

TERMS & CONDITIONS



1. INTRODUCTION AND DEFINITIONS

- 1.1** Excalibur Communications is the trading name of Excalibur Communications GB Ltd. Excalibur Voice and Data and Excalibur IT, are the trading names of Bridge Solutions (UK) Ltd. Both Excalibur Communications GB Ltd and Bridge Solutions (UK) Ltd are part of the Excalibur Communications Group Limited.
- 1.2** In this Agreement, the following words and expressions shall have the meanings set out below: "Agreement" means the Agreement between you and the Company for Service(s) comprising the documents referred to on the Service Order; "Customer" means the person ordering the Equipment/Services and/ or the Airtime Services whose full details are set out in the form overleaf; "Equipment" means mobile telecommunications handsets, telephony systems, IT hardware and other associated equipment; "Services" means any services ordered by the Customer and provided by Excalibur Communications (GB) Ltd; "Signatory" means the individual signing the Customer Contract Form. Mobile specific terms: "Airtime Agreement" means the agreement which governs the provision of Airtime Services from the relevant network/service provider, a copy of which will be provided with Agreement where applicable; "Airtime Services" means cellular mobile telecommunications airtime and network capacity procured from a network/service provider; "Installed Equipment" means any antennae, routers, enhancers, monitoring units or other equipment, including but not limited to equipment forming part of the Network, which Excalibur Communications (GB) Ltd may agree to install or otherwise provide for installation by the Customer at any premises owned, occupied or controlled by the Customer. Installed Equipment excludes Additional Network Equipment; "Connection" means the connection of an end mobile user to a network or service provider such that the end user is capable of accessing and utilising the Airtime Services; "Downward Migration" means in respect of a Connection, the transfer (at the request of the Customer) from one tariff provided by the network/service provider ("the Old Tariff") to another tariff provided by that same network/service provider ("the New Tariff") which results in the Customer being charged a lower monthly line rental under the New Tariff than it was being charged under the Old Tariff and the phrase "Downward Migrated" shall be construed accordingly; "Minimum Terms" means the minimum period of time which the Customer has agreed to maintain (a) Connections(s) under the Airtime Agreement; "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; and "Subsidy" means the sum payable by Excalibur Communications (GB) Ltd to the Customer as is determined by Excalibur Communications (GB) Ltd in its sole discretion, taking into consideration the number of Connections which the Customer is taking out and the applicable tariffs and the Minimum Term which the Customer is prepared to enter into.

2. APPLICABLE TERMS

- 2.1** Unless other terms and conditions are expressly accepted By Excalibur Communications (GB) Ltd by means of a specific written amendment signed by a director of Excalibur Communications (GB) Ltd the supply of Equipment and or the provision of Services will be on the terms and conditions set out in this Agreement to the exclusion of any 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 Communications (GB) Ltd.

3. SUPPLY OF CUSTOMER EQUIPMENT

- 3.1** Excalibur Communications (GB) Ltd 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.
- 3.2** Notwithstanding delivery and acceptance of the Equipment to the Customer, title to the same will not pass to the Customer (but will be retained by Excalibur Communications (GB) Ltd until the earlier of either (i) the expiry of the Minimum Term or (ii) the date on which all undisputed invoices relating to the same (including VAT) have been paid in full to Excalibur Communications (GB) Ltd.
- 3.3** The risk in the Equipment will pass to the Customer upon delivery and the Customer will be liable for any loss or damage of the same as and from the time when the Equipment is delivered to the address notified by the Customer.
- 3.4** The Customer undertakes to notify Excalibur Communications (GB) Ltd as to any alleged defect, shortage or discrepancy in any Equipment within 3 days of delivery of the Equipment to the Customer. In the event that the Customer fails to notify Excalibur Communications (GB) Ltd within this period then the Customer will be deemed to have accepted the Equipment and Excalibur Communications (GB) Ltd shall have no liability to the Customer whatsoever in respect of such Equipment.
- 3.5** Equipment may be subject to additional terms (such as user manuals and in box documentation) which the Customer accepts by retaining and using such Equipment. If the Customer does not consent to such additional terms it must (at its cost) return such Equipment within 7 days of delivery.
- 3.6** Equipment and/or Software may be subject to export control laws and regulations. The Customer agrees to comply with any applicable laws, regulations, prohibitions or embargoes of any country and agrees to obtain written authority from the relevant licensing authority where necessary.
- 3.7** Excalibur Communications (GB) Ltd does not represent that any necessary export approvals and/or licences have been obtained or will be granted in respect of the Equipment or the Software.

