



## **SERVICE OUTLINE – TERMS AND CONDITIONS**

**IMPORTANT NOTICE:** To ensure the expedition of a successful recovery, Excalibur requests that customers submit corrupted media for data recovery service in **“AS FAILED”** condition. Please review, sign and return this Agreement via FAX or include with your media shipment.

**SEND MEDIA AND COMPLETED CONTRACT TO: EXCALIBUR DATA RECOVERY, INC.**  
**5 Manor Parkway, Suite A, Salem, NH 03079 ATTN: Data Recovery Dept.**

To ensure the quickest possible service, you must contact Excalibur for a Data Recovery Authorization/Job number (*if not already noted on top right of this page*) prior to shipment of media. Include with your order the following checklist items:

- ( ) Place the completed paperwork in with the media for recovery. A **JOB NUMBER**, if not pre-assigned, will be assigned upon arrival and the client will be notified.
- ( ) **A letter/brief description** of the problem, any work performed (AGAIN, **not recommended AFTER the failure occurred**), system type and drive information, operating system version, controller card type, and path information of specific and/or critical directories/files that should be targeted for recovery. Complete information will help expedite the process
- ( ) **NETWORKS, SYSTEM, and/or ENCRYPTION PASSWORDS**. User with Administrative rights, log in passwords, etc. are required. Systems protected by passwords should also provide that information. Please do not forget to include this **CRITICAL** information in a cover letter (requested above)
- ( ) Return media preference (will appear as a line item within the data recovery quotation – provided to client for acceptance).
- ( ) Copy of **RESALE CERTIFICATE** (if applicable).

### **CORPORATE ACCOUNTS NO LONGER REQUIRE THE FOLLOWING:**

1. A complete **BILLING** address and **SHIPPING** address (unless not on file).
2. Payment for Phase II **“Modification”** - only if pre-approved terms are on file.

**SERVICE CONSIDERATION:** The media submitted for service to Excalibur is **NEVER** repaired and returned upon completion of the data extraction (unless of course deemed unrecoverable and instructed by the client) nor is it guaranteed to function upon return. When data is recovered, an alternative media is required (CD/DVD or flash in some cases, but primarily an external USB drive is used). The client may provide the replacement USB in conjunction with the service to save on cost when quoted. The client's original media is not returned unless requested and only after the recovered data is reviewed and the client has indicated their satisfaction (10 day window – Please refer to the CONFIDENTIALITY clause/paragraph within the body of this contract). If you have any additional questions, please call. **THANK YOU** for doing business with **Excalibur!**

## **THE DATA RECOVERY AGREEMENT**

This agreement (“Agreement”) is made and entered into by and between Excalibur Data Recovery, Inc. (Excalibur) and **The corporation or individual specified and/or identified in the RECOVERY SUBMISSION FORM** (“Client”) as the result of the following:

- A. The Client is the owner of the computer data storage media, described in paragraph 1 below (“the Media”), from which the Client is unable to recover data by conventional means:
- B. Absent the ability to recover data from the Media by conventional means, the Media, for all intents and purposes, is of no value whatsoever to the Client;
- C. Excalibur, applying its available technology and experience, has had success in the past recovering data from Media similar to the Client's;
- D. Given the fact that the Client's Media is of no value in its present condition and that if Excalibur were successful in making this data available, the costs to the Client would be a fraction of the cost of recreating the Client's currently inaccessible data by other means, the Client and Excalibur have entered into this Agreement to document the terms under which Excalibur will evaluate this Media and may or may not make the data available;

## NOW THEREFORE, IT IS AGREED:

1. **“The Media”**: The Client herewith delivers to Excalibur the item(s) described in attachment A for recovery that includes no less than #of items submitted, a brief description of media and the operating system under which files were created. The client will also provide information pertaining to password protected or encrypted devices with passwords, passphrases and/or keys. Should the Client desire, Excalibur agrees to return these Item(s) upon completion of services at the Client's expense.

