

## Hosted Servers (100% IT) Terms and Conditions

### ACCEPTABLE USE POLICY

To use Excalibur IT products and services, you must comply with our Acceptable Use Policy (AUP) at all times. The AUP applies to all Excalibur IT products and services. We reserve the right to change the AUP at any time and will always publish the latest version of the AUP on our website. You should check the AUP regularly as we may change it to take on board new issues that may arise. The most up-to-date version of the AUP will apply to your use of our services, even if you have not read the updated version. It is your responsibility to ensure your compliance with the AUP.

Any breaches of this policy should be reported to [abuse@100percentit.com](mailto:abuse@100percentit.com). If you are reporting email or Usenet abuse then the entire posting, together with the full headers, should be included.

Please note that in this document, "we"/"us"/"our" denotes Excalibur IT Ltd (trading as Bridge Solutions (UK) Ltd, registered office Priam House, Fire Fly Avenue, Swindon, SN2 2EH and "you"/"your" denotes you the Client.

The AUP is intended to be a guide to Excalibur IT 's view of what constitutes "abuse" of the Internet and is not intended to be exhaustive. We therefore reserve the right to take any action, at our sole discretion, necessary to protect our reputation and goodwill.

### All Services

As a general principle, you must not use our services in any way that is unlawful or illegal or in any way that affects the enjoyment of other users of our services.

You must not use our services:

- To transmit, publish, link to, make available or receive any material which is defamatory,
- offensive, abusive, obscene, racist, harmful, threatening or menacing.
- In a way that will be a breach of any person's rights, including a breach of confidence, copyright, privacy or any other rights.
- To post material that imposes liability on us for hosting that material.
- To knowingly or unknowingly cause to be transmitted Worms, Trojans or Viruses.

You must abide by the terms and conditions imposed by the operators of any networks that your traffic crosses over or services that you use through our network.

We may, at our discretion, run manual or automatic systems to determine your compliance with the AUP (e.g. scanning for "open mail relays"). By accessing the Internet via Excalibur IT 's services you are deemed to have granted permission for this limited intrusion into your network or machines.

You must not disclose your password to any of Excalibur IT 's systems or services to any third party.

We reserve the right to take whatever measures we deem appropriate and proportionate to a breach of the AUP, up to and including suspending or terminating one or more of your Excalibur IT accounts. All cases are considered on an individual basis. Following suspension of your account, you must send a formal letter to Excalibur IT undertaking not to commit any future "abuse" before we consider reinstating the account.

Excalibur IT does not allow credits or refunds for any outages resulting from a suspension or deletion of an account under this Policy. You are still required to meet the terms laid out in your contract, including any minimum contract period.

### Internet Access

While connected to the Internet your system must meet applicable Internet Engineering Task Force standards. These can be found at <ftp://ftp.ripe.net/mirrors/rfc/std/>

You must not use your account to obtain unauthorised access to any computer or service. You are responsible at all times for the use of your account – whether by you or by a third party. You must not send email or any other type of electronic message that has a forged address or which affects the performance or functionality of remote machines.

You may not use our services to perform port scanning or probing, except with the explicit permission of the operators of the remote machines or networks targeted.

Your machine or network must not be configured in such a way that others can exploit it to disrupt the Internet. This includes, but is not limited to, ensuring that your network cannot be exploited as an Open Mail Relay, an Open Proxy Server or a Smurf Amplifier.

You must ensure that your system is not used for the sending of unsolicited bulk email or any other form of "abuse" whether it originates on your system or is from a third party. If you are running a web server on your own system you are solely responsible for the security and setup of that server. You are also responsible for all traffic that passes through your server.

## **Usenet / Mailing Lists / Email**

Unsolicited Commercial Email (UCE) is advertising material sent and received by email without the recipient either requesting such information or otherwise explicitly expressing an interest in the material advertised. Excalibur IT considers the sending of both commercial and non-commercial unsolicited bulk email to be unacceptable behaviour.

