



CUSTOMER MASTER AGREEMENT

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Customer Master Agreement

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Customer Master Agreement

This Customer Master Agreement governs the provision of all services by Sapphire to the Customer from time to time and must be read in conjunction with the Rules and Regulations and any Specific Service Agreement containing the terms and conditions relating to the provision by Sapphire of any Service to the Customer.

1. DEFINITIONS

In this CMA (as hereinafter defined) unless the context otherwise requires the following terms shall have the following meanings:

"Application Form" means the form entitled 'Customer Master Agreement Application Form' in which the Customer agrees to be bound by this CMA which they have read, understood and agreed to in all respects.

"Charges" means all payment obligations from the Customer to Sapphire other than Subscriptions including money or monies owed by the Customer to Sapphire as a result of using the Services or any other charged facility supplemental thereto including those arising out of the provision of specific services by Sapphire to the Customer.

"CMA" means this Customer Master Agreement and all terms and conditions contained and referred to herein including the provisions of any applicable SSA and Rules and Regulations.

"Customer" means the person, persons, company or entity (including their respective permitted successors and assigns, employees servants, representatives or agents) entering into this CMA with Sapphire by signing the Application Form for the purpose of receiving the Services as defined below pursuant to this CMA.

"Customer Details" means the contact details specified by the Customer on the Application Form for matters relating to this CMA.

"Customer's Premises" means the premises in which the Customer is to operate and use the Services.

"Customer Terminal Equipment" means all equipment and software belonging to and being used by the Customer to connect to the Network and receive the Service.

"Intellectual Property Rights" means any and all Intellectual Property Rights including (without limit) any and all patents, design rights, database rights, copyrights, know-how, moral rights, trade secrets, confidential information, trade marks, service marks, names and goodwill.

"Network" means all equipment, cabling and software owned and operated by Sapphire from time to time, including Sapphire Terminal Equipment, for the purpose of providing services to customers.

"Rules and Regulations" means all and any additional rules and regulations provided by Sapphire from time to time and published on Sapphire's website governing the use of the Service. The current form of Rules and Regulations are annexed to this CMA.

“**Sapphire**” means Broadband Gibraltar Limited trading as Sapphire Networks with principal business address at Suite 951 Europort, Gibraltar.

“**Sapphire Terminal Equipment**” means all equipment, cables and software installed in the Customer’s Premises and belonging to and being used solely by Sapphire to provide the Services.

“**Service**” means any service or services provided by Sapphire to the Customer in conjunction with the Specific Service Agreement governing that service or otherwise.

“**Specific Service Agreement**” or “**SSA**” means any further agreements incorporating additional terms and conditions specific to any particular Service provided to the Customer by Sapphire at the request of the Customer and which the Customer agrees to be bound by on application or first use of the Service, the provisions of which Service shall be subject to and governed by this CMA.

“**Subscription**” means, in respect of each Service, the subscription or rental payments to be paid by the Customer to Sapphire for access to the Service.

“**User ID**” means the verification identity(ies) issued to each Customer by Sapphire in conjunction with the Service for the purpose of Customer identity verification.

Any reference to any legislation shall be deemed to include any amendment, replacement, or re-enactment thereof or in that behalf for the time being in force and to include any bye-laws, statutory instruments, rules, regulations, orders, notices, directions, consents or permissions made thereunder and any condition or conditions attaching thereto, including any European legislation implemented or applicable in Gibraltar.

2. COMMENCEMENT AND DURATION

2.1. This CMA begins on the date that the Application Form is signed by the Customer and will continue until terminated in accordance with this CMA.

3. PROVISION OF SERVICES

3.1. Sapphire will provide the Customer with any of its Services that the Customer wishes to subscribe to and the Customer agrees to be bound by this CMA.