4. PROVISION OF THE SERVICES

4.1 Excalibur Communications (GB) Ltd shall use its reasonable endeavours to provide the Services on the dates agreed by the parties.

5. WARRANTIES

5.1 The Customer acknowledges that Excalibur Communications (GB) Ltd is not the manufacturer of the Equipment, and accordingly, that the warranty given by Excalibur Communications (GB) Ltd is limited as follows. If any Equipment is proved to the reasonable satisfaction of Excalibur Communications (GB) Ltd to be defective in material or workmanship, then:

5.1.1 if the Equipment is returned to Excalibur Communications (GB) Ltd within 14 days of the date of their delivery then Excalibur Communications (GB) Ltd will at its option (a) repair the Equipment; (b) replace the Equipment; (c) substitute substantially equivalent goods or (d) credit the Customer in respect of any such Equipment. For the avoidance of doubt, where Excalibur Communications (GB) Ltd replaces Equipment or provides substitute goods, the original Equipment returned by the Customer will belong to Excalibur Communications (GB) Ltd, provided that these obligations on the part of Excalibur Communications (GB) Ltd 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 Communications (GB) Ltd 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.

5.2 Save as provided in this Agreement Excalibur Communications (GB) Ltd 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.

6. LIMITATION OF LIABILITY

6.1 Excalibur Communications (GB) Ltd 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;

6.1.1 this Agreement and/or

6.1.2 any matter collateral to this Agreement and/or in respect of any representation or misrepresentation (other than a fraudulent misrepresentation made by or on behalf of Excalibur Communications (GB) Ltd; shall in no circumstances exceed the sum paid by the Customer to Excalibur Communications (GB) Ltd in respect of the Equipment or Services in the last 12 months immediately prior to the date that such event or the first of such series of events occurred provided that nothing in this clause shall limit or exclude liability for death or personal injury arising from Excalibur Communications (GB) Ltd negligence. Without prejudice to the above and save as provided in the above, Excalibur Communications (GB) Ltd total aggregate liability for all claims under this Agreement shall be limited to the aggregate Charges paid to Excalibur Communications (GB) Ltd under this Agreement during the previous two years and limited to £1,000,000 in respect of all claims arising.

6.2 Save as otherwise provided, Excalibur Communications (GB) Ltd will be under no liability under this Agreement for any personal injury, death, loss or damage of any kind whatsoever (other than death or personal injury resulting from Excalibur Communications (GB) Ltd negligence) whether consequential or otherwise including but not limited to loss of actual or anticipated profits; pure economic loss; loss of business; loss or damage incurred by the Customer as a result of third party claims; loss of business opportunity; loss of anticipated savings; injury to reputation; depletion or goodwill and any indirect, special or consequential loss or damage however caused even if Excalibur Communications (GB) Ltd was advised.

6.3 Save for death or personal injury resulting from Excalibur Communications (GB) Ltd negligence, Excalibur Communications (GB) Ltd shall not be liable to the Customer for any loss as a result of electro-magnetic frequencies or any similar result from use of the Equipment.

6.4 Any liability as described in 6.3 is excluded whether it is foreseeable, known, foreseen or otherwise.

6.5 Without prejudice to 6.4, Excalibur Communications (GB) Ltd shall have no liability to the Customer for any claim brought more than two years after the first accrual of the cause of action which the relevant circumstances or events have given rise to.

6.6 The terms of this Agreement are in lieu of all other conditions, warranties or other terms concerning the supply or purported supply of, failure to supply or delay in supplying the Services and any goods which are provided or supplied in the course of performing the Services, which might but for this have effect between Excalibur Communications (GB) Ltd and the Customer or would otherwise be implied into or incorporated into this Agreement or any collateral contract, whether by statute, common law or otherwise, all of which are hereby excluded (including without limitation, the implied conditions, warranties or other terms as to satisfactory quality and fitness for purpose).

6.7 Where Service Credits are available, payments thereof under the Standards of Service are in full satisfaction of your respective claims and constitute your sole and exclusive remedy for the Company's failure to achieve the specified Service Levels set out in the Standards of Service.

6.8 The Customer shall indemnify and keep indemnified the Company against any or all claims and associated costs, damages or expenses made by any third party as a consequence of any act or omission of the Customer in relation to this Agreement or the Customer's use of the Service.

