Standard terms & conditions

Part A. General Terms

1. Definitions

1.1 In these Terms and Conditions the following terms and phrases shall have the following meanings:

"amatis" means Brave New World Group Limited, its trading divisions, subsidiaries or associated companies.

"amatis Affiliate" shall mean any company of which amatis is a Subsidiary, any Subsidiary or Associate of that company and any Subsidiary or Associate of amatis.

"AUP" means the Acceptable Use Policy as published on the amatis web site.

"Charges" shall mean together the Connection Charge and/or Sales Order Charge payable by the Customer to amatis for a Service as set out in the applicable Sales Order and revised from time to time in accordance with Clause 3.

"Confidential Information" shall mean all information (in whatever format) designated as such by either Party or any information which relates to the business, affairs, customers, products, developments, trade secrets, know-how and personnel of either Party and which may reasonably be regarded as the confidential information of the disclosing Party.

"Connection Charge" shall mean the connection charge (together with any applicable Excess Construction Charge) set out in a Sales Order.

"Customer Equipment" shall mean equipment, systems, cabling and facilities provided by the Customer and connected to the Sales Order Equipment or the Network to obtain the Service.

"Customer Site" shall mean any premises owned, leased or licensed by the Customer and specified in a Sales Order at which the Service is to be provided.

"Force Majeure Event" shall mean any cause beyond a Party's reasonable control affecting the performance of its obligations hereunder including but not limited to fire, flood, adverse weather conditions (including lightning, storm, tempest, earthquake, snow, ice and naturally occurring floods), explosion, accident, war, strike, embargo, acts of any governmental authority (including refusal or revocation of any licence or consent), Act of God, outbreak of hostilities, riot, civil disturbance, acts of terrorism, inability to secure materials, power failure, industrial disputes (excluding disputes involving the employees of either Party) and acts or omissions of other providers of telecommunications services.

"Goods" means all equipment or software supplied by amatis to the Customer as described on the Sales Order.

"Network" shall mean the telecommunication system over which amatis provides the applicable Service.

"Services" shall mean the Network Communications, Connectivity and Infrastructure Solutions, Data Centre Services, Cloud Solutions (IT, Telephony & ("eve") IP Telephony), Consultancy and provision of virtual and physical infrastructure for hosted business applications and managed server and related products and services. communication or data services more particularly described on the Sales Order.

"Sales Order Charge" shall mean the recurring charge for use of the Service as set out in the applicable Sales Order.

"Sales Order Commencement Date" means the date a Service as set out in the applicable Sales Order is declared as ready for service by amatis.

"Sales Order Equipment" shall mean any equipment, or cabling provided by amatis to the Customer and installed at the Customer Site in order to enable the Customer to connect to the Network and use the Service. Sales Order Equipment shall

not include the Network or any equipment which is the subject of a separate supply contract between amatis and the Customer.

"Sales Order" shall mean a request for Services to be provided under the terms of these Terms and Conditions.

"Sales Order Term" shall mean, in relation to any particular Service, the period from the Sales Order Commencement Date to include a minimum of twelve full months from the end of the month in which the Service commences, or such longer period as defined in the Sales Order; or any contract renewal period defined in the original Sales Order, or as part of any subsequent Sales Order or contract renewal agreement.

"Subsequent Term" shall mean the contract will continue for subsequent periods of 12-months beyond the Initial Sales Order Term ("the Subsequent Term").

"SLA" means the Service Level Agreement relating to the specific Service provided to the Customer by amatis.

1.2 The headings of clauses and paragraphs in this document are for ease of reference only and shall not be taken into account in the construction or interpretation of the clauses to which they refer.

1.3 In this document, words importing the singular include the plural, words importing any gender include every gender and words importing persons include bodies corporate and unincorporate and in each case vice versa.