3.2. On application or first use of a Service the Customer agrees to be bound by the SSA governing that Service. All Services and the appropriate SSA’s and price lists governing the Services are available on Sapphire’s website <http://www.sapphire.gi>

3.3. Sapphire may from time to time:

(a) for operational reasons change the technical specifications of the Service and/or codes or numbers used by Sapphire in connection with the Service provided that any such change to technical specifications does not materially affect the performance of the Service;

- (b) give the Customer instructions which it considers necessary and expedient for reasons of health, safety or the quality of any Service provided by Sapphire to the Customer or any other customer;
- (c) temporarily suspend the Service because of any emergency or for operational reasons (such as maintenance or for the purposes of upgrading or improving the Service).

Sapphire shall endeavour to provide as much notice as possible to the Customer of any of the above-mentioned acts and the Customer agrees to comply with any instructions given under (b) above.

3.4. Sapphire will repair any faults in accordance with the SSA.

4. CUSTOMER'S OBLIGATIONS

- 4.1. The Customer shall, in addition to its obligations detailed in this agreement, at its own expense:
- (a) promptly cooperate and provide Sapphire with all necessary information (other than prohibited confidential information) that Sapphire may reasonably require from time to time to enable it to proceed uninterruptedly with the provision of the Services and performance of its obligations under this CMA and any SSA;
 - (b) ensure that the Customer Premises are ready and equipped to enable it to use the Service provided by Sapphire to the Customer in accordance with this CMA and the SSA and further ensure that they are so maintained for the duration of the SSA;
 - (c) procure any permissions, licences, authorisations, consents and approvals whatsoever necessary under any law or otherwise for the installation and operation of its business and of any Sapphire Terminal Equipment for the provision of and access to the Services;
 - (d) ensure that it has all necessary equipment, including suitable hardware and software, as well as other communication network services if so required to be able to connect to the Network and access the Service.

5. TERMINAL EQUIPMENT

- 5.1. Any equipment connected (directly or indirectly) to or used with the Network and/or Service must be:
- (a) connected and used in accordance with any published instructions, safety and security procedures applicable to the use of that equipment;
 - (b) technically compatible with the Network and Service and approved for that purpose under any relevant legislation or telecommunications industry standards;
 - (c) maintained and serviced in accordance with any published instructions and procedures applicable to the use of that equipment.

- 5.2. If requested by Sapphire, the Customer shall by the date stipulated by Sapphire provide it free of charge with the specifications of any item of Customer Terminal Equipment, details of which are reasonably required by Sapphire in order to provide the Services.
- 5.3. If Sapphire needs to install Sapphire Terminal Equipment at the Customer Premises to enable Sapphire to provide a Service, the Customer will at no charge to Sapphire and prior to installation:
 - (a) prepare the Customer Premises in accordance with Sapphire's reasonable instructions, if any;
 - (b) make available a place with conditions suitable for the Sapphire Terminal Equipment;
 - (c) provide sufficient uninterrupted electricity to power the Sapphire Terminal Equipment.
- 5.4. Sapphire will specify a connection point and protocol for the connection of the Customer Terminal Equipment to the Sapphire Terminal Equipment. The Customer will use this connection solely for accessing the Service and will use no other point or protocol on the Sapphire Terminal Equipment to connect to the Network unless instructed otherwise by Sapphire.
- 5.5. The Customer acknowledges that, unless stated otherwise, Sapphire is not responsible in any circumstance for providing any support whether technical or otherwise for the Customer Terminal Equipment.
- 5.6. Where IP addresses are allocated to the Customer, these are for use in connection only with the Service and all rights in those IP addresses belong to Sapphire. The Customer cannot sell them, share them or agree to transfer them to anyone else and must not try to do so. The IP addresses will revert to Sapphire on termination of the Service.
- 5.7. All Sapphire Terminal Equipment shall remain the sole property of Sapphire at all times.
- 5.8. The Customer is responsible for any Sapphire Terminal Equipment and must not add to, modify or in any way interfere with, nor allow anyone else (other than someone authorised by Sapphire) to do so. The Customer is liable to Sapphire for any loss of or damage to any Sapphire Terminal Equipment, except where such loss or damage is due to fair wear and tear or is caused by Sapphire or anyone acting on Sapphire's behalf.