7. NON-SOLICITATION

7.1 Neither party shall (except with the prior written consent of the other) during the term of this Agreement, and for a period of 6 months thereafter, other than in the normal course of business between Excalibur Communications (GB) Ltd and the client, directly solicit the services of any staff of the other party who have been engaged in the provision of the Services or the management of this Agreement. In the event that this happens a fee of 35% of the annual salary of such staff will become immediately payable by the party in breach of this clause 9 to the other party.

8. DATA PROTECTION

8.1 Excalibur Communications (GB) Ltd may retain the Customer's personal data and the Customer authorises Excalibur Communications (GB) Ltd to use this for the following purposes:

- 8.1.1** Providing the Service to the Customer;
- 8.1.2** Keeping a record for a reasonable period after the Service terminates;
- 8.1.3** Operation and enforcement of the Agreement;
- 8.1.4** Carrying out technical maintenance and maintaining the quality and integrity of the Service and the Company System;
- 8.1.5** providing the Customer with information about Excalibur Communications (GB) Ltd services, subject to the Customers right to opt out of receiving such information when ordering the Service or thereafter;
- 8.1.6** Transferring it to another company in the event of a sale of the Company; and
- 8.1.7** Legal compliance including disclosing it to any third party who we reasonably consider has a legitimate interest in any such investigation or its outcome.

8.2 the parties shall duly observe all their obligations under the General Data Protection Regulation and any regulations or instruments thereafter which arise in relation to any personal data processed in connection with this Agreement and shall render such assistance and co-operation as is reasonable necessary or reasonably requested by the other party in respect thereto.

8.3 The Customer may be subject to a standard credit check. The information that the Customer provides may be disclosed to a licenced credit reference agency (which will retain a record of the search) and the Customer authorizes Excalibur Communications (GB) Ltd to make such disclosures.

8.4 Protecting your personal information is incredibly 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.

9. INTELLECTUAL PROPERTY RIGHTS AND INDEMNITIES

9.1 In this clause **9**, Intellectual property Rights shall mean patents, rights to inventions, copyright and related rights, moral rights, trademarks and service marks, trade names and domain names, rights in get-up, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to preserve the confidentiality of information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply for and be granted), renewals or extensions of, and rights to claim priority form, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

9.2 Title in all Intellectual Property Rights existing prior to the Commencement Date shall be the absolute property of and shall remain vested in the party that owned such rights immediately prior to that date. Each party acknowledges that it shall not acquire title or any rights or interest (except as expressly set out in this Agreement) in the other party's Intellectual Property Rights by virtue of the operation of this Agreement.

9.3 All Intellectual Property Rights created or developed in connection with the provision of the Services shall, unless otherwise agreed in writing by the parties, vest with Excalibur.

9.4 The Customer must not:

- 9.4.1** do anything or allow anything to be done which might jeopardise Excalibur Communications (GB) Ltd or its licensors' Intellectual Property Rights;
- 9.4.2** dispute or challenge the rights of the relevant third party rights owner;
- 9.4.3** apply for, or obtain, registration in any country of any trade or service mark or any other Intellectual Property Rights which consist of, or comprises of, or are confusingly similar to, the trademarks or Intellectual Property Rights of Excalibur Communications (GB) Ltd or its licensors.

9.5 The Customer shall indemnify Excalibur Communications (GB) Ltd from and against all costs, damages, losses, or expenses (including legal expenses) incurred by Excalibur Communications (GB) Ltd in respect of any demands or claims received by Excalibur Communications (GB) Ltd that the Customer has used the Services or the Equipment to infringe the Intellectual Property rights of any third party.

10. CONFIDENTIALITY

- 10.1** Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause
- 10.2** Each party may disclose the other party's confidential information:
- 10.2.1** to its employees, officers, representatives or advisers who need to know such information for the purposes of carrying out the party's obligations under this agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause¹⁰; and
- 10.2.2** as may be required by law, court order or any governmental or regulatory authority
- 10.3** No party shall use any other party's confidential information for any purpose other than to perform its obligations under this agreement.

11. NOTICES

- 11.1** Any notice or other communication required to be given to a party under or in connection with this contract shall be in writing and shall be delivered by hand or sent by pre-paid first-class post or other next working day delivery service, at its registered office (if a company) or (in any other case) its principal place of business, or scanned and sent by email to the other party's main contact email address.
- 11.2** Any notice or communication shall be deemed to have been received if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address, or if sent by fax, at 9.00 am on the next Business Day after transmission, or otherwise at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service.
- 11.3** This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution. For the purposes of this clause, "writing" shall not include e-mail unless sending a scan of the original letter.