1.4 References to a particular Clause are to be construed as references to clauses of these Terms and Conditions.

1.5 References to any statute, statutory provision or other enactment include a reference to that statute, provision or enactment as from time to time amended, extended or re-enacted

1.6 The words "include" or "including" are to be construed without limiting the generality of any preceding words.

2. Sales Order Provision

2.1 The Customer may from time to time deliver Sales Orders to amatis. Any Sales Order shall be in the form as specified from time to time by amatis and notified to the Customer or such other form as the Customer may deliver to amatis and amatis may at its discretion accept.

2.2 Each Sales Order shall be binding on both parties only after it is accepted and signed by amatis, such acceptance to include the carrying out to amatis' satisfaction of appropriate credit checks against the Customer. Except as otherwise agreed by the parties, the Customer shall not be obliged to submit, nor shall amatis be obliged to accept, any Sales Order.

2.3 Unless otherwise agreed in writing, any request by the Customer for cancellation or rescheduling of any order shall be subject to acceptance by amatis at its sole discretion, and subject to a reasonable administration charge. The Customer hereby agrees to indemnify amatis against all liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, (including the cost of labour and materials used and overheads incurred), loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by amatis arising out of or in connection with the order and its cancellation or rescheduling.

2.4 Upon amatis' request, the Customer will make a deposit as specified by amatis as security for the payment of any Charges, as a condition to amatis' acceptance of any Sales Order, or as a condition to amatis' continuance of delivery of any Service. amatis shall refund any balance of the deposit to the Customer where it ceases to provide the relevant Service provided the Customer has paid any outstanding Charges.

2.5 amatis shall provide and maintain each Service during the Sales Order Term in accordance with any applicable SLA.

2.6 amatis may for operational reasons substitute or change the technical specification of a Service, provided that any change does not materially affect the performance of the Service and amatis provides the Customer with details of such changes prior to their implementation.

2.7 amatis may withdraw or discontinue a Service by giving 3 months' notice to the Customer where continued provision of the Service is no longer technically or commercially viable.

2.8 Delivery and/or installation of Goods supplied shall take place at the Customer Site or, if different, the place specified in the Sales Order.

2.9 amatis may use amatis Affiliates or sub-contractors to perform some or all of its duties and/or obligations to deliver Services.

3. Payment

3.1 The Customer shall pay the Charges for the Services set out in the Sales Orders.

3.2 Payment for all Services, unless otherwise agreed in writing, shall be made by Direct Debit.

3.3 Unless otherwise stated in a Sales Order, the Charges for a Service shall not be increased during the Sales Order Term.

3.4 amatis shall be entitled, effective from the expiry of the Sales Order Term, to increase Sales Order Charges for a Service upon 30 days written notice to the Customer.

3.5 Connection Charges for a Service shall accrue on the date of acceptance of a Sales Order pursuant to Clause 2.2 and may be invoiced on acceptance or at any time thereafter.

3.6 Sales Order Charges for a Service shall accrue from the Sales Order Commencement Date (whether or not they are part of a larger project or network / service roll out) and will be invoiced in advance unless otherwise stated in the Sales Order. Service provided for part of a month from the date of commencement will be charged on a pro-rata basis to the end of that month, followed by a minimum of 12 full months' charges.

3.7 amatis shall retain full title to all Goods supplied to the Customer unless and until the Customer has paid all sums owing to amatis for the Goods.

3.8 All invoices shall be paid within 30 days of the date thereof or, if sooner, before the start of the service period.

3.9 Interest shall accrue on overdue invoices from the due date until payment (whether before or after judgment) at the rate of 5% above the base lending rate from time to time of the Bank of England. Interest shall accrue not withstanding termination of any Service provided by amatis to the Customer for whatever reason.

3.10 All sums due to amatis are exclusive of value added tax and any other applicable sales tax or duty which shall be invoiced and payable at the then prevailing rate.

3.11 In the event that the Customer fails to make payment of any invoices in accordance with Clause 3.8, amatis shall be entitled in addition to any other right of remedy which it might have under these Terms and Conditions or otherwise at law to set off any sums owing to it from the Customer against any deposit provided to it in accordance with Clause 2.3.