6. ACCESS AND SITE REGULATIONS

- 6.1. To enable Sapphire to expeditiously and properly fulfil its obligations under this CMA and/or any SSA the Customer shall, if and when deemed reasonably necessary, permit Sapphire and any other person required by Sapphire (or, when required by Sapphire so to do, procure permission for such person or from any other persons whose permission is requisite) to have reasonable access to the Customer's Premises.
- 6.2. The Customer shall provide a suitable and safe working environment for Sapphire employees and anyone acting on Sapphire's behalf at the Customer's Premises.

- 6.3. The Customer shall notify Sapphire of any health and safety rules and regulations applicable at each of the Customer's Premises and Sapphire shall observe the said regulations so notified whilst at the Customer's Premises.
- 6.4. The Customer shall ensure that it complies fully with all local laws relating to health and safety in the Customer's Premises and shall indemnify Sapphire from any claims arising in respect of the same.

7. SECURITY

- 7.1. The Customer is responsible for the security and proper use of all User IDs and passwords provided in connection with the Service and must take all necessary steps to ensure that they are kept confidential, secure and are used properly.
- 7.2. The Customer must immediately inform Sapphire if there is any reason to believe that a User ID or password has or is likely to become known to someone not authorised to use it or is being or is likely to be used in an unauthorised way.
- 7.3. The Customer must not change or attempt to change a User ID. If a Customer forgets or loses a password or User ID, the Customer will be provided with a new User ID and/or password by contacting Sapphire and satisfying such security checks as Sapphire may operate.
- 7.4. If at any time Sapphire has reason to believe that there is or is likely to be a breach of security or misuse of the Service Sapphire may:
 - (a) change the Customer's User ID and/or password and will notify the Customer of such action;
 - (b) suspend the User ID and password access to the Service.
- 7.5. Sapphire shall have no liability or responsibility relating to or arising from a misuse of a User ID and/or password.

8. USE OF THE SERVICES

- 8.1. The Customer hereby warrants and undertakes not to, nor permit any other person to, use the Service:
 - (a) for the transmission or reception of any material which is defamatory, offensive or abusive or of an obscene or menacing character or in contravention of acceptable standards relating thereto;
 - (b) in a way that does not comply with the terms of any legislation or any licence applicable to the Customer or that is in any way unlawful or fraudulent or, to the knowledge of the Customer, has any unlawful or fraudulent purposes or effect;
 - (c) in a manner which constitutes a violation or infringement of the rights of any person, firm or company (including but not limited to Intellectual Property Rights, copyright or rights of privacy);

(d) in a way that in Sapphire's reasonable opinion could materially affect the quality of any telecommunications service, including the Service provided by Sapphire.

- 8.2. Where software is provided to enable the Customer to use a Service, Sapphire grants the Customer, for the duration of the SSA, a non-exclusive, non-transferable licence to use the software for that purpose. Except as permitted by applicable law the Customer must not, without Sapphire's prior consent, copy, de-compile or modify the software, nor copy the manuals or documentation, nor knowingly allow or permit any other person to do so or share the same with any person.
- 8.3. The Customer agrees to adhere to and comply with the Rules and Regulations. In the event of any conflict between the Rules and Regulations and this CMA the provisions of this CMA shall prevail.
- 8.4. Any use of the Service by any person other than the Customer in breach of this Clause 8 will be deemed to be a breach by the Customer of this CMA and Sapphire will be entitled to exercise its rights in respect of such breach under this CMA accordingly.