12. GENERAL

- 12.1** Excalibur Communications (GB) Ltd will be entitled to assign, sub-contract or sub-let this Agreement or any part thereof. The Customer shall not be permitted to assign or sub-let this Agreement or any part thereof without the written consent of Excalibur Communications (GB) Ltd.
- 12.2** Failure by Excalibur Communications (GB) Ltd to enforce any of the provisions of this Agreement will not be construed as a waiver of any of its rights hereunder.
- 12.3** Excalibur Communications (GB) Ltd shall be entitled to amend any of the terms of this Agreement upon the giving of 7 days' written notice to the Customer.
- 12.4** In relation to all obligations of the Customer under this Agreement, the time of performance is of the essence.
- 12.5** This Agreement may be executed in any number of counterparts, each of which when executed shall constitute a duplicate original, but all the counterparts shall together constitute the one Agreement.
- 12.6** 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.
- 12.7** Each of the parties hereto is an independent contractor and nothing contained in this Agreement shall be construed to imply that there is any relationship between the parties of partnership or of principal/agent or of employer/employee.
- 12.8** The legal construction of these clauses shall not be affected by their headings which are for convenience of reference only.
- 12.9** Any demand, notice or communication shall be deemed to have been duly served.
- 12.9.1** If delivered by hand, when left at the proper address for service
- 12.9.2** if given or made by prepaid first class post, 48 hours after being posted (excluding Saturdays, Sundays and public holidays)
- 12.10** if given or made by fax at the time of transmission subject to receipt of the appropriate "clear" transmission report provided that where in the case of delivery by hand or transmission by fax such delivery or transmission occurs either after 4.00 p.m. on a Business Day or on a day other than a Business Day service shall be deemed to occur at 10.00 a.m. on the next following Business Day (such times being local time at the address of the recipient) For the purpose of this clause a "Business Day" is a day when the banks in the location of the recipient are open for a full range of banking transactions. Any demand, notice or communication shall be made in writing or by fax addressed to the recipient at its registered office or its address stated in this Agreement (or such other address or fax number as may be notified in writing from time to time)
- 12.11** No variation to this Agreement may be made unless set out in writing and signed by a director of Excalibur Communications (GB) Ltd.
- 12.12** If contrary to the declaration in the customer contract form the signatory does not have the actual authority of the customer to sign the form then the signatory shall be personally responsible for any liability which the customer would have been liable but for the lack of authority of the signatory.

12.13 Any such personal liability shall be joint and several with such liability the customer may have as a result of the signatory acting with the apparent authority of the customer.

12.14 In the event that the customer was not entitled to enter into this agreement for whatever reason then the signatory shall be liable as if the agreement had been entered into personally by the signatory.

12.15 This agreement shall be governed by English law and the parties irrevocably submit for all purposes in connection with this Agreement to the exclusive jurisdiction of the courts of England and Wales.

12.16 The parties shall use reasonable endeavours to resolve any dispute arising under this Agreement by direct negotiations between the parties. If the dispute is not resolved within 14 days through direct negotiation, the parties will attempt to resolve the matter through the Alternative Dispute Resolution (ADR) procedure as recommended to the parties by the Centre For Dispute Resolution. If the matter has not been resolved by an ADR procedure within 30 days, or if either party will not participate in an ADR procedure within such 30 day period, the dispute shall be referred to litigation in accordance with Clause 12.15 Notwithstanding the foregoing, either party may seek injunctive relief in any court of competent jurisdiction if the other party is in breach of any of the terms hereof.

13. **BILL CAPPING**

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

13.2 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.

13.3 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.



excalibur
Communications and IT for Business

MOBILE SPECIFIC TERMS & CONDITIONS

1 CHARGES AND PAYMENT

- 1.1 The Customer hereby agrees to pay to Excalibur Communications (GB) Ltd for each item of Equipment and any Services ordered by and provided to the Customer within 5 days from the date of an Excalibur Communications (GB) Ltd invoice.
- 1.2 Excalibur Communications (GB) Ltd reserves the right at its absolute discretion to levy a surcharge for all credit card transactions in accordance with Excalibur Communications (GB) Ltd tariff applicable from time to time, a copy of which will be available at Excalibur Communications (GB) Ltd principal place of business.
- 1.3 Interest at an annual rate of 5% above HSBC Bank plc base rate from time to time will accrue daily and be calculated on a daily basis on overdue accounts from the due date until payment.
- 1.4 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.