Any mailing lists run through Excalibur IT 's network must adhere to the "confirmed opt-in" principle. To make it simple to join lists it is common to offer an option to join by means of a checkbox on the same web page that collected an email address for another purpose. This checkbox should require an explicit action to add the address to the mailing list rather than having joining as the default setting. To prevent forged subscriptions, a confirmation of any request is required before adding the new email address. This is most easily achieved by sending an email to the requesting address and then making it a joining requirement that this special email is responded to. Further details on this can be found in the Best Current Practice document, available at:

[https://www.linx.net/good/bcp/maillinglist-bcp-v1\\_0.html](https://www.linx.net/good/bcp/maillinglist-bcp-v1_0.html)

You must not use Excalibur IT 's service for any of the following purposes:

- Initiating or propagating 'chain' or pyramid emails.
- Sending bulk or unsolicited emails.
- Using your Excalibur IT account to receive responses from "abusive" mailing.
- To email a person after they have specifically asked you not to mail them.
- To subscribe a third party to a mailing list without their permission

You must not send email or post articles with headers modified to disguise their true source. It is your responsibility to ensure that a real email address is present and obvious to a human. It is unacceptable to arrange for replies to the email to be sent to another user or machine unless their explicit permission has been granted.

You must not attempt Denial of Service attacks or mail bombing. This includes, but is not limited to, sending an excessive number of emails to the same host and sending viruses attached to an email.

You must not post articles which contravene the charter of the newsgroup to which the posts are made. This includes posting binary attachments to "non-binary" newsgroups and sending unsolicited posts of a commercial nature to any group. The only exception to the binary rule is to always allow the use of cryptographic signatures, such as PGP.

## **TERMS AND CONDITIONS**

Excalibur IT Limited have adopted a philosophy that assumes the honesty and good intent of clients. Services are provided in as unrestricted a manner as possible, to allow clients to have the richest Internet experience possible.

Please note that in this agreement, "we"/"us"/"our" denotes Excalibur IT Ltd, registered office Priam House, Firefly Avenue, Swindon, SN2 2EH, and "you"/"your" denotes you the Client.

These Terms and Conditions must be read in conjunction with our Acceptable Use Policy (AUP), which may be subject to change from time to time. It is your responsibility to ensure that you comply with the latest edition of the AUP in force at any given time.

If you have any questions about any of our policies, please contact your Client Support Manager or [sales@100percentit.com](mailto:sales@100percentit.com)

These Terms and Conditions may be revised, without notice, at any time, at the sole discretion of Excalibur IT Limited. Completion of the relevant order form is deemed to be an agreement to our Terms and Conditions.

- Excalibur IT reserve the right to suspend or terminate your account without notice or refund, levy additional charges, or block access to the relevant area of the service if the service has been misused. Refer to the AUP for definitions of misuse.
- In completing an application form, you agree to indemnify Excalibur IT Limited against any claim, costs or liability incurred as a result of your use of the service.
- Accounts and services must not be used for any illegal act or purpose. If the service is used for illegal purposes, Excalibur IT Limited may be required to terminate the service by United Kingdom agencies, or other relevant authorities. In these circumstances, you will not be entitled to any refund of fees. Such action will not remove the Client's liability to pay any outstanding fees for the duration of the contract.

- You must notify Excalibur IT Limited of any change of contact details. All contact details will remain confidential and Excalibur IT Limited will not supply this information to third parties, other than when requested by a recognised legal authority.
- Liability for any loss of service shall not exceed the proportionate amount of the subscription fee.
- Excalibur IT Limited's total liability to you under this agreement, from all causes of action and under all theories of liability, will be limited to the payments actually received from you for the specific order(s) of products and / or services from which the liability arises (where applicable), and in no event shall such total liability exceed the payments actually received from you under this agreement during the twelve (12) months prior to the date of the event giving rise to any liability.
- In no event will Excalibur IT Limited be liable to you for any special, incidental, punitive or consequential damages (including, without limitation, lost profits, loss of use, loss of data or loss of goodwill), or the costs of procuring substitute products and / or services, arising out of or in connection with this agreement or the use or performance of any products and / or services provided by Excalibur IT Limited hereunder, whether such liability arises from any claim based upon breach of contract, breach of warranty, tort (including negligence), product liability or otherwise. The parties have agreed that these limitations will survive and apply even if any limited remedy specified in this agreement is found to have failed of its essential purpose.
- You will not, under any circumstances, re-sell, rent out or share use of the service or any part thereof, to, or with, any other person, except where specifically agreed with Excalibur IT Limited in writing.
- Payments are monthly, quarterly, or yearly in advance.
- Payments may be made by cash, cheque or bank transfer, the amount payable being set out on the order form.
- Service charges do not include any provision for client telephone charges or hardware provision other than any Client Premises Equipment (CPE) set out on the order form. It is your responsibility to ensure that you have the necessary means of connection to this CPE.
- Excalibur IT limited reserves the right, from time to time, and without obligation or liability of any kind, to: (a) change the products and / or services offered; (b) add products and / or services to or delete products and / or services from Excalibur IT 's published price list; and (c) change or terminate the level or type of support that Excalibur IT makes available. Excalibur IT will provide at least twenty one (21) days' notice of any of the changes described in the foregoing clauses (a) through (c). Notice will be provided via Excalibur IT 's web site or renewal reminders. If and when they occur, changes in pricing will take immediate effect with the next contract renewal.
- These Terms and conditions are governed by English law and the parties hereby submit to the exclusive jurisdiction of the English Courts.