3.12 The Customer hereby acknowledges and agrees that its obligations to pay all amounts and charges due, and the rights of amatis to such payments shall be absolute, unconditional and irrevocable and shall not be affected by any circumstances of any character, including, without limitation, any set-off, abatement, counterclaim, suspension, recoupment, reductions, rescission, defence or other right or claim that Customer may have against amatis.

3.13 As part of the provision of certain Services, amatis (and/or its suppliers) will conduct site survey(s) to ascertain whether cabling and/or associated infrastructure is required to be installed at the Site(s) in order to provision these Services and as a result additional costs (known as "ECC's or Excess Construction Charges") may apply.

3.14 Where Excess Construction Charges apply, amatis will submit to the Customer in writing details of what additional works are required and the Charges payable.

3.15 If the Customer does not confirm acceptance in writing of the Excess Construction Charges within ten Working Days of submission by amatis, then the Sales Order, in so far as it pertains to the Site that is the subject of the detailed ECCs will immediately be considered cancelled without liability on the part of either Party.

4. Service Suspension

4.1 amatis may suspend any and all Services provided to a Customer where the Customer fails to make payment for a Service or, in the reasonable opinion of amatis, has committed a material breach of these Terms and Conditions.

4.2 amatis may, at its sole discretion and without prejudice to any right which it might have to terminate any Service(s), elect to suspend forthwith provision of any Service until further notice in the event that amatis is obliged to comply with an order,

instruction or request of government, an emergency service organisation or other competent administrative authority which affects its ability to provide the Service. amatis will contact the Customer by telephone followed by a written letter.

4.3 amatis may from time to time suspend a Service in accordance with any applicable SLA to carry out any necessary maintenance work to the Network or the Sales Order Equipment.

4.4 In the event the suspension is implemented as a consequence of the breach, fault, act or omission of the Customer, the Customer shall pay amatis all reasonable costs and expenses incurred by the implementation of such suspension and/or recommencement of the provision of the Service and amatis may recover any other losses suffered as a result of such breach, fault, act or omission.

4.5 amatis shall not be liable for any loss, damage or inconvenience suffered by the Customer as a result of any suspension pursuant to Clauses 4.1, 4.2 and 4.3 save where the circumstances set out in these Clauses are solely attributable to the negligence of amatis.

5. Warranties

5.1 In performing its obligations under these Terms and Conditions, amatis shall at all times exercise the reasonable skill and care of a competent service provider.

5.2 There are no warranties, representations or agreements, expressed or implied either by operation of law, statutory or otherwise, except those expressly set forth herein and any such implied warranties are expressly excluded.

6. Liability

6.1 Subject to Clause 6.4 but notwithstanding anything else in these Terms and Conditions, the Customer's sole and exclusive remedy and amatis' sole liability for unavailability, delay in provision or unsatisfactory performance of a Service shall be payment of any compensation or service credits set out in the applicable SLA.

6.2 Subject to Clauses 6.1 and 6.4, amatis' total aggregate liability to the Customer in respect of all causes of action arising under or in connection with any Service in each calendar year shall be limited to a sum equal to the Charges payable by the Customer to amatis for the Service in that calendar year or £1,000 if higher.

6.3 Subject to 6.1, 6.4 and 6.5 but notwithstanding anything else in these Terms and Conditions, neither Party shall in any event be liable to the other in contract, tort (including negligence or breach of statutory duty) or otherwise for harm to business, lost revenues, loss of anticipated savings or loss of profits or for any other indirect or consequential losses.

6.4 Nothing in these Terms and Conditions shall serve to limit either Party's liability in respect of death or personal injury caused by or arising from that Party's negligence, or for fraud.

6.5 Nothing in these Terms and Conditions shall serve to limit the Customer's liability to indemnify amatis under Clause 8.6, 8.7 or 9.2.

6.6 Should any limitation or provision contained in this Clause 6 be held invalid under any applicable statute or rule of law it shall to that extent be deemed omitted.

