

Terms & Conditions

1 INTRODUCTION AND DEFINITIONS

1.1 The Customer (as defined in clause 1.2 below) understands that in order to receive the Equipment/Services (as defined in clause 1.2 below) and the Airtime Services (as defined in clause 1.2 below) it is required to enter into two separate agreements. These are:

1.1.1 the Agreement between the Customer and Excalibur which governs the supply of the Equipment and/or Services and comprises: (i) these terms and conditions; and (ii) the Quotation; and

1.1.2 the Airtime Agreement (as defined in clause 1.2 below).

1.2 In the Agreement, the following words and expressions shall have the meanings set out below:

“Airtime Agreement” means the agreement between the Customer and Vodafone which governs the provision of Airtime Services and shall comprise the documents specified within Vodafone’s general terms, a copy of which can be found at the following location: <https://www.vodafone.co.uk/terms-and-conditions/> (or such other location as notified by Excalibur);

“Airtime Services” means cellular mobile telecommunications airtime and network capacity procured from Vodafone;

“Bundle” means services and/or goods that are provided to the Customer by Excalibur under the same agreement (or two or more closely related or linked agreements), at least one of which relates to the provision of an internet access service or a number-based interpersonal communications service. The other services which may comprise part of a “Bundle” include content services or terminal equipment;

“Business Day” means a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business;

“Connection” means the connection of an end user to the Vodafone network such that the end user is capable of accessing and utilising the Airtime Services;

“Controller”, “Processor”, “Data Subject”, “Personal Data”, “Personal Data Breach”, “processing”, and “appropriate technical and organisational measures” shall have the meanings given to them in the Data Protection Legislation;

“Customer” means the party ordering the Equipment/Services and/or the Airtime Services whose full details are set out in the Quotation;

“Data Protection Legislation” means all applicable data protection and privacy legislation in force from time to time in the UK including without limitation the UK GDPR; the Data Protection Act 2018 (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended, as each of the foregoing may be updated, replaced or amended from time to time; and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of Personal Data (including, without limitation, the privacy of electronic communications);

“Downward Migration” means in respect of a Connection, the transfer (at the request of the Customer) from one tariff provided by Vodafone to another tariff provided by Vodafone, which results in the Customer being charged a lower monthly line rental charge;

“Equipment” means mobile telecommunications handsets and other associated equipment ordered by the Customer from time to time;

“Excalibur” means Excalibur Communications (GB) Ltd (company number 03912924), whose registered office address is at Onecom House, 4400 Parkway, Whiteley, Fareham, Hampshire, PO15 7FJ;

“Force Majeure Event” means an event or circumstance beyond a party's reasonable control;

“General Conditions” means Ofcom’s General Conditions of Entitlement;

“The Funder” means the third party financing the Equipment (if any);

“Minimum Term” means the minimum period the Customer has agreed to maintain Connection(s) under the Airtime Agreement as specified in the Quotation;

“Monthly Subsidy Amount” means the amount which is derived by dividing the Subsidy payable for a Connection by the number of months in the Minimum Term applicable to that Connection;

“Quotation” means the quotation provided by Excalibur which details the Equipment and/or Services which the Customer has requested;

“Services” means any services ordered by the Customer and provided by (or on behalf of) Excalibur;

“Sub-Processor” has the meaning given in clause 13.6;

“Subsidy” means the sum payable (if any) by Excalibur to the Customer (as determined by Excalibur in its sole discretion), taking into consideration the number of Connections, the applicable tariffs and the Minimum Term;

“UK GDPR” has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018; and

“Vodafone” means Vodafone Limited (company number 01471587) whose registered office address is at Vodafone House, The Connection, Newbury, Berkshire RG14 2FN.

2 APPLICABLE TERMS

2.1 Unless other terms and conditions are expressly accepted by Excalibur by means of a specific written amendment signed by an authorised signatory of Excalibur the supply of Equipment and / or the provision of Services will be on the terms and conditions set out in the Agreement to the exclusion of all other terms and conditions whether or not the same are endorsed upon, delivered with or referred to in any purchase order or other document delivered or sent by the Customer to Excalibur.