## **VIRTUAL SERVER SERVICES AGREEMENT**

This agreement is entered into by and between Excalibur IT Limited of Arclite House, Century Way, Swindon SN5 5YN ("Excalibur IT ") and "the Client" meaning the individual or business who signs or on whose behalf the Order form is signed or the individual or business who submits an order by telephone, email, web browser or other means.

Please note that in this agreement, "we"/"us"/"our" denotes Excalibur IT Ltd, registered office Arclite House, Century Way, Swindon SN5 5YN 7HB and "you"/"your" denotes you the Client.

This agreement outlines the responsibilities, rights and obligations of Excalibur IT and the Client, and supersedes any and all previous agreements, whether oral or in writing.

### **Service Provision**

- Excalibur IT will supply and install (where applicable) all software as ordered by the client onto the ordered Virtual Server (VS).
- Excalibur IT shall use reasonable efforts to ensure the required and services are installed in line with the lead times and target dates agreed between us.
- After provisioning, Excalibur IT shall connect the required system to the Internet without delay. The VS will be connected to the Internet at the speed specified on the order form. The VS connection may burst above the agreed rate if the Client has requested this subject to payment for the additional bandwidth on a 95th percentile basis.

### **Usage**

- The Client agrees to ensure that the facility will not be used for any illegal activity, and indemnifies Excalibur IT from any liability that may arise due to such usage. Such activity will be deemed to include the publishing of any material that is obscene, threatening, defamatory or which in any way infringes the Intellectual Property rights of another party. The Client accepts that in the event of allegations of infringement of this clause, Excalibur IT may without notice or liability suspend or interrupt the Client's access to the Internet, or remove any specific material held on our systems on the Client's behalf pending clarification of such allegations or suspicion. In the event that a third party makes direct representation to the Client with regard to possible breach of this clause, the Client will without delay notify Excalibur IT of the nature and background of such representations so we may promptly carry out any actions required to mitigate any exposure or damages.

- The Client accepts responsibility for all items published or transmitted from their VS. Excalibur IT will only act as a distributor of the Client's traffic and will not examine it in any way except for the purpose of efficiently routing it over the Internet and Local Area Network.
- The Client accepts all responsibility for installing security patches, software updates and all maintenance on the VS operating system and other software installed on the VS. Excalibur IT is not responsible for any software maintenance of the VS.
- The Client shall ensure that all software is removed from their systems and is no longer used at the end of any licence term.
- Excalibur IT does not warrant that software licenced to the Client is suitable for the usage intended by the Client; that it does not contain any bugs or defects or that it is in any way guaranteed to be compatible with other software running on the same server.
- The Client is responsible for ensuring that all software running on the VS is fully licenced and complies with all regulations and authorities.
- If software is licenced on a counted basis such as 'per user/person/device', the Client must inform Excalibur IT within 5 working days of the end of each month how many licences they are using. If the Client does not provide this information, the Client agrees that Excalibur IT can assume that the same numbers of licences are being used as on this order or the Client's most recent report (whichever is most recent). The Client agrees to pay for all licences used regardless of whether or how they are reported and accepts responsibility for any additional costs incurred through under-reporting the number of licenses used.