2. PAYMENT AND RECLAMATION SUBSIDIES

- 2.1 Subject to the remaining provisions of this clause 2, Excalibur Communications (GB) Ltd may acting in its sole discretion, provide the Customer with a Subsidy as a result of the Customer entering into the Airtime Agreement with the network/service provider. The Subsidy is calculated with reference to the length of the Minimum Term and therefore, subject to the provisions of this clause 6, the amount of Subsidy in any particular period of time (such period of time to be a Subsidy Period and shall be determined by Excalibur in its absolute discretion) is limited to the Monthly Subsidy multiplied by the number of whole months in the Subsidy Period. A Subsidy Period shall not exceed 12 months in length.
- 2.2 In the event that Excalibur Communications (GB) Ltd does provide the Customer with a Subsidy this may be provided to the Customer at the sole discretion of Excalibur Communications (GB) Ltd, using the following methods set out below or any combination of them:
 - 2.2.1 deducting the Subsidy from the value of the Equipment or the Services which the Customer orders from Excalibur Communications (GB) Ltd; or
 - 2.2.2 the payment of monies (representing the amount of the Subsidy) to the Customer and such monies shall be paid to the Customer; (a) in full after the expiry of 6 months from the Connection date where the applicable Minimum Term is 12 months.
 - 2.2.3 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 Communications (GB) Ltd being provided with a copy of the relevant invoice from such network/service provider.
 - 2.2.4 use the Subsidy to settle any amount owed to Excalibur Communications (GB) Ltd by the Customer that has exceeded the credit terms set for the Customer's account with Excalibur Communications (GB) Ltd, provided that:-
 - 2.2.4.1 Reasonable endeavours have been made to secure payment from the Customer for the amount owed and;
 - 2.2.4.2 the credit terms set for the Customer have been exceeded by a minimum of 14 days.
- 2.3 Any Subsidy (or instalment payment of a Subsidy) payable by Excalibur Communications (GB) Ltd within 30 days from the date that the Customer presents an invoice to Excalibur Communications (GB) Ltd (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 1.2.1) provided that;
 - 2.3.1 at all times the Connection is still active on the relevant payment date that the Subsidy (or instalment payment of the Subsidy) is due;
 - 2.3.2 where the invoice is payable in instalments or after a prescribed period of time the appropriate trigger date has passed.
 - 2.3.3 the invoice has been raised in accordance with the provisions of this Agreement; and
 - 2.3.4 where the; (a) invoice is for termination charges pursuant to clause 2.2.3, this amount is invoiced within 3 months from the Connection date; and or (b) invoice is for the payment of monies pursuant to clause 2.2.2, this amount is for the payment of monies pursuant to clause 2.2.2, 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 2.2.1 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 2.3.4 (a) to (c) (inclusive) then the Customer's right to the Subsidy shall cease.
- 2.4 The Customer acknowledges that;
 - 2.4.1 the payment of the Subsidy is conditional upon;
 - 2.4.1.1 the Customer maintaining each Connection for the Minimum Term; and
 - 2.4.1.2 the Customer not Downward Migrating any Connection during the Minimum Term; and
 - 2.4.1.3 such other conditions as are notified to the Customer from time to time by Excalibur Communications (GB) Ltd

2.4.2 Excalibur Communications (GB) Ltd will provide the Subsidy prior to the satisfaction of the conditions set out in clause 2.4.1 and hence the need for clause 2.5

2.5 Excalibur Communications (GB) Ltd 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 installment of a Subsidy to be paid to the Customer) in the event that;

2.5.1 a Connection is for whatever reason disconnected prior to the expiry of the Minimum Term; or

2.5.2 a Connection is for whatever reason Downward Migrated during the Minimum Term; or

2.5.3 the relevant network/service provider (for whatever reason) reclaims or withholds in full or in part from Excalibur Communications (GB) Ltd any of the connection commission paid to Excalibur Communications (GB) Ltd by the network/service provider in respect of that Connection; and the proportion of the Subsidy that Excalibur Communications (GB) Ltd 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.

2.6 In the event that a Customer cancels prior to connection, Disconnects a Connection or transfers away from Excalibur Communications (GB) Ltd prior to the expiry of the Minimum Term or a Connection is Downward Migrated during the Minimum Term then Excalibur Communications (GB) Ltd shall be entitled to charge the Customer an administration charge of £250 for each connection.

2.7 It is agreed between the customer and Excalibur Communications (GB) Ltd that the sum of £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.

2.8 Any such sum reclaimed (or withheld) pursuant to clause 2.5 shall be invoiced to the Customer and such sum shall be payable (unless withheld) within 5 days of the date of Excalibur Communications (GB) Ltd invoice.