2.2 No contract shall exist until the Customer's order has been accepted by Excalibur. Excalibur may accept the Customer's order: (i) by formal acknowledgement; (ii) automatically on the date Vodafone begin to provide

the Airtime Services; or (ii) automatically by despatch of the Equipment (where it is a an order for Equipment only), whichever is earlier).

3 SUPPLY OF EQUIPMENT

- 3.1 Subject to the Customer entering into the Airtime Agreement, Excalibur undertakes to supply the Customer with such Equipment and/or Services as is ordered by the Customer from time to time.
- 3.2 Excalibur shall use its reasonable endeavours to deliver the Equipment on the date agreed by the parties but the Customer acknowledges that time shall not be of the essence.
- 3.3 Notwithstanding delivery of the Equipment to the Customer, title to the same will not pass to the Customer but will be retained by Excalibur (or by any Funder) until (i) expiry of the Minimum Term (subject to Vodafone and Excalibur having received payment in full from the Customer of all sums due under the Agreement and the Airtime Agreement) where the Equipment has been paid for by way of Subsidy; or (ii) the date on which all invoices relating to the same (including VAT) have been paid in full (in cleared funds) to Excalibur in all other cases.
- 3.4 The risk in the Equipment will pass to the Customer upon delivery.
- 3.5 The Customer undertakes to notify Excalibur of any alleged defect, shortage or discrepancy in any Equipment within 3 Business Days from delivery of the Equipment to the Customer. In the event that the Customer fails to notify Excalibur within this period then the Customer will be deemed to have accepted the Equipment and Excalibur shall have no liability to the Customer whatsoever in respect of such Equipment.

4 PROVISION OF THE SERVICES

- 4.1 Excalibur shall use its reasonable endeavours to provide the Services on the dates agreed by the parties, but failure to do so shall not constitute a breach of the Agreement.
- 4.2 Excalibur shall use reasonable endeavours to ensure that the Services are provided with reasonable skill and care.

5 CHARGES AND PAYMENT

- 5.1 Quoted prices include the cost of packaging but exclude delivery, VAT and installation charges (where applicable).
- 5.2 The prices for the Equipment shall be those as at the date of despatch and Excalibur reserves the right to amend the prices at any time prior to the date of despatch.
- 5.3 The Customer hereby agrees to pay each invoice submitted by Excalibur within 5 days from the date of such invoice ("Due Date").
- 5.4 The Customer will pay all invoices by direct debit, unless Excalibur agrees otherwise in writing. Excalibur reserves the right at its absolute discretion to levy a surcharge where the Customer does not pay by direct debit which will be offset against the invoice.

5.5 Interest at an annual rate of 5% above the Bank of England's base rate from time to time will accrue daily and be calculated on a daily basis on overdue invoices from the Due Date until payment, whether before or after judgment.

6 EQUIPMENT – ORDERING AND DELIVERY

6.1 Excalibur shall deliver the Equipment to the delivery address specified on the Quotation. In the event the Customer requests the Equipment is delivered to a different delivery address, additional charges may apply.

6.2 Should expedited delivery be agreed, additional charges may apply.

6.3 Excalibur may deliver the Equipment by instalments, which may be invoiced and paid for separately.

6.4 If for any reason the Buyer fails to accept delivery of any of the Equipment or Excalibur is unable to deliver the Equipment as a result of the Customer's failure to provide adequate delivery instructions, documents, licences or authorisations:

6.4.1 risk in the Equipment shall pass to the Customer;

6.4.2 the Equipment shall be deemed to have been delivered; and

6.4.3 Excalibur may store the Equipment until delivery, whereupon the Customer shall be liable for all related costs and expenses (including, without limitation, storage and insurance).