9. SUBSCRIPTIONS AND CHARGES

- 9.1. The Customer hereby warrants and undertakes to pay Sapphire the Subscriptions and/or Charges in respect of the Service. Details of the Subscriptions and Charges are available on Sapphire's website <http://www.sapphire.gi> and shall also be available in hard copy format at its offices.
- 9.2. Subscriptions are payable in advance and are not refundable unless stated otherwise in the relevant SSA.
- 9.3. The Subscriptions and/or Charges are exclusive of any tax and/or any other charges levied in respect of any communications service or facilities unless stated otherwise.
- 9.4. The Subscriptions and/or Charges shall begin to accrue from the date of operation of the Service unless stated otherwise.
- 9.5. Sapphire reserves the right to request from the Customer payment in advance of any Subscriptions and/or Charges at its sole discretion in advance of the date of operation of the Services.
- 9.6. The Subscriptions and/or Charges shall be payable by the Customer within 14 days of the date of Sapphire's invoice.
- 9.7. Payment of all amounts due under this CMA and any SSA shall be made by the Customer in Pounds Sterling in full without any set-off, deductions or withholdings whatsoever.
- 9.8. Sapphire reserves the right to charge interest on any amounts due and owing at a rate determined by Sapphire from time to time for the time being set at 4 percentage points above the Bank of England base rate and due to be paid to Sapphire from the date the amount fell due up to and including the date of actual payment.

- 9.9. The Customer shall be liable for all Subscriptions and/or Charges in respect of the Service notwithstanding that the Customer has been unable to gain access to the Service for any period of time.
- 9.10. Sapphire may at its sole discretion alter the Subscriptions or any of its Charges at any time by giving prior notice of any such alteration on its website. Sapphire undertakes to provide at least 15 days advance notification of any increase in such Subscriptions or Charges and at least 7 days advance notification of any decrease in such Subscriptions or Charges.

10. INDEMNITY

- 10.1. The Customer agrees to indemnify and keep Sapphire, its subsidiaries, affiliates, officers, partners, employees and agents indemnified (on a full indemnity basis), from and against all actions, demands, costs, losses, penalties, damages, liability, claims and expenses (including but not limited to legal fees) whatsoever incurred by it or them and arising from the Customer's breach of this CMA and/or any SSA and/or negligent acts, omission or default.

11. LIMITATION OF LIABILITIES

- 11.1. Sapphire shall be under no liability whatsoever to the Customer or to any other person or body (corporate or unincorporated) for any loss, damage, injury, or death to any property or person caused in any manner whatsoever by any of the Services or by the performance by Sapphire of any of its obligations under this CMA and/or any SSA save that Sapphire shall only be responsible for any personal injury or death to any person caused wholly and directly by Sapphire's negligence provided that the aggregate liability of Sapphire shall not exceed £10,000.
- 11.2. Further, and without prejudice to the generality of the foregoing, Sapphire shall not be liable to the Customer in contract, tort or otherwise for any loss of business contracts, anticipated savings or profits or for any direct, indirect or consequential expenses, costs, charges, fees, levies, loss or losses, incurred or suffered by reason of:
- (a) any failure on the part of Sapphire (in whole or in part) to provide, or delay in providing, any of the Service howsoever arising;
 - (b) any interruption, suspension or restriction of any of the Services or any delay of or fault in communication by means of the Service howsoever arising.

In any event, Sapphire's liability shall be limited only to the amount the Customer has paid in respect of the Service for the month in which the incident or series of incidents occurred.

- 11.3. The Customer acknowledges that Sapphire is unable to exercise control over the content of the information passing over the Network and Sapphire hereby excludes all liability of any kind for the transmission or reception of infringing information of whatever nature.
- 11.4. Sapphire undertakes no liability whatsoever for the accuracy or inaccuracy of any information contained within any of the Services or in respect of any advertising material or content being used to promote or market the Service to the public at large.

