of the Supply Agreement shall apply.

10. Use of Service

10.1 If Excalibur notifies the Client (or the Client becomes aware) that the CPN Service is being used in breach of the Use of Services provisions contained in the Supply Agreement the Client shall immediately inform the End User that the CPN Service will be disconnected if the breach continues. If the End User continues to use the CPN Service in breach the Client will immediately disconnect the CPN Service.

10.2 If the Client uses the CPN Service in breach of the Use of Services provisions of the Supply Agreement or continues to supply the CPN Service to an End User who is in breach of such provisions Excalibur may suspend the CPN Service, insofar as is reasonable in the circumstances, without prejudice to Excalibur's rights of termination under this Order. Excalibur shall have no liability for any direct or indirect losses incurred or suffered by the Client, its Customers and/or End Users by such suspension.

10.3 The Client acknowledges and will procure the acknowledgement of its End User(s) that Excalibur exercises no control over and accepts no responsibility for the information, services and content accessible on the CPN Service or the internet. The Client assumes entire responsibility for the Client's and/or its End Users' use of the CPN Service, software and Equipment, whether or not provided by Excalibur.

10.4 Where the Client has ordered CIA through one or more sites the Client assumes entire responsibility for the Client's and/or its End Users' use of the CPN Service, software and Equipment (whether or not provided by Excalibur) and of the internet. The Client acknowledges and agrees that the internet contains materials which are sexually explicit and/or may be offensive and is accessible by persons who may attempt to breach the security of Excalibur's network or that of the Client or its End Users. Excalibur has no control over, and expressly disclaims any liability or responsibility for, such materials or actions. In such circumstances the Client and/or its End Users access the CPN Service at their own risk.

10.5 The Client shall include provisions equivalent to those contained in clauses 10.3 and 10.4 above in its terms and conditions with its Customers and End Users for the CPN Service.

11. Charges

11.1 The Charges for the CPN Service are set out on page one of this agreement.

11.2 Where, in order initially to set up the CPN Service, Excalibur is required to consult with the End User or other third party, Excalibur shall be entitled to raise a Charge for such consultation. Any such Charge shall be based on Excalibur's published standard prices for professional services at the time.

11.3 Excalibur shall be entitled to charge the Client with effect from the date of completion of the installation of each circuit as notified by Excalibur to the Client or, if later, from the date of activation of such circuit.

11.4 Excalibur shall be entitled to charge the Client for the CIA and firewall, if ordered, from the date when they are first configured for use or, if later, the date of activation of the same.

11.5 Excalibur has the right to review its standard charges at any time and will provide the client with 30 days' notice of any changes. The client has 30 days from receipt of this notice to cancel the agreement, providing 90 days' notice of termination.

12. General

12.1 The Client shall not use Excalibur's or Excalibur's sub contractors' name or any registered or unregistered trade marks or service marks of Excalibur or its sub contractors without the prior written consent of Excalibur. The Client shall ensure that contracts made between the Client and its Customers and End Users relating to the CPN Service are not represented as being with Excalibur or its sub contractors or branded with Excalibur's or its sub contractors' marks or logos but rather are clearly stated to be contracts between the Client and the Customer or End User, as the case may be.

12.2 The parties undertake that in relation to their dealings with Customers and End Users and/or potential Customers and End Users they will not: a) Represent themselves as each other and the Client will not represent itself as Excalibur's underlying service provider; b) Misrepresent their relationship with each other or, in the case of the Client, with Excalibur's underlying service provider; c) Misrepresent the nature and effect of their agreements with Customers and/or End Users; or d) Assert that they have any authority to provide or promote any products or services on behalf of each other or, in the case of the Client, on behalf of Excalibur's underlying service provider. The Client also agrees not to represent that the CPN Service is a service provided by any underlying service provider of Excalibur or that the End User has access to a dedicated service provided by either Excalibur or its underlying service provider.

13. General Data Protection Regulation

13 Protecting your personal information is important to Excalibur. Our privacy policy which sets out how we do this is available here: <https://www.excaliburcomms.co.uk/gdpr-policy/>. This policy explains the information that we hold, how we use it, and how long we keep it for.