6.5 Any liability of Excalibur for shortages or damage in transit shall be limited to (at the option of Excalibur) (i) replacing the missing or damaged Equipment within a reasonable time; or (ii) issuing a refund. The Customer shall return, promptly upon request, and in accordance with clause 7, any Equipment that has been incorrectly delivered.

6.6 Excalibur shall not be liable for any non-delivery of Equipment (even if caused by the Company's negligence) unless the Customer notifies Excalibur in writing within 5 Business Days of the agreed delivery date.

6.7 Any liability of the Company for non-delivery of the Equipment shall be limited to (at the option of Excalibur) replacing the Equipment within a reasonable time or issuing a refund for the Equipment which have not been delivered in accordance with an order.

6.8 Excalibur reserves the right to vary the specification of any item of Equipment or withdraw, modify or amend any item of Equipment without prior notice. Any such variation, withdrawal, modification or amendment shall not affect any order that has already been accepted by Excalibur, save that Excalibur reserves the right to make any changes in the specification of the Equipment which are required to conform with any applicable legal or regulatory requirements.

7 Equipment – Returns

7.1 The Customer must request a Returns Authorisation Number from Excalibur's Customer Service department either by telephone, letter or email.

7.2 Excalibur will not accept any returns unless: (i) it is notified within 14 days of the date of delivery; and (ii) the Equipment is returned within 14 days of the date of issue of the Returns Authorisation Number. The

notification shall include the reason for the return, e.g. whether the Equipment is defective. The Buyer has no right to return Equipment which has been delivered in accordance with the Agreement.

- 7.3 Returned Equipment must be in the original packaging and in a clean re-saleable condition (subject only to any defects which have been notified to Excalibur in accordance with -this clause 7. The returns authorisation number must be written on a label attached to the packaging. Any Equipment which is returned other than in accordance with this clause 7 may, at the discretion of Excalibur, be refused and returned to the Customer and/or a handling fee (equal to a minimum of 15% of the order value of the applicable Equipment) ("Handling Fee").
- 7.4 If the Customer fails to make Equipment ready for collection on the return date agreed with Excalibur, Excalibur reserves the right to charge the Customer a Handling Fee.
- 7.5 If, upon examination by Excalibur or the manufacturer, the returned Equipment is found not to be defective, Excalibur reserves the right to return the Equipment to the Customer and to charge the Customer a Handling Fee. In addition, the Customer shall be deemed to have purchased any replacement Equipment pursuant to the terms of the Agreement and Excalibur shall invoice the Customer for the replacement Equipment.
- 7.6 Excalibur shall not be responsible for the loss or damage in transit of any Equipment where the Customer makes its own arrangements to return the Equipment.

8 PAYMENT AND RECLAMATION SUBSIDIES

- 8.1 Subject to the remaining provisions of this clause, Excalibur may, acting in its sole discretion, provide the Customer with a Subsidy as a result of the Customer entering into the Airtime Agreement. The amount of the Subsidy shall be calculated with reference to the length of the Minimum Term and, unless otherwise agreed at the sole discretion of Excalibur, shall be made available to the Customer in equal quarterly instalments during such Minimum Term.
- 8.2 In the event Excalibur does provide the Customer with a Subsidy pursuant to clause 8.1, such Subsidy may be provided, at the election of Excalibur, using the following methods set out below or any combination of them:
- 8.2.1 Deducting the Subsidy from the value of the Equipment or the Services which the Customer orders from Excalibur; or
 - 8.2.2 Using the Subsidy to discharge any termination charges levied upon the Customer by the relevant network/service provider for terminating their previous airtime agreement subject to Excalibur being provided with a copy of the relevant invoice from such network/service provider; or
 - 8.2.3 Using the Subsidy to settle any amount owed to Excalibur by the Customer that has exceeded the credit terms set for the Customer's account with Excalibur, provided that:
 - (a) reasonable endeavours have been made to secure payment from the Customer for the amount owed; and
 - (b) the credit terms set for the Customer have been exceeded by a minimum of 14 days.