- 11.5. When a Service enables access to the Internet, the Customer acknowledges and accepts that the Internet is separate from the Service and use of the Internet is solely at the Customer's risk and subject to all applicable laws. Sapphire has no responsibility for any information, software, services or other materials obtained by the Customer using the Internet.
- 11.6. Sapphire shall not be held liable or responsible for the Customer's inability to access the Service due to incompatibility and/or faults in any communications network between the Customer's Terminal Equipment and the Network.
- 11.7. The provisions of this Clause 11 shall continue to apply notwithstanding the termination or expiry of this CMA and/or any SSA.
- 11.8. Each provision of the Clause excluding or limiting liability operates separately. If any part is held by a Court to be unreasonable or inapplicable, the other parts will continue to apply.

12. SUSPENSION AND TERMINATION

- 12.1. Either party may terminate a Service by providing such notice to the other party in accordance with the SSA.
- 12.2. If the Customer is using a Service in breach of this CMA (including the Rules and Regulations) and/or the SSA Sapphire may, in its sole discretion and without liability and by giving prior notification if practicable, suspend that Service and notify the Customer. Sapphire will reactivate the Service once the breach has been remedied. If the breach cannot be remedied or is not remedied within 21 calendar days from notice of suspension, Sapphire may terminate the Service without further notice. If the Customer is repeatedly in breach of this CMA and/or any SSA, Sapphire may terminate and/or refuse to provide the Customer with the Service.
- 12.3. Any SSA is deemed to be terminated on termination of the Service it governs without prejudice to the rights of Sapphire.
- 12.4. Without prejudice to the provisions of this Clause 12, Sapphire shall be entitled to terminate this CMA and/or any Service immediately upon the following events occurring:
 - (a) the Customer, being an incorporated company, shall have a receiver or liquidator appointed or shall pass a resolution for the winding-up of the Customer or any Court of competent jurisdiction shall make an order to that effect or being a partnership shall be dissolved or being an individual shall commit an act of bankruptcy or shall die or the Customer (whether an incorporated company or not) shall enter into any composition or arrangement with the Customer's creditors;
 - (b) in the event of any permit, licence or consent which Sapphire may be required to possess in order to carry out its obligations under this CMA and/or any SSA being refused or withdrawn, provided however that in any such event Sapphire shall endeavour to give to the Customer the maximum notice practicable in the circumstances prevailing.

- 12.5. In the event that the provision of the Service is suspended or terminated by Sapphire in accordance with this Clause 12 the Customer shall:
- (a) remain liable for any of the Subscriptions and/or Charges (including any termination charges) in respect of the Service and in accordance with the SSA;
 - (b) fully reimburse Sapphire with all direct costs and expenses (if any) necessarily and reasonably incurred by Sapphire upon termination;
 - (c) permit or procure permission for Sapphire and/or any person required by Sapphire to have full and free access to the Customer's Premises for the disconnection and removal of any Sapphire Terminal Equipment;
 - (d) if any Sapphire Terminal Equipment is lost or damaged, fully reimburse Sapphire all costs of replacing, recovering or repairing that equipment.
- 12.6. In the event that all SSAs between the Customer and Sapphire are terminated, either party may terminate this CMA by providing the other party with 14 days notice.

13. NO WARRANTY

- 13.1. The Customer understands and hereby agrees that use of the Service is done so at the Customer's sole risk. Sapphire does not make any warranty, assurance or guarantee as to the results to be obtained from use of the Service.
- 13.2. Sapphire unless otherwise stated has no obligation duty or liability for breach of statutory duty or otherwise beyond that of a duty to exercise the reasonable skill and care of a competent telecommunications service provider in providing the Service and if required in determining how best to provide the Service to the Customer.

14. RIGHT TO AMEND

- 14.1. Sapphire may at any time modify this CMA and/or the Rules and Regulations and/or any SSA by publishing the modified version on its website and notifying the Customer at least 14 days before any such modifications come into effect. Sapphire is entitled to make any immediate changes to the Service required by any change to the law or any applicable regulation for the time being in force. Continued use of the Service by the Customer will be deemed acceptance by the Customer of any such modifications for the time being in force.