5 AIRTIME AGREEMENT

5.1 All Excalibur Communications (GB) Ltd mobile customers utilizing the network agree to the networks standard terms and conditions by signing Excalibur's terms and conditions.

6 SUPPLY OF AIRTIME SERVICES AND AGREEMENT

6.1 The Customer agrees that it is procuring the Airtime Services for its own use and for the benefit of its Users as authorized by and in accordance with this Agreement and it will not re-sell, re-supply or otherwise distribute the Airtime Services or allow users to do so.

7 STANDARD OF SERVICE

7.1 Excalibur Communications (GB) Ltd mobile offering utilizes the Airtime Services of a Network partner. The Network partner will use its reasonable endeavours to provide the Airtime Services where technically possible within the range of the base stations that make up the Network, however neither Excalibur Communications (GB) Ltd nor our Network partner are able to guarantee a continuous fault-free service and has no obligation to provide Airtime Services outside the range of these base stations.

7.2 The Customer acknowledges that, as Network design is an on-going process, the range of base stations making up the Network may change from time to time, at the Networks discretion, and that at any time the Network may comprise of different technologies. The Airtime Services are made available provided the Customer is in the range of base stations forming part of the relevant technological Network when trying to use any particular Airtime Service. Any coverage maps are an estimate of outdoor coverage and do not guarantee Airtime Service coverage which may vary depending on location.

7.3 The quality and availability of the Airtime Services is also subject to:

7.3.1 local geography and topography;

7.3.2 weather and/or atmospheric conditions;

7.3.3 degradation, congestion or maintenance requirements of the Network including but not limited to re-positioning and/or decommissioning of base stations;

7.3.4 other physical or electromagnetic obstructions or interference;

7.3.5 faults in other telecommunication networks to which the Network is connected; and

7.3.6 the compatibility of Equipment and/or Customer Equipment used.

8 USE OF THE AIRTIME SERVICES AND EQUIPMENT

8.1 The Customer shall, and shall procure that its Users shall:

8.1.1 keep confidential and do not disclose to any third party any Customer account password, personal identification code, number or name issued by Excalibur Communications (GB) Ltd permitting access to the Airtime Services and Equipment;

8.1.2 provide in a timely manner any information and/or assistance Excalibur requires in order to supply the Airtime Services and Equipment, ensuring the continuing accuracy and completeness of such information;

8.1.3 comply with any manuals, guidance and any reasonable instructions issued by Excalibur or relevant third party manufacturer or supplier concerning the use of the Equipment, Airtime Services and Network and co-operate with Excalibur Communications (GB) Ltd with regard to their reasonable security and other checks (which may include Excalibur Communications GB Ltd making calls or sending communications to Users);

8.1.4 only use Equipment or Customer Equipment which is authorised by Excalibur Communications (GB) Ltd (such authorisation not to be unreasonably withheld) and compatible for use on the Network;

8.1.5 inform Excalibur Communications (GB) Ltd upon becoming aware of any suspected or actual unauthorised use of the Airtime Services or Equipment and take all steps necessary, including any steps requested by Excalibur Communications (GB) Ltd, to prevent such use;

8.1.6 not operate without obtaining prior written consent from Excalibur Communications (GB) Ltd, whether directly or through a third party, any device to route or re-route voice, data or other Airtime Services on, from or to the Network, including without limitation:

8.1.6.1 any GSM Gateway, or

8.1.6.2 any device used to forward or divert calls with the intention of reducing Charges for that call except where a Device is supplied as part of an Airtime Service by Excalibur Communications (GB) Ltd and used by the Customer in accordance with the Airtime Service terms; comply with all license terms as required from time to time for any Software;

8.1.7 do not use, nor knowingly allow the Equipment or Airtime Services to be used:

8.1.7.1 for any unlawful or improper purpose or in such a manner that will or may impair the operation of the Network or Excalibur Communications (GB) Ltd's provision of the Airtime Services to the Customer or other users,

8.1.7.2 in any way which causes annoyance, inconvenience or needless anxiety as set out in the Communications Act 2003, nor use the Network or the Airtime Service to send spam or unsolicited communications without the receiver's consent,

8.1.7.3 to send, store, communicate or knowingly receive content which is abusive, indecent, defamatory, obscene, menacing, unlawful or a nuisance, or

8.1.7.4 in any way that breaches the provisions that contravenes the Intellectual Property Rights of Excalibur Communications (GB) Ltd or any third party;

8.2 not knowingly distribute malicious software or permit the hacking or unauthorised modification of any Equipment or Software or the Network;

8.3 comply with any applicable fair use policy that Excalibur Communications (GB) Ltd may issue from time to time; and comply with all applicable regulatory provisions, laws, codes of conduct and guidelines.