- 8.3 Payment of the Subsidy (or any part thereof as applicable) shall be made by Excalibur within 60 days from the date of receipt of the Customer's invoice therefor (save that no invoice shall be necessary where the Subsidy is being deducted from the price of the Equipment/Services ordered by the Customer pursuant to clause 8.2.1) provided that;
- 8.3.1 at all times the Connection is still active on the relevant payment date that the Subsidy (or instalment payment of the Subsidy) is due;
 - 8.3.2 where the invoice is payable in instalments or after a prescribed period of time the appropriate trigger date has passed;
 - 8.3.3 the invoice has been raised in accordance with the provisions of the Agreement; and
 - 8.3.4 where the; (a) invoice is for termination charges pursuant to clause 8.2.3, this amount is invoiced within 3 months from the Connection date; and/or (b) invoice is for the payment of monies pursuant to clause 8.2.2 this amount is invoiced during the Minimum Term; and/or (c) amount claimed is being deducted from the price of Equipment/ Services ordered by the Customer pursuant to clause 8.2.1 this amount is claimed during the Minimum Term; and in the event that the Customer fails to invoice/claim the Subsidy within the timescales set out in clause 8.3.4(a) to (c) (inclusive) then the Customer's right to the Subsidy shall cease.
- 8.4 The Customer acknowledges that;
- 8.4.1 the payment of the Subsidy is conditional upon; (a) the Customer maintaining each Connection for the Minimum Term; and (b) the Customer not Downward Migrating any Connection during the Minimum Term; and (c) such other conditions as are notified to the Customer from time to time by Excalibur; and
 - 8.4.2 Excalibur will provide the Subsidy prior to the satisfaction of the conditions set out in clause 8.4.1 and hence the need for clause 8.5.
- 8.5 Excalibur shall be entitled to reclaim from the Customer the Subsidy (or such proportion of the Subsidy) already paid to the Customer (or withhold such amount from any Subsidy or instalment of a Subsidy to be paid to the Customer) in the event that;
- 8.5.1 a Connection is for whatever reason disconnected prior to the expiry of the Minimum Term; or
 - 8.5.2 a Connection is for whatever reason Downward Migrated during the Minimum Term; or
 - 8.5.3 the relevant network/service provider (for whatever reason) reclaims or withholds in full or in part from Excalibur any of the connection commission paid to Excalibur by the network/service provider in respect of that Connection; and the proportion of the Subsidy that Excalibur shall be entitled to reclaim from the Customer shall be the Monthly Subsidy Amount for each month (and such pro rata amount for each incomplete month) of the balance of the Minimum Term which is unexpired at the date of disconnection or the Downward Migration.
- 8.6 In the event that a Customer cancels prior to connection, Disconnects a Connection or transfers away from Excalibur prior to the expiry of the Minimum Term or a Connection is Downward Migrated during the Minimum Term then Excalibur shall be entitled to charge the Customer an administration charge of £250 for each connection.

- 8.7 It is agreed between the Customer and Excalibur that the sum of up to £250 is a genuine attempt to pre-estimate the administrative expenses incurred in processing the said cancellation transfer or Downward Migration and the Customer irrevocably agrees not to subsequently challenge the charge as a penalty.
- 8.8 Any such sum reclaimed (or withheld) pursuant to clause 8.5 shall be invoiced to the Customer and such sum shall be payable (unless withheld) within 5 days of the date of Excalibur's invoice.