15. NO ASSIGNMENT

- 15.1. This CMA and/or any SSA are personal to the Customer. The Customer may not transfer, assign, share, novate, sub-contract, deal or otherwise dispose of this CMA and/or any SSA or part thereof or any of the Services provided by Sapphire to the Customer.

16. FORCE MAJEURE

- 16.1. Neither party shall be liable to the other under this CMA and/or any SSA, for any loss, damage or delay which may be suffered by the other party due to any cause beyond any party's reasonable control including, in particular, any act of God, inclement weather, failure or shortage of power supplies or raw material or equipment, flood, draught, lightning or fire,

national organised labour disputes (except labour disputes affecting the workforce of the party relying on this clause) the act or omission of any Government, highway authorities, other telecommunications operators or other competent authorities, war, riot, directives issued by civil or military authorities, court orders, failures of or delays in deliveries effected by vendors or suppliers, or delays in shipment.

16.2. In the event of any failure or delay under Clause 16.1 above:

- (a) the party seeking to rely on that clause shall use reasonable endeavours to perform its relevant obligations as soon as possible; and
- (b) the time for performance of such obligations under this CMA and/or any SSA shall be extended by a period equivalent to the delay provided that if such delay or failure persists for more than 60 days then either party shall have the right to terminate this CMA and/or the SSA forthwith by giving 1 months notice in writing to the other party.

17. ENTIRE AGREEMENT

17.1. This CMA, the Rules and Regulations, and any additional terms appearing in any SSA represent the entire understanding between the parties in relation to the subject-matter thereof and supersedes all other agreements and representations made by either party, whether oral or written.

18. NO WAIVER

18.1. No forbearance delay or indulgence by Sapphire in enforcing the provisions of this CMA and/or any SSA shall prejudice or restrict the rights of Sapphire nor shall any waiver of its rights operate as a waiver of any subsequent breach and no right, power or remedy herein conferred upon or reserved for Sapphire is exclusive of any right, power or remedy available to Sapphire and each right, power or remedy shall be cumulative.

19. NOTICES

19.1. Any notice shall be deemed to be served on the Customer by Sapphire:

- (a) on the second day after it is posted to the address specified in the Customer Details;
- (b) on the same day if it is:
 - (i) e-mailed to the e-mail address specified in the Customer Details;
 - (ii) faxed to the fax number specified in the Customer Details;
 - (iii) delivered by hand to the address specified in the Customer Details;
 - (iv) posted or published on Sapphire's website and notified by e-mail to the e-mail address specified in the Customer Details.

19.2. The Customer understands that it is the Customer's responsibility to ensure that their contact details are up to date and must immediately inform Sapphire of any changes to the information supplied when requesting the Service.

19.3. Unless otherwise stated, all communications to Sapphire regarding this CMA and/or any SSA should be posted to Sapphire's business address as published on their website and

letterheads from time to time, or e-mailed to 'accounts@sapphire.gi' for billing related matters or 'contracts@sapphire.gi' for matters relating to this CMA or any SSA.

20. CONFIDENTIALITY

20.1. The Customer shall keep in strict confidence any information (whether written or oral) of confidential nature (including software and manuals) obtained from Sapphire and will not disclose such confidential information to any person (other than the Customer's employees or professional advisers, or in the case of a Company the employees of such Company who need to know of the confidential information).

20.2. Sapphire shall keep in strict confidence any information (whether written or oral) of confidential nature (including software and manuals) obtained from the Customer and will not disclose such confidential information to any person (other than Sapphire's employees who need to know of the confidential information).

20.3. This Clause 20 will remain in effect after the termination of this CMA.

21. HEADINGS

21.1. The headings to the clauses of this CMA and any SSA are for ease of reference only and shall not affect the interpretation or construction hereof.