8.4 The Airtime Service may enable access to the internet, use of which is solely at the Customer's risk.

Excalibur Communications (GB) Ltd has no control over and is not responsible or liable in any way for any content offered by third parties on or through the Airtime Service. The Customer agrees that it retains responsibility for, and control of, content which it sends or passes over the Network.

8.5 Use of the Airtime Service and Equipment or any content accessed through them in a country other than the UK may be subject to different laws and regulations. The Customer is responsible for ensuring compliance with such laws or regulations and Excalibur Communications (GB) Ltd is not liable for any failure of the Customer or its Users to do so.

8.6 The Customer shall be responsible for implementing its own data archiving and data back-up processes.

The Customer acknowledges that it may be required to restore data from its back-up to relevant systems to enable a Service to continue to be provided.

8.7 The Customer acknowledges and agrees that the Network provider may monitor and record calls or other communications to emergency services and calls or other communications relating to Excalibur Communications (GB) Ltd customer services and telemarketing

9 RISK AND TITLE

9.1 Unless otherwise agreed in writing, title and property in and SIM Cards, Software and Installed Equipment shall remain vested in Excalibur Communications (GB) Ltd or the appropriate third party and the Customer is hereby granted a licence to use any SIM Cards and any Installed Equipment only for accessing the Airtime Service during this Agreement.

10 EQUIPMENT

10.1 The Customer must inform Excalibur Communications (GB) Ltd immediately if it becomes aware of the loss, theft or damage of any Equipment, and shall remain liable for all Charges incurred by the use of any lost or stolen Equipment until reported to Excalibur Communications (GB) Ltd. Data on any lost or stolen Equipment is at the Customer's risk and the sending of any command for remote wiping of data (such as a device management solution) is the responsibility of the Customer. The Customer must send any remote wipe command prior to reporting the Device lost or stolen and Excalibur Communications (GB) Ltd will use reasonable endeavours to carry such command across the Network. The Customer acknowledges that once the loss or theft of the Equipment is notified to Excalibur Communications (GB) Ltd, Excalibur Communications (GB) Ltd will terminate the ability of the Device to communicate with the Network.

10.2 Excalibur Communications (GB) Ltd may recall, update or have access to the Equipment as reasonably required to enhance or maintain the quality of Airtime Services or to update Software, but will endeavour to minimise any disruption caused to the Customer

11 VARIATIONS BY THE NETWORK PROVIDER

11.1 Excalibur Communications (GB) Ltd may by issue of a notice to the Customer (sent by post, e-mail or text message) vary the provisions of this Agreement where such variation is required as a result of:

11.1.1 any legislation, statutory instrument, government regulation, regulatory requirement or licence;

11.1.2 changes imposed by third party manufacturers or suppliers; or Network providers

11.1.3 a change to Excalibur Communications (GB) Ltd operations provided such change is also implemented in relation to the majority of Excalibur Communications (GB) Ltd's business customers.

11.2 Where any variation by Excalibur Communications (GB) Ltd to this Agreement is of material detriment to the Customer, Excalibur Communications (GB) Ltd will give the Customer at least one month's written notice of the variation (save where this is not practicable due to a change imposed by a legal or regulatory body) and the Customer will have the right to terminate the relevant Service and/or Equipment in accordance with clause 10.5.

11.3 The Customer may terminate the affected part of the Agreement where a change under clause 11.1.2 or clause 11.1.3 causes the Customer a material detriment which cannot be offset by Excalibur to the Customer's reasonable satisfaction on 30 days' written notice to Excalibur. This right to terminate ends 30 days after the effective date of the change. The following shall be a material detriment for the purposes of this clause: (a) an increase in Customer's UK Charges of more than 10% (in aggregate) in a 12-month period; or (b) a withdrawal of the core Services or an adverse change to the core Services. However, this clause does not apply if the change or withdrawal relates to a Third Party Service which Customer may stop using or cancel without ending this Agreement.

11.4 Subject to clause 10.2, Excalibur Communications (GB) Ltd may at any time, withdraw any Airtime Service or Equipment where it is either no longer able to provide the Airtime Service or Equipment because its nominated third party supplier no longer provides the Airtime Service or Equipment to Excalibur Communications (GB) Ltd, or where Excalibur Communications (GB) Ltd has decided that the Airtime Service or Equipment is no longer suitable to its business operations, provided it gives the Customer at least 60 days' notice of such withdrawal. The Customer shall not be liable to pay any Termination Charges in respect of the relevant Service or Equipment where Excalibur Communications (GB) Ltd exercises its rights under this clause.

