

# Excalibur Technology Corp.

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Date: \_\_\_\_\_

The services agreement between below named Customer and Excalibur Technology Corp. (“Excalibur”) (collectively referred to as the “Parties”) establishes the terms and conditions under which EXCALIBUR will provide communications, consulting, transport, transit, equipment, or host machine services which Customer desires to purchase. This agreement consists of 2 pages.

NOTE: This is for **UNBUNDLED LOOP** service – meaning it will NOT be run over a current telephone line. This will provide a better signal and less interference over standard DSL run over phone lines.

**Installation:**

Company: \_\_\_\_\_  
Address: \_\_\_\_\_  
City, St, Zip: \_\_\_\_\_  
Main Line #: \_\_\_\_\_

**Choose Service(s): (Downstream / Upstream)**

- 1500 K / 384 K \$ 65.95 / month
- 1500 K / 768 K \$ 95.95 / month
- 3000 K / 768 K \$105.95 / month
- 6000 K / 768 K \$115.95 / month
- 1 Static IP INCLUDED
- 8 Static IPs \$ 10.00 / month

Equipment Information:  Basic DSL Modem \$85.00  Basic DSL Router \$100.00

Customer agrees to purchase, and EXCALIBUR agrees to provide the following services at the monthly reoccurring fee shown above. (Attempted install speeds are shown above. Post install speeds may be slower due to your local line conditions. If speed is determined to be unacceptable, service may be cancelled with exception of installation costs.)

Non-recurring Installation fees:

EXCALIBUR Line Setup Fee: \$ 99.00 does not include internal wiring, network consultation or construction charges, installation of Router or network setup. This is a line setup fee ONLY.

1. Customer shall pay EXCALIBUR non-disputed amounts within fifteen (15) days of receipt of invoice from EXCALIBUR. Customer will be responsible for all recurring and non-recurring charges from the date EXCALIBUR establishes a connection provided the service is functioning properly. EXCALIBUR reserves the right to charge interest on all delinquent non-disputed amounts at a rate of two percentage points above the prime rate as established at the First National Bank of Chicago, not to exceed the maximum rate allowed by law.
3. The term of this agreement will be for one (1) year from date of installation and shall automatically renew at EXCALIBUR's then current rates for consecutive monthly periods until either Party terminates the agreement with thirty (30) days written notice.
4. EXCALIBUR may terminate this Agreement or suspend service hereunder at any time with thirty (30) days written notice upon any failure of Customer to pay non-disputed amounts as provided in this Agreement.
  - a. Either Party may terminate this agreement without penalty upon (a) any breach of any material provision of this Agreement continuing for thirty (30) days after receipt of notice thereof; (b) any insolvency, bankruptcy, assignment for the benefit of creditors, appointment of a trustee or receiver or similar event with respect to the other Party; (c) any governmental prohibition, or required alteration of services to be provided hereunder or any violation of applicable law, rule or regulation. Any termination shall not relieve the other Party of its obligation incurred hereunder prior to such termination.
5. At Customer's request, EXCALIBUR will respond to Customer's premise and attempt to resolve all problems of connectivity. If it is reasonably determined by the Parties that all facilities, systems and equipment furnished by EXCALIBUR were functioning properly (at the above described service levels), and that the connectivity problem arose from other cause (not the fault of EXCALIBUR), EXCALIBUR will recover labor and materials cost for services actually performed at the following rates, which shall be the usual and customary rates for similar services provided by EXCALIBUR to all Customers in the same locality, Labor (2 hour minimum charge),

8 a.m. to 6.p.m. weekdays / \$99 per hour per technician, all other times \$148.50 per hour per technician; and materials (at cost to EXCALIBUR x 1.15). EXCALIBUR reserves the right to modify the above rates upon thirty (thirty) days advance written notice to Customer, and Customer's acceptance of said rate increase.