9 WARRANTIES

- 9.1 The Customer acknowledges that Excalibur is not the manufacturer of the Equipment, and accordingly, that the warranty given by Excalibur is limited as follows. If any Equipment is proved, to the reasonable satisfaction of Excalibur, to be defective in material or workmanship then, subject to timely notification in line with clause 3.5 of these terms and conditions, if the Equipment is returned to Excalibur within 14 days of the date of delivery Excalibur will at its option (a) repair the Equipment; (b) replace the Equipment; (c) substitute the Equipment with substantially equivalent goods or (d) refund the Customer in respect of any such Equipment.
- 9.2 For the avoidance of doubt, where Excalibur replaces Equipment or provides substitute goods, the original Equipment returned by the Customer will belong to Excalibur, provided that these obligations on the part of Excalibur will not apply where: (a) the Equipment has been altered in any way whatsoever or has been subjected to misuse or unauthorised repair; or (b) the Equipment has been improperly installed or connected (unless Excalibur carried out such installation and connection); or (c) the Customer has failed to observe any maintenance requirements relating to the Equipment; or (d) the Equipment has been expressly sold on a "no warranty" basis or in respect of any promotional items supplied from time to time with or in connection with the Equipment.
- 9.3 Save as provided in the Agreement, Excalibur hereby excludes all conditions, warranties and stipulations express or implied, statutory, customary or otherwise which but for such exclusion would or might subsist in favour of the Customer.

10 LIMITATION OF LIABILITY

- 10.1 Subject to clause 10.2 and 10.3 Excalibur's total liability for loss or damage of any kind whatsoever (however such liability arises and whether in contract, tort, for breach of statutory duty or otherwise) under or in connection with; (a) the Agreement and/or (b) any matter collateral to the Agreement and/or in respect of any representation or misrepresentation (other than a fraudulent misrepresentation made by or on behalf of Excalibur); shall in no circumstances exceed the sum paid by the Customer to Excalibur in respect of the Equipment or Services with which such liability arises provided that nothing in this clause shall limit or exclude liability for death or personal injury arising from Excalibur's negligence.
- 10.2 Excalibur shall not be liable under any circumstances, whether in contract, tort (including negligence), breach of statutory duty, or otherwise, arising under or in connection with the Agreement for (a) any loss of profits, sales, business, or revenue, loss or corruption of data, information or software, loss of business opportunity, loss of anticipated savings, loss of or damage to goodwill; or any indirect or consequential loss.
- 10.3 Save as otherwise provided, Excalibur will have no liability under the Agreement for any personal injury, death, loss or damage of any kind whatsoever (other than death or personal injury resulting from Excalibur's negligence).

11 CUSTOMER'S OBLIGATIONS

11.1 The Customer shall:

11.1.1 be solely responsible for the accuracy of orders;

11.1.2 co-operate with Excalibur in all matters relating to the Services and/or Equipment; and

11.1.3 follow all reasonable instructions from Excalibur from time to time in connection with the Equipment and / or Services.

12 GENERAL

12.1 Excalibur will be entitled to assign, sub-contract or sub-let the Agreement or any part thereof. In particular, but without in any way limiting its rights under this clause, Excalibur may transfer title to the Equipment to the Funder together with the benefit of any of the rights which it has at any time under the Agreement. The Customer shall not be permitted to assign or sub-let the Agreement or any part thereof without the written consent of Excalibur.

12.2 Failure by Excalibur to enforce any of the provisions of the Agreement will not be construed as a waiver of any of its rights hereunder.

12.3 Excalibur shall be entitled to amend any of the terms of the Agreement upon the giving of 7 days written notice to the Customer.

12.4 In relation to all obligations of the Customer under the Agreement, the time of performance is of the essence.

12.5 The illegality, invalidity or unenforceability of any clause or part of the Agreement will not affect the legality, validity or enforceability of the remainder. If any such clause or part is found by any competent court or authority to be legal, invalid or unenforceable the parties agree that they will substitute provisions in a form as similar to the offending provisions as is possible without thereby rendering them illegal, invalid or unenforceable.

12.6 Each of the parties hereto is an independent contractor and nothing contained in the Agreement shall be construed to imply that there is any relationship between the parties of partnership or of principal/agent or of employer/employee.

12.7 The legal construction of the clauses in the Agreement shall not be affected by their headings which are for convenience of reference only.