11.5 The Customer may terminate an Airtime Service or an order for Equipment without liability for Termination Charges by giving Excalibur Communications (GB) Ltd 30 days' written notice where Excalibur Communications (GB) Ltd has varied the terms of, or increased the Charges under, this Agreement pursuant to clause 10.2 in relation to that specific Airtime Service or Equipment to the material detriment of the Customer. This right to terminate ends 60 days after the date on which the variation became effective.

11.1 Excalibur Communications (GB) Ltd may, without liability to the Customer, suspend the Customer's and/or any or all Users' access to any relevant part, or where necessary all, of the Airtime Services:

11.1.1 during any technical failure, modification or maintenance of the Network;

11.1.2 upon instruction by emergency services or any government, regulatory or appropriate authority; or

11.1.3 where necessary to safeguard the integrity and security of the Network or to reduce fraud.

11.2 Excalibur Communications (GB) Ltd shall use its reasonable endeavours to keep any suspensions under

clause 11.1 to a minimum, to provide prior notice where possible and to restore the Airtime Services as soon as reasonably practicable.

11.3 Where a User has caused the Customer to be in breach of any of its obligations under clause 6, Excalibur Communications (GB) Ltd may suspend the Airtime Services to that specific User, but where practicable shall use its reasonable endeavours to notify the Customer in advance of such suspension to allow the opportunity for the alleged breach to be remedied.

11.4 Without prejudice to its other rights under this Agreement, Excalibur Communications (GB) Ltd may additionally, suspend the Customer and/or all the Users' access to the relevant Airtime Service(s) where it has not received payment of outstanding Charges (including any accrued interest) within 7 days of the due date of the invoice, and where those Charges are not being disputed in good faith, or where any agreed credit limit on the Charges has been exceeded by the Customer.

11.5 The Customer shall remain liable for all Charges during any period of suspension, and where the suspension has been implemented under clauses 10.3 or 10.4, the Customer shall also pay all reasonable costs and expenses incurred by Excalibur Communications (GB) Ltd in the implementation of the suspension and a Suspension Lifting Fee per suspended SIM Card. Excalibur Communications (GB) Ltd shall restore the Airtime Services as soon as the circumstances which gave rise to the suspension are remedied.

12 SOFTWARE LICENCE

12.1 The Airtime Services and Equipment provided under this Agreement may contain or use the Network Software or End User Licensed Software. Where the Network Software is provided, the Network via Excalibur Communications (GB) Ltd grants the Customer a non-exclusive, revocable, non-transferable licence (without the right to sub-licence) to use any such Network Software in object code form for the purpose of properly accessing the Airtime Services in accordance with this Agreement. Any End User Licensed Software provided or accessed shall be governed by the terms of the relevant licence which shall comprise the Customer's sole rights and remedies in respect of such End User Licensed Software.

12.2 If the Customer does not accept the licence terms relating to the End User Licensed Software, it shall not use the relevant feature of the Airtime Service to which the End User Licensed Software relates and Excalibur Communications (GB) Ltd shall not be required to deliver the relevant Airtime Service. The Customer shall indemnify and keep indemnified Excalibur Communications (GB) Ltd in full and on demand for any claim or for any losses incurred or suffered by Excalibur Communications (GB) Ltd (including any legal costs) arising from any failure of the Customer to comply with the terms of the End User Licensed Software or Network Software.

12.3 The licence granted under this Agreement to use Network Software may be terminated if the Customer disputes the ownership of any Intellectual Property Rights under this Agreement, fails to comply with any term of this Agreement or if the continued use or possession of the Network Software infringes the rights of any third party. The licence shall further be subject to the Customer undertaking:

12.3.1 not to copy, reproduce, translate, adapt, vary, modify, sub-licence, decompile, reverse engineer or create derivative works from or allow any third party access to any Network Software (or any part of it) unless expressly permitted to do so by the Network via Excalibur Communications (GB) Ltd or by relevant law; and

12.3.2 not to use the Network Software with anything other than the Equipment, unless otherwise expressly specified or approved by the Network or Excalibur Communications (GB) Ltd.

12.4 Network Software delivered to the Customer by electronic means cannot be reissued and the Customer shall ensure that correct email addresses are provided for these purposes and that any firewall or other protection will not prevent such delivery.