## Confidentiality

Excalibur IT will use reasonable endeavours to ensure that Confidential Information (including but not limited to data, technical, financial, operational, commercial information) howsoever stored is not disclosed to any third party unless such information is already in the public domain. Likewise, the Client will use all reasonable endeavours to ensure that Confidential information (including but not limited to technical, financial, operational, commercial, business ideas, client information, product information) howsoever stored is not disclosed to any third party unless such information is already in the public domain.

## Liability

- Excalibur IT will not be liable for any loss of revenue or profits, loss of business or other consequential damages.
- Excalibur IT 's liability to the Client with regards to an individual service is restricted to the total value of any amounts paid by the Client to Excalibur IT in the previous 12-month period on that individual service.

## Support

- Excalibur IT will provide the Client with access to a support telephone number. Support may also be contacted by email at [SERVICE.DESK@EX-CO.UK](mailto:SERVICE.DESK@EX-CO.UK). Support cover is from 8AM to 6PM Monday to Friday excluding Public Holidays and Bank Holidays.

## Charges

- In consideration for the provision by EXCALIBUR of the Services, Client shall pay to EXCALIBUR a monthly fee as detailed on page one of this agreement. The Fee will be invoiced by EXCALIBUR to Client on a monthly basis, and will become due and payable on the first day of each month. EXCALIBUR may at its discretion suspend or cancel the provision of any of its services supplied to the client if payment of any instalment of the Fee is not received within 5 days following the due date for payment.
- 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 60 days' notice of termination.

## Termination

- This agreement covers all orders placed by the Client with Excalibur IT , whether placed before or after the date of this agreement.
- On orders where the Minimum Period is less than one year, termination notice must be received in writing at least one month in advance of termination. Where the Minimum Period is one year or greater, termination notice must be received in writing at least three months in advance of termination. No services may be terminated before the completion of the Minimum Period unless explicitly agreed in writing by Excalibur IT. If termination notice is not received as above, the agreement will automatically renew for a further 12 month period.
- Excalibur IT reserve the right to terminate this Agreement and all services covered by it immediately and without further notices should any properly delivered invoice remain unpaid for a period of thirty days beyond the due date. Such action will not remove the Client's liability to pay any outstanding fees for the duration of the contract.
- In the event of termination of this Agreement, all IP addresses issued by Excalibur IT to the Client will remain the property of Excalibur IT , and may not be transferred to another provider.
- If Excalibur IT ceases trading, all reasonable endeavours will be used to return any data stored on a VS to the Client or to transfer it to a new service provider.

## Force Majeure

- Excalibur IT shall not be liable to the Client for any breach of this agreement for failing to perform any obligation where such breach or failure was the result of any Act of God, insurrection or civil disorder, war or military operations, inclement weather, failure or shortage of power supplies, flood, drought, public disorder, lightning or fire, national or local emergency, acts or omissions of government, highway authority or other government authority, compliance with any statutory obligation, industrial disputes of any kind, the acts of omissions of other telecommunications operators or any cause beyond Excalibur IT's reasonable control.

## Jurisdiction

- The Laws of England will apply to this Agreement and any modification of it and any dispute will be resolved in England by Arbitration where no issue of Law arises or failing that, in the Courts.

## END USER LICENCE TERMS

Terms and Conditions regarding use of Microsoft software

This document governs the use of Microsoft software, which may include associated media, printed materials, and "online" or electronic documentation (individually and collectively, "Products") provided by Excalibur IT Ltd (hereinafter referred to as "Client"). Client does not own the Products and the use thereof is subject to certain rights and limitations of which Client must inform you. Your right to use the Products is subject to the terms of your agreement with Client, and to your understanding of, compliance with, and consent to the following terms and conditions, which Client does not have authority to vary, alter, or amend.

### 1. DEFINITIONS.

"Client Software" means software that allows a Device to access or utilize the services or functionality provided by the Sever Software.

"Device" means each of a computer, workstation, terminal, handheld PC, pager, telephone, personal digital assistant, "smart phone", server or other electronic device.

"Server Software" means software that provides services or functionality on a computer acting as a server.

"Software Documentation" means any end user document included with server software.

"Redistribution Software" means the software described in Paragraph 4 ("Use of Redistribution Software") below.