6.7 amatis shall in no circumstances (whether before or after termination of any Services provided) be liable to the Customer for any loss of or corruption to data or programs held or used by or on behalf of the Customer and the Customer shall at all times keep adequate backup copies of the data and programs held or used by or on behalf of the Customer.

6.8 Upon the hardware fault of a product supplied to the Client, amatis shall replace or repair the hardware as set out in the applicable SLA. amatis shall reinstall the system to the latest backup of the client or, if non-existent, shall reinstall to its original configuration.

6.9 It is the sole responsibility of the Customer and not that of amatis to provide security with respect to any of the Customer's hardware and software, including the provision of anti-virus protection, unless otherwise stated in any Sales Order. The Customer shall be solely responsible for establishing and maintaining user-access security and network access.

6.10 Under no circumstances will amatis be held liable for the corruption of data or system from Virus, Hackers or cause generated from any unauthorised users or security breach. All costs related to the securing of servers shall be borne by the client.

6.11 Notwithstanding anything to the contrary, the Customer waives and releases any and all claims and rights of recovery against amatis and its Representatives for liability or damages covered by Customer's insurance policies, as stated in 8.12. The Customer's waiver shall not be limited by the amount of Customer's insurance and shall include the deductible. Further, all claims and rights of recovery by subrogation shall be waived against amatis and its Representatives.

7. Term and Termination

7.1 These Terms and Conditions shall take effect from the date of signature and shall continue until Service(s) are terminated by either Party in accordance with this Clause 7.

7.2 Either Party may terminate an individual Service:

(a) for all Services, by serving notice in writing to take effect at the end of, or at any time after, the applicable Sales Order Term; the service termination date in all circumstances being three full months from the end of the month in which the cancellation notice is received;

(b) by serving notice in writing to take effect at the end of, or at any time after, the applicable Subsequent Term; the Subsequent Term termination date in all circumstances being three full months from the end of the month in which the cancellation notice is received;

(c) forthwith by notice if, in relation to that Service, the other Party has committed a material breach of these Terms and Conditions and such breach is either incapable of remedy or the other Party has failed to remedy the breach within 30 days of being given notice to do so;

(d) forthwith by notice if a Force Majeure Event affecting that Service continues for a period of at least three months.

7.3 Either Party may terminate any Service(s) by immediate notice to the other Party where:

(a) the other Party has committed a material breach of the terms of these Terms and Conditions and such breach both affects all the Services then provided and is either incapable of remedy or if capable of remedy the other Party has failed to remedy such breach within 30 days of being given notice to do so;

(b) a Force Majeure Event affecting all the Services then provided continues for a period of at least three months;

(c) the other has a receiver or an administrative receiver appointed over it or over any part of its undertaking or assets or passes a resolution for winding up (other than for the purpose of a bona fide scheme of solvent amalgamation or reconstruction) or a court of competent jurisdiction makes an order to that effect or if the other Party becomes subject to an administration order or enters into any voluntary arrangement with its creditors or ceases or threatens to cease to carry on business; or

(d) no Services have been provided and no accepted Sales Order remains outstanding for fulfilment, for a continuous period of at least three months.

7.4 amatis may terminate all Services or any individual Service on 10 days' written notice to the Customer in the event of a failure by the Customer to pay any invoice falling due in accordance with Clause 3.

7.5 Termination of any Service(s) shall be without prejudice to the Parties' accrued rights and obligations and shall not relieve the Customer of its obligation to pay all Charges due under these Terms and Conditions.

7.6 The provisions of these Terms and Conditions, including Clauses 6, 8.8(g) and 15, which expressly or implicitly have effect after the date of termination, will continue to be enforceable notwithstanding termination of any Service(s).

7.7 Where a disconnection of Services has occurred as a result of Clients non-payment under section 3.6, a reinstatement/reconnection fee will apply to reactivate the Services in addition to full payment of the balance due on the account. Reactivation of the Services will only be performed during Working Hours.