12.8 Any notice or other communication given to a party under or in connection with the Agreement shall be deemed to have been delivered:

12.8.1 if delivered by hand, when left at its registered office address;

12.8.2 if delivered by prepaid first-class post or other next working day delivery service, two Business Days after being posted;

12.8.3 If sent via email where email is sent to customerservices@excaliburcomms.co.uk in the case of Excalibur and to the email addressed detailed on the Quotation in the case of the Customer, at the time of transmission, or, if this time falls outside business hours in the place of receipt, when business hours resume. In this clause, **business hours** means 9.00am to 5.00pm Monday to Friday on Business Days.

12.9 This clause 12.9 applies to Customers with ten or more employees as at the date of the Agreement. Excalibur may amend the Agreement at any time by publishing the updated version online at <https://www.excaliburcomms.co.uk/excalibur-terms-conditions/> (or any other online address that Excalibur advises the Customer of) or by giving written notice to the Customer.

12.10 This clause 12.10 applies to Customers with fewer than ten employees as at the date of the Agreement. Excalibur may amend the Agreement at any time in the event such changes are required by applicable law or are administrative in nature, by publishing the updated version online at <https://www.excaliburcomms.co.uk/excalibur-terms-conditions/> (or any other online address that Excalibur advises the Customer of) or by giving written notice to the Customer.

12.11 No one other than a party to the Agreement shall have any right to enforce any of its terms.

12.12 This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter. Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation [or negligent misstatement] based on any statement in this Agreement.

12.13 The Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation shall be governed by English Law and the parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Agreement or its subject matter or formation.

13 DATA PROTECTION

13.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 13 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.

13.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and Excalibur is the Processor when providing the Customer with Equipment and/or Services pursuant to the Agreement.

13.3 The following table sets out the scope, nature and purpose of processing by Excalibur, the types of Personal Data and categories of Data Subject being processed for the purposes of the Agreement:

Subject matter	The processing of the Data Subjects' Personal Data in order to provide the Customer with Equipment and/or Services pursuant to the Agreement.
Duration	The duration required for the performance of the Agreement.
Categories of data	Any Personal Data transferred by the Customer to Excalibur under this Agreement, including, but not limited to:

	<ul style="list-style-type: none"> • title; • full name; • job title; • telephone numbers and other contact details; • bank, payment and invoicing details; and • details related to use of the Services (which may include: description, duration, number of calls, destination of call, where the call is made from (e.g. mobile or fixed line), date and time of call, caller's location, call recipient's location, recipient's telecoms provider).
Categories of Data Subjects	Employees and staff of the Customer (or such other persons authorised by the Customer to make use of the Services) (Customer Staff). Recipients of calls made by Customer Staff and those who contact Customer Staff using the Services.
Nature of processing	Storing and using the information to fulfil the Agreement.
Purposes of processing	To provide the Customer with Equipment and/or Services pursuant to the Agreement.

13.4 Without prejudice to the generality of clause 13.1, the Customer will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer and processing of any Personal Data to and by Excalibur for the duration and purposes of the Agreement, and will transfer to Excalibur only the Personal Data that Excalibur requires in order to perform its obligations under the Agreement.

13.5 Without prejudice to the generality of clause 13.1, Excalibur shall, in relation to any Personal Data processed by Excalibur as Processor in connection with the Agreement:

13.5.1 process the Personal Data only in accordance with the Agreement or on the documented instructions of the Customer unless Excalibur is required by applicable law to otherwise process that Personal Data. Where Excalibur is relying on applicable law as the basis for processing Personal Data, Excalibur shall notify the Customer of this before performing the processing required by the applicable law unless that applicable law prohibits Excalibur from so notifying the Customer. Excalibur shall inform the Customer if, in the opinion of Excalibur, any of its instructions infringes or may infringe Data Protection Legislation;

13.5.2 ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);

13.5.3 ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential;

13.5.4 assist the Customer, insofar as this is possible (taking into account the nature of processing and

the information available to Excalibur), at the Customer's cost and written request, in responding to any request from a Data Subject and in ensuring compliance with the Customer's obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

13.5.5 notify the Customer without undue delay on becoming aware of a Personal Data Breach;

13.5.6 at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the Agreement unless required by Applicable Law to store the Personal Data. For the purposes of this clause 13.5.6, Personal Data shall be considered deleted where it is put beyond further use by Excalibur; and

13.5.7 maintain records to demonstrate its compliance with this clause 13 and allow for the Customer or the Customer's designated auditors to review, audit and inspect such records for the purposes of verifying such compliance.