22. SURVIVAL OF TERMS

22.1. If any provision of this CMA and/or any SSA, or any other document made in connection with this CMA and/or any SSA, is determined by any court, tribunal or administrative body of a competent jurisdiction to be wholly or partly unenforceable for any reason, that unenforceability shall not affect the rest of this CMA and/or SSA or that document, the unenforceable part being deemed severed and deleted and the remainder continuing in full force and effect.

23. APPLICABLE LAW

23.1. This CMA and/or any SSA shall be governed by and is subject to the Laws of Gibraltar and the parties irrevocably submit to the exclusive jurisdiction of the Supreme Court of Gibraltar.

Rules and Regulations

These Rules and Regulations intend to ensure the functionality of the Sapphire Network and the Internet services operated on this Network from both a functional and qualitative point of view and to urge the user to act responsibly when using the global Internet, especially in order to avoid unreasonable injury to other users' interests.

1. GENERAL GUIDELINES

1.1. Any use of the Network or of the Internet services operated on or via the Network, such as World Wide Web (WWW), e-mail, news, gopher or telnet services, will be permissible solely within the framework of the applicable provisions specified by Gibraltar law and within the framework of the service offering contractually agreed upon with the user.

This means in particular that the Sapphire Network must not be used for sending, receiving or distributing content that:

- (a) constitutes offences such as sedition, forbidden right-wing or left-wing extremist propaganda, invasion of personal privacy including insult, libel and defamation or distribution of pornographic literature or
- (b) violates a third party's rights such as the right to bear a name, the right of personality, copyrights, competition and trademark laws.

The user must also observe the legal provisions concerning data protection and the protection of a third party's privacy.

- 1.2. In addition to the above, the Sapphire Network must not be misused for improper purposes.
- 1.3. Such improper purposes ("misuse") include all kinds of use that impairs the integrity and performance of the Network or its parts and dial-in points to an extent exceeding what has been contractually agreed upon. Misuse also includes the use of the Network for distributing, loading or publishing data that could violate or impair a third party's rights or constitute threat or insecurity to a third party.
- 1.4. It is not permissible to use the Sapphire Network or the services available on or via this Network for obtaining data or information that is not intended for the user. This also includes the misuse of the Network for the purpose of copying, tapping or intercepting e-mail messages or other information that is not intended for the user.
- 1.5. It is not permissible to use the Sapphire Network for circumventing security mechanisms that protect computers or computer systems, networks or network access facilities, for gaining unauthorised access to computer systems ("hacking"), for performing activities in preparation for the unauthorised access to a computer system (e.g. port scans) or for impairing the performance of a computer, computer system or network to an extent that goes beyond the services commonly rendered ("denial of service" attacks).
- 1.6. It is not permissible to use the Sapphire Network for distributing programs that serve the purpose of either causing damage to other users or computer systems (e.g. virus infection programs) or gaining unauthorised access to computer systems ("Trojan horses").

2. DIAL-IN PLATFORM

- 2.1. The use of the dial-in platform that provides access to the Sapphire Network is restricted to users having a contractually agreed access right, which has been granted either by Sapphire itself or by any of its partners being authorised to grant such access rights.
- 2.2. The user is not allowed to transfer their access right; neither directly nor indirectly, to any third party without Sapphire's express consent. This excludes persons involved in the user's business operations or persons sharing a common household with the user.
- 2.3. The use of the dial-in network by minors is subject to a parent or guardian's consent. The person vested with the right of the minor's education must ensure that the minor cannot use the Sapphire Network for accessing content that is morally harmful to youth.
- 2.4. The access data that is given to the user for access to the Sapphire Network must be treated confidentially. Passwords protecting the access to the Sapphire Network must be kept in confidence, checked and modified if unauthorised use by a third party is discovered.