7.8 amatis reserves the right to:

(a) remove the Client's Equipment from the Premises if the Client has failed to remove it after the expiry of the termination date;

(b) exercise a lien over the Client's Equipment in respect of any unpaid Fees beyond the termination date and shall be entitled to sell the Equipment or take ownership from the termination date in order to recoup any unpaid Fees.

8. Customer Obligations

8.1 The Customer shall grant or shall procure the grant to amatis of all licences, waivers or consents necessary to permit amatis to install, keep and maintain the Sales Order Equipment at the Customer Site.

8.2 The Customer shall grant or shall procure the grant to amatis of such rights of access to each Customer Site and shall provide to amatis such facilities and information as amatis may reasonably require to enable it to perform its obligations under these Terms and Conditions.

8.3 The Customer shall notify amatis of any existing technical or other facilities including, but not limited to water and gas, which could be damaged during the installation of the Sales Order Equipment at the Customer Site and amatis shall have no liability in respect of any damage or loss arising out of the Customer's failure to comply with its obligations under this Clause 8.3.

8.4 The Customer shall at its own expense comply with amatis' reasonable instructions in relation to the modification of the Customer Equipment to enable the Customer to receive a Service.

8.5 The Customer shall be liable for any and all damage to the Sales Order Equipment or the Network which is caused by:

(a) the act or omission of the Customer or the Customer's breach of these Terms and Conditions; or

(b) malfunction or failure of any equipment or facility owned or operated by the Customer or its agents, employees or suppliers, including but not limited to, the Customer Equipment.

8.6 The Customer shall identify, monitor, remove and dispose of any hazardous materials prior to any work being performed by amatis at a Customer Site, and the Customer shall indemnify, defend and hold amatis harmless from any liability incurred as a result of its failure to comply with this Clause 8.6.

8.7 The Customer warrants that it shall ensure that any Customer Equipment connected to the Network and Sales Order Equipment shall comply with all relevant legislation, standards and licence requirements. amatis reserves the right to disconnect any Customer Equipment which is not compliant with any legal or regulatory requirements or is liable to cause death or personal injury or to cause damage to or to impair the Network or Sales Order Equipment. The Customer shall indemnify, defend and hold amatis harmless from any liability incurred as a result of its failure to comply with this Clause 8.7.

8.8 The Customer warrants and undertakes:

(a) that it shall house the Sales Order Equipment in accordance with amatis reasonable instructions as may be given from time to time;

(b) that it shall not move, modify, relocate or in any way interfere with the Sales Order Equipment or the Network;

(c) that it shall not cause the Sales Order Equipment to be repaired, serviced or otherwise attended to except by an authorised representative of amatis;

(d) that it shall not remove, tamper with or obliterate any words or labels on the Sales Order Equipment;

(e) that it shall not create or allow any charges, liens, pledges or other encumbrances whatsoever to be placed on the Sales Order Equipment. Title to the Sales Order Equipment shall at all times belong and remain with amatis or the relevant amatis Affiliate;

(f) that it shall not use the Sales Order Equipment except in accordance with such reasonable written instructions as amatis may from time to time give;

(g) that, upon termination of a Service, it shall allow amatis access to the Customer Site to remove the Sales Order Equipment. Should any construction or alteration to the Customer Site have occurred to facilitate provision of the Service, amatis shall not be obliged to restore the Customer Site to the same physical state as prior to Service delivery.

8.9 The Customer shall advise amatis in writing of all health and safety at work rules and regulations, of all dangerous objects and substances, asbestos and similar risks, and any other reasonable security requirements applicable at the Customer Site and amatis shall use all reasonable efforts to observe, and to ensure that its employees and authorised representatives observe, such regulations while at the Customer Site, provided that amatis shall not be liable hereunder if as a result of conforming with such regulations amatis is in breach of its obligations under these Terms and Conditions.

8.10 Nothing in these Conditions shall preclude the Customer from providing capacity or other services derived from the Services to third parties without obtaining amatis' consent, provided that any use of such Services shall be subject to the provisions of these Terms and Conditions. The Customer shall at all times remain solely liable for the obligations ascribed to under these Terms and Conditions and the Customer agrees to indemnify, defend and hold amatis harmless against and

assumes all liability for all actions, demands, damages or claims of any nature arising out of or resulting from a contractual or other relationship between the Customer and any such third parties as it relates to these Terms and Conditions or the use of the Services.