13.6 The Customer hereby provides its prior, general authorisation for Excalibur to:

13.6.1 appoint third-party processors of Personal Data ("Sub-Processors"). Excalibur shall inform the Customer of any intended changes concerning the addition or replacement of the Sub-Processors. If the Customer objects it shall give written notice to Excalibur within 10 days of notice of any such additional or replacement Sub-Processor, which includes a description of the objection including if the objection is due to an actual or likely breach of Data Protection Legislation. On Excalibur's receipt of the objection, the parties shall attempt in good faith to resolve the objection. If the parties are unable to resolve the objection within 30 days from the Customer's objection then Excalibur may either: (i) continue the Agreement without appointing the new or replacement Sub-Processor; or (ii) terminate the Agreement, without liability to the Customer. Excalibur confirms that it has entered or (as the case may be) will enter with each Sub-Processor into a written agreement incorporating terms which are substantially similar to those set out in this clause 13. As between the Customer and Excalibur, Excalibur shall remain fully liable for all acts or omissions of any Sub-Processor appointed by it pursuant to this clause 13.6; and

13.6.2 transfer Personal Data outside of the UK or EEA as required for the purposes as described in clause 13.3, provided that Excalibur ensures that all such transfers are effected in accordance with Data Protection Legislation.

14 Confidentiality

14.1 Each party undertakes that it shall not at any time during the Agreement, and for a period of two years after termination of the Agreement, disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause 14.2.

14.2 Each party may disclose the other party's confidential information:

14.2.1 to its employees, officers, representatives, subcontractors or advisers who need to know such information for the purposes of carrying out the party's obligations under the Agreement. Each party shall ensure that its employees, officers, representatives, subcontractors or advisers to whom it discloses the other party's confidential information comply with this clause 14; and

14.2.2 as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.

15 FORCE MAJEURE

Neither party shall be in breach of the Agreement nor liable for delay in performing, or failure to perform, any of its obligations under the Agreement if such delay or failure result from a Force Majeure Event. If the period of delay or non-performance continues for 2 months, the party not affected may terminate the Agreement in respect of the affected Service immediately by giving notice to the affected party.

16 BILL CAPPING

16.1 The Customer hereby confirms that they have been given the opportunity to specify billing limits as part of the sales process.

16.2 For renewals and new Connections completed on or after the 1st October, billing limits can be added during the contract, or any billing limits already put in place can be amended or removed either in respect of all billing periods or a specified billing period by contacting our Customer Service Team through the usual methods.

16.3 If a billing limit is reached, the Customer may: (1) agree that the user will be barred from using service for the remainder of the month; (2) request the limit to be removed permanently, or (3) purchase additional bundles to allow continued usage.

17 TERM AND TERMINATION

17.1 Without limiting its other rights or remedies:

17.1.1 Excalibur may terminate the Agreement with immediate effect by giving notice to the Customer if the Customer fails to pay any amount due under the Agreement on the due date for payment and remains in default no less than 30 days after being notified in writing to make such payment;

17.1.2 a party may terminate the Agreement with immediate effect by giving notice to the other party if:

- (a) the other party commits a material breach of its obligations under the Agreement and (if such breach is remediable) fails to remedy that breach within 30 days after being notified in writing to do so; and
- (b) the other party the other party takes or has taken against it (other than in relation to a solvent restructuring) any step or action towards its entering bankruptcy, administration, provisional liquidation or any composition or arrangement with its creditors, applying to court for or obtaining a moratorium under Part A1 of the Insolvency Act 1986, being wound up (whether voluntarily or by order of the court), being struck off the register of companies, having a receiver appointed to any of its assets, or its entering a procedure in any jurisdiction with a similar effect to a procedure listed in this clause.