3. WEB SERVERS

- 3.1. The server platforms operated on the Sapphire Network may be used exclusively for providing content or programs or for operating applications, which, when published or operated, do not offend against existing Gibraltar law or cannot be misused as defined in section 1 above.
- 3.2. Content, programs or applications available on the servers must neither offend against existing Gibraltar law nor be useable for improper purposes. It is not admissible to use hyperlinks for downloading third-party content, programs or applications, which offend against existing Gibraltar law or can be misused as defined in section 1 above.
- 3.3. In the event that a server operated on the Sapphire Network is used for offering content that is available to the general public, the user offering such content must ensure that the offered content cannot be used by any third party, in any form, for the publishing of or linking to content, programs or applications, which offend against existing Gibraltar law or can be misused as defined above.
- 3.4. The provisioning of adult content, which does not constitute a punishable act, is subject to Sapphire's express prior consent. However, the user providing such content must ensure that any such adult content that is likely to or may impair the physical, mental or moral development of minors cannot be accessed by minors.
- 3.5. If the content that is provided by the user through the Sapphire Network represents a commercial offer the user shall comply with any legal requirements relating to such commercial activities.
- 3.6. Notwithstanding any of the provisions in these Rules and Regulations, Sapphire shall not be responsible for any content on any servers, and the user shall indemnify Sapphire against any claim or demand (including reasonable legal fees) made by any third party due to or arising out of such content or any other violation of these Rules & Regulations.

4. E-MAIL AND NEWS SERVICES

- 4.1. It is not permissible to distribute e-mail messages to persons not wishing to receive such messages, especially in the event that the distribution of such electronic mail is done for the purpose of confronting a single person or numerous persons with unwanted commercial advertising, political statements or announcements or any kind. The user must refrain from sending such and similar messages to news groups; this applies in particular to the distribution of such e-mail to multiple news groups ("cross-posting"). It is also not permissible to send multiple e-mail messages for the purpose of impairing or paralysing the recipient's e-mail or news service ("mail bombing").
- 4.2. It is not permissible to modify or falsify the information that is contained in the header of an e-mail message or news article.
- 4.3. Every user operating an e-mail service on the Sapphire Network must ensure that their service cannot be used by any third party for the purpose of sending anonymous e-mail messages or distributing messages ("foreign relaying") that might offend against the guidelines specified herein.

5. VIOLATION OF THE CONDITIONS OF USE

- 5.1. Every user of the Sapphire Network must observe these Rules and Regulations specifying the acceptable use of the Network and Sapphire is entitled to demand the user to comply with these Rules and Regulations. For the avoidance of doubt, Sapphire reserves the right to implement all such laws, directives, rules and regulations as may be in force in Gibraltar in so far as they relate to the CMA or any SSA between Sapphire and the Customer, and the Customer agrees to comply with such laws, directives, rules and/or regulations.
- 5.2. In the event that a user continues to offend against the Rules and Regulations in spite of having repeatedly been demanded to refrain from doing so, Sapphire will be entitled to deny this user's access to the Sapphire Network or to the services operated on it or to block or delete this user's service offering, especially when Sapphire is obliged to do so due to official directive or court order. If there is sufficient reason for presuming the existence of particularly serious violations, Sapphire will deny access to the network and to the services operated on it or block or delete service offerings with or without prior notification.
- 5.3. In the event that a violation of the present conditions of use causes damage to Sapphire, the user must release Sapphire from all third-party damage and claims resulting from such violations.
- 5.4. When being informed about violations of the above guidelines, Sapphire may identify the originator of such violations within the scope of technical and operational possibilities. The expenses resulting from the establishment of the user's identity will be invoiced by Sapphire at a flat rate amounting £35 unless Sapphire incurs higher expenses which must be proved on a case-by-case basis.

6. MISCELLANEOUS

- 6.1. Sapphire reserves the right to revise and, if necessary, adjust these Rules and Regulations at any time. Continued use of the services by a user will constitute acceptance of the revised term.