6. EXCALIBUR may make changes in its services, equipment, operations or procedures, including those related to the Service, where such action is not inconsistent with the proper operation of the Service for this Agreement. If any such change can be reasonably expected to render any of Customer's equipment incompatible or otherwise materially affect its use or performance, Customer will be provided written notice at least three (3) months in advance of the change. If Customer determines that the cost of replacing or modifying its equipment or system in order to reestablish computability and maintain uninterrupted Service is unreasonable, Customer may terminate this Agreement without penalty.
7. Customer shall not cause or allow any facility or equipment of EXCALIBUR to be rearranged, moved, removed, disconnected, altered, or repaired without EXCALIBUR's prior written consent, where such consent can be reasonably attained. Said consent shall not be reasonably withheld. Customer shall not create or allow any liens or other encumbrances to be placed on any EXCALIBUR equipment, facility or system arising from any fact, transaction or circumstance relating to Customer. If Customer elects to relocate or otherwise change the place of services after commencement of the installation at said facilities, customer shall pay an additional installation charge for both – the original and new location. Said installation charges shall be agreed to in writing before commencement of services. In the event that EXCALIBUR elects to remove EXCALIBUR equipment from Customer's premises, (pursuant to sections 4 and 5 herein), Customer will grant EXCALIBUR reasonable access to do so.
8. EXCALIBUR will grant a credit allowance for service interruption calculated in 4 Hour increments. A service interruption will be deemed to have occurred only if service becomes unstable to Customer as a result of EXCALIBUR's facility, equipment or personnel used to provide service in question, and only where the interruption is not the result of: (i) the negligence or acts of Customer or its agents; (ii) the failure or malfunction of non-EXCALIBUR equipment or systems not provided by EXCALIBUR; (iii) an act of God; or (iv) a service interruption caused by scheduled (and disclosed) service maintenance, alteration, or implementation. Such credits will be granted only if (a) Customer offers EXCALIBUR reasonable access to Customer's premises to make appropriate repairs, maintenance, testing, etc.
9. EXCALIBUR's entire liability for any claim, loss, or expense from any cause whatsoever (except negligence) shall in no event exceed sums actually paid to EXCALIBUR by Customer for the specific service giving rise to the claim. Notwithstanding the foregoing, neither Party shall be liable, for any indirect, incidental, consequential, punitive or special damages. No action or proceeding against either Party shall be commenced more than one year after the occurrence of the event giving rise to the claim. EXCALIBUR warrants that for the term of this Agreement, Services will substantially conform to the specifications furnished to Customer by EXCALIBUR. If, under normal and proper use, the Services fail to perform substantially as specified above, and Customer notifies EXCALIBUR with the term of this Agreement, EXCALIBUR will correct such Service degradations or failures without charge to Customer. In the event that EXCALIBUR fails to provide services as described above, Customer may cancel and terminate this Agreement without penalty.
10. Neither Party may assign this agreement without written consent of the other Party (which consent shall not be unreasonably withheld or unduly delayed), except that both Parties may assign their rights and obligations hereunder; (a) to any subsidiary, parent company, or affiliate of the Party in question; (b) pursuant to any sale or transfer of the business of either Party; or (c) pursuant to any financing, merger, or reorganization of either Party.
11. This Agreement shall be governed by, construed and enforced in accordance with the internal laws of the State of Illinois, without regard to its conflicts of law principles.
12. In the event of any legal action by either Party to enforce any of the provisions hereunder, then the unsuccessful Party to action shall pay to the prevailing Party therein all court costs and reasonable attorney's fees as fixed or allowed by the court.
13. EXCALIBUR will perform routine maintenance as is customary to reasonably maintain the Service as described herein. All such maintenance will be performed at no additional charge to Customer if the fault is on the EXCALIBUR side of the point of demarcation between EXCALIBUR and Customer.
14. EXCALIBUR will provide Customer with service information and documentation for trouble reporting.
15. Actual service availability can only be determined at time of installation. In some cases it is found that Digital Subscriber Line services are a) not available or b) only available with cost of construction incurred by the client. Digital subscriber line services is only available after a successful installation.

Excalibur Technology Corp:  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

Customer:  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_