### 2. OWNERSHIP OF PRODUCTS.

The Products are licenced to Client from an affiliate of the Microsoft Corporation (collectively "Microsoft"). All title and intellectual property rights in an to the Products (and the constituent elements thereof, including but not limited to any images, photographs, animations, video, audio, music, text and "applets" incorporated into the Products) are owned by Microsoft or its suppliers. The Products are protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. Your possession, access, or use of the Products does not transfer any ownership of the Products or any intellectual property rights to you.

### 3. USE OF CLIENT SOFTWARE.

You may use the Client Software installed on your Devices by Client only in accordance with the instructions, and only in connection with the services, provided to you by Client. The terms of this document permanently and irrevocably supersede the terms of any Microsoft End User Licence Agreement that may be presented in electronic form during the use of the Client Software.

### 4. USE OF REDISTRIBTUTION SOFTWARE.

In connection with the services provided to you by Client, you may have access to certain "sample" "redistributable" and/or software development ("SDK") software code and tools (individually and collectively "Redistribution Software"). YOU MAY NOT USE, MODIFY, COPY, AND/OR DISTRIBUTE ANY REDISTRIBUTION SOFTWARE UNLESS YOU EXPRESSLY AGREE TO AND COMPLY WITH CERTAIN ADDITIONAL TERMS CONTAINED IN THE SERVICES PROVIDER USE RIGHTS ("SPUR") APPLICABLE TO CLIENT WHICH TERMS MUST BE PROVIDED TO YOU BY CLIENT. Microsoft does not permit you to use any Redistribution Software unless you expressly agree to and comply with such additional terms, as provided to you by Client.

### 5. COPIES.

You may not make any copies of the Products provided, however, that you may (a) make one copy of Client Software on your Device as expressly authorized by Client; and (b) you may make copies of certain Redistribution Software in accordance with Paragraph 4 (Use of Redistribution Software). You must erase or destroy all such Client Software and/or Redistribution Software upon termination or cancellation of your agreement with Client, upon notice from Client or upon transfer of your Device to another person or entity, whichever occurs first. You may not copy any printed materials accompanying the Products.

## 6. LIMITATIONS ON REVERSE ENGINEERING, DECOMPILATION AND DISASSEMBLY.

You may not reverse engineer, decompile or disassemble the Products except and only to the extent that applicable law, notwithstanding this limitation, expressly permits such activity.

## 7. NO RENTAL.

You may not rent, lease, lend, pledge or directly or indirectly transfer or distribute the Products to any third party, any may not permit any third party to access to and/or use the functionality of the Products except for the sole purpose of accessing the functionality of the Products in the form of software series in accordance with the terms of this agreement and any agreement between you and Client.

## 8. TERMINATION.

Without prejudice to any other rights, Client may terminate your rights to use the Products if you fail to comply with these terms and conditions. In the event of termination or cancellation of your agreement with Client, or Client's agreement with Microsoft under which the Products are licenced, you must stop using and/or accessing the Products, and destroy all copies of the Products and all of their component parts.

## 9. NO WARRANTIES, LIABILITIES OR REMEDIES BY MICROSOFT.

ANY WARRANTIES, LIABILITIES FOR DAMAGES AND REMEDIES, IF ANY, ARE PROVIDED SOLELY BY CLIENT AND NOT BY MICROSOFT, ITS AFFILIATES OR SUBSIDIARIES.

## 10. PRODUCT SUPPORT.

Any support for the Products is provided to you by Client and is not provided by Microsoft, its affiliates or subsidiaries.

## 11. NOT FAULT TOLERANT.

THE PRODUCTS MAY CONTAIN TECHNOLOGY THAT IS NOT FAULT TOLERANT AND ARE NOT DESIGNED, MANUFACTURED, OR INTENDED FOR USE IN ENVIRONMENTS OR APPLICATIONS IN WHICH THE FAILURE OF THE PRODUCTS COULD LEAD TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL , PROPERTY OR ENVIRONMENTAL DAMAGE.

## 12. EXPORT RESTRICTIONS.

The Products are subject to U.S. export jurisdiction. Client must comply with all applicable laws including the U.S. Export Administration Regulations, the International Traffic in Arms Regulations, as well as end-user, end-use and destination restrictions issued by U.S. and other governments. For additional information, see <http://www.microsoft.com/exporting/>.

## 13. LIABILITY FOR BREACH.

In addition to any liability you may have to Client, you agree that you will also be legally responsible directly to Microsoft for any breach of these terms and conditions.