2. **“The Evaluation, Modification and the Recovery Services”**. Data Recovery is potentially a tri-level procedure. Phase I. The initial testing or **“Evaluation”** will determine the classification of failure based upon severity of the damage to the media impact to file structures the media has stored. Phase II. The **“Modification”** occurs when part acquisition and/or temporary repairs are required or necessary. Once Phase I and/or Phase II have occurred, the likelihood of data recovery and time frame for completion of service is calculated (recovery probability for success based upon all factors). The Client understands that data is not recovered during the “Evaluation” or “Modification” (Phases I and/or II) of service. The initial evaluation for single devices is FREE of charge. The **“Modification”** fee (the non-refundable part acquisition and temporary repair/drive modification phase) will lead to the probability of the recovery of data and is applied to the cost of the recovery if a) the data is recoverable and b) the quote for the balance of service is accepted. You will be notified if repair/parts are required to continue:

**o There is a fee for the Evaluation of the device(s) being submitted. There is a potential Phase II Modification fee that would apply as follows: does not apply to solid state drives; will inform this account if parts are expensive or hard to locate (est. cost:\$150-450 to aquire – part & freight).**

The Recovery, Phase III or **“Service”**: Phase III is the actual recovery, backup and verification of data. A **“Service”** fee will be determined based upon: a) a PER ITEM basis, and b) after the completion of the **“Evaluation”** and **“Modification”** (only modified if deemed necessary and pre-approved) to assess the likelihood for recovery of data. Then after determining, through use of equipment and technologies employed in the recovery of data, the Client must approve a separate fee **“Service”** prior to the recovery. ***If the data is recoverable, and client accepts quote, the Phase II “modification fee” (if applicable) is applied.*** The approximate **“Service”** fee range is:

**o Est. “Recovery Fee” (quoted after evaluation and charges pending client approval): Range for this devices vary and are listed in The Excalibur Price Guide. Excalibur bills out on an hourly basis with a minimum billing due when providing recovery service.**

3. **In Addition**: At the Client's discretion, data may be returned in one of several forms. Additional fees may be charged for actions in response to the Client's directions. The **“Service”** Fee is payable immediately upon acceptance of the Recovery Quote and/or prior to the release of the Client's Media carrying the recovered data (unless other terms have been established).

4. **Client Cooperation**: The Client agrees to cooperate with and comply with directions of Excalibur, its agents, employees and subcontractors in connection with the data recovery procedures on return of the Media to Client. Excalibur agrees to use its best efforts, applying its available technologies, techniques, and know-how to restore the Media or data to a condition whereby all or portions of the data can be made accessible.

5. **Limitation of Liability**: The Client, for itself, its successors, assigns, legal representatives, nominees, and all others claiming by and through it, hereby accepts I) all the risk that the efforts of Excalibur, its agents, employees and subcontractors may not be successful, II) the risk of loss, damage or destruction of the Media while in the possession or control of Excalibur, its agents, employees and subcontractors, or in transit between any one or more of them and/or Client. Further, in no event will Excalibur, or its Owners, Directors, Officers, Employees, Agents, Successors, Nominees, or Assigns be liable for any special, incidental, consequential, or associated damages, including but not limited to loss of use, data or profits or other damage, arising out of or connected with furnishing the services, or any performance or non-performance under this Agreement, even if Excalibur has notice of the potential for such loss or damage. Excalibur expressly disclaims any warranties, express, implied or statutory, including the implied warranties of merchantability and fitness for particular purposes, with respect to the services performed and the parts provided under this Agreement. Excalibur further disclaims responsibility for damage caused in shipment or Client errors after receipt of the Media carrying the recovered data. Additional not: Excalibur will not be held responsible for the alterations of any kind to the Media and/or the data that resides on or is contained by the media provided prior to receipt for evaluation. Again, Excalibur strongly recommends that the Client submit any corrupt media in “AS FAILED” condition.

6. **Billing and Remittance**: Excalibur reserves the right to accept or deny any form of payment if other than that which was specified when contracting and negotiating for recovery service. This includes, but is not limited to: **Purchase Orders (established credit terms), Company check, certified check, bank check, money order, Visa, MasterCard,**

**AmericanExpress and Discover.** If not specified and approved by Excalibur, replacement Media containing recovered data will be forwarded to the Client **CASH ON DELIVERY (C.O.D.)**.

7. **Confidentiality:** Work performed is confidential and held in strict confidence. No information/data processed is used for corporate or personal gain. Data is retained for a minimum period of time to assure successful transfer of data to the originator. Once data is successfully restored by the client, or after a 10 day period, whichever comes first, data is purged. Confidentiality is null and void in cases of misrepresentation, theft, criminal intent and/or lawlessness discovered (accidentally or intentionally) during the process of recovery.

8. **CASES OF ADULT CONTENT:** Please understand that child pornography is a crime. Under federal law (18 U.S.C. §2256), child pornography is defined as any visual depiction, including any photograph, film, video, picture, or computer or computer-generated image or picture, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct involving a minor. Federal law (18 U.S.C. §1466A) also criminalizes knowingly producing, distributing, receiving, or possessing with intent to distribute, a visual depiction of any kind, including a drawing, cartoon, sculpture or painting, that appears to involve a minor involved in any sexually explicit acts. **IF A DRIVE ARRIVES FOR RECOVERY SERVICE AND IT IS DISCOVERED (ACCIDENTALLY OR OTHERWISE) TO CONTAIN SUCH ILLEGAL INFORMATION, YOU WILL BE REPORTED TO THE AUTHORITIES FOR PROSECUTION TO THE FULLEST EXTENT OF THE LAW.** The Confidentiality clause outlined becomes null and void.

9. **Licensed Products:** Return of client's software (applications and operating system(s)), whether licensed or unlicensed, are not included in Excalibur Data Recovery's data recovery process, guarantee, or warranty.

10. **TECHNICAL SUPPORT:** Supplied free of charge ONLY IF problems occur with media defect and/or data files AFTER recovered data has been restored to a customer's system. If additional services are required, they will be supplied at an additional charge to the customer unless otherwise specified. Excalibur is not responsible for the training and use of computer systems and peripherals in order to restore recovered information.

**PACKING YOUR MEDIA:** When shipping hard drives or other breakable media, please **DO NOT USE SOFTPAKS** available through the various delivery services available. Use a sturdy box and ample padding (static free bags, bubble wrap and/or Styrofoam peanuts, for example) so that **NO FREE MOVEMENT** of the media contained within is possible. Additional damage may result if insufficient packing materials are used. **Pack your media as if it were glass!**

## **PURCHASE ORDERS and/or CREDIT CARD PAYMENTS**

**Corporate Purchase Orders** are accepted based upon the following conditions:

Excalibur has set **terms of NET 10 DAYS** on balances due for services rendered. If after a **10-day period** payment IS NOT received, Excalibur will continue to monitor the customer/client account for additional period of **20 Days ONLY**.

If after 30 days payment is still outstanding and has not been received by Excalibur, Excalibur reserves the right to **automatically** charge any outstanding balances incurred by the account contracting services to the secured credit card on file. An **additional five percent (5%)** will be added to the account balance in order to satisfy processing and administrative fees.

A statement will be forwarded to the cardholder at that time for his/her records. Any payments received after 30 days will be returned to the appropriate contact/account.

If **no** purchase order is indicated or approved, OR this is a private sale for services rendered to an individual vs. corporate entity, this form will act as **automatic approval** to charge the appropriate amount to the client/account for any Evaluation, Recovery Service or related product sales quoted and accepted by the card holder contracting services provided by Excalibur.

**COMPANY PURCHASE ORDER (HARD COPY) is required.**

**WARNING:** The use of certain credit cards may restrict delivery of the products or services provided. **Merchant Services** of various credit card establishments (published **TERMS & CONDITIONS**) have notified merchants processing credit sales that they **will not** be held responsible or arbitrate a dispute if a merchant provides a product or service to an address other than the **"BILL TO"** address of the **ACTUAL CARD HOLDER**. Because of the restrictions in place to protect card members against fraudulent charges, use of a **PERSONAL CREDIT CARD** may restrict the delivery of a purchase of products or services to the primary card holders **"REGISTERED" address only**. Alternative **"SHIP TO"** requests or locations **CANNOT** be accepted or processed. Therefore, personal credit cards may not be accepted as a secured form of payment when alternative addresses are requested for recovered data. **THANK YOU** for your attention to this matter.