8.11 To abide by the AUP as published on amatis web site which may change from time to time.

8.12 Customer shall maintain, during the term of all Services provided, the following insurance coverages:

(a) Comprehensive General Liability Insurance,

(b) All-risks insurance, including earthquake, fire, flood and theft, insuring the full replacement cost of Customer Equipment and Sales Order Equipment at or in transit to amatis sites and data centres (including all hardware, software, data records and related re-instatement costs) and any consequential loss arising, and

(c) All applicable Worker's Compensation and Employer's Liability insurance.

9. Relocation

9.1 amatis shall have the right upon prior written notice to relocate the Customer Equipment. In the event of an emergency, amatis may relocate the Customer Equipment within such time as may be reasonable and with a telephone call followed by written confirmation as the circumstances reasonably warrant. The site of relocation shall be comparable to the initial location. All reasonable costs of relocating the Customer Equipment and of improving the new area to which the Customer Equipment is being relocated shall be borne by amatis. Upon any such relocation, the right granted by these Terms and Conditions shall be deemed to apply to such portion of the Facility in which the Customer Equipment is then located by amatis.

9.2 Subject to 9.1, amatis reserves the right at its own expense to change the location or configuration of the initial location, provided however that amatis shall not arbitrarily or discriminatorily require such changes. amatis and the Customer shall work in good faith to minimise any disruption in Customer's services that may be caused by such changes in location or configuration of the initial location.

10. Contents of Communications

10.1 The Customer shall only use the Services for lawful purposes and is responsible for all communications and use of the Services. The Customer shall not at any time use (or authorise or suffer any other party to use) the Services:

(a) to receive or transmit material which is in violation of any law or regulation (including the rights of a third party and Internet etiquette of which the Customer is aware);

(b) to, or attempt to, intercept any messages passing over the Network;

(c) knowingly to transmit any messages over the Network (including any viruses) which cause or are likely to cause detriment or harm, to computer systems, networks or otherwise, owned, used or licensed by amatis or other Internet users;

(d) to, or attempt to, transact unsolicited commercial e-mail ("UCE"), including hosting or suffering the hosting of sites or information that is advertised by UCE from a third-party network or supplier; or

(e) for any other illegal or immoral purpose.

10.2 The Customer shall indemnify amatis in respect of all claims and liabilities incurred as a result of a breach by the Customer of Clause 10.1 (including claims by governmental entities seeking to impose penal sanctions).

11. Severability

If any provision of these Terms and Conditions is held by a court or any governmental agency or authority to be invalid, void or unenforceable, the remainder of these Terms and Conditions shall to the extent possible remain legal, valid and enforceable.

12. Variation

These Terms and Conditions may be amended only in writing signed by both parties, save that amatis may amend them with immediate effect, in order to comply with any law or a ruling or a decision of any regulatory body or any SLA if, and on the terms, stated therein.

13. Force Majeure

Notwithstanding anything herein to the contrary, neither Party shall be liable for any delay or failure in performance of any of its obligations under these Terms and Conditions (other than payment obligations set out in Clause 3) to the extent that such delay or failure is attributable to a Force Majeure Event, and the Sales Order Term of any Service rendered unavailable by the Force Majeure Event shall be extended by the time that the Service is rendered unavailable.

14. No Partnership

Nothing in these Terms and Conditions and no action taken by the Parties pursuant to this by them shall constitute or be deemed to constitute between the Parties a partnership, association, joint venture, or other cooperative entity.

15. Confidentiality

15.1 Subject to Clause 15.2, each Party shall:

(a) only use Confidential Information for the purposes of providing any Service(s); and

(b) only disclose Confidential Information to a third party with the prior written consent of the other Party; and

(c) ensure that any third party to whom Confidential Information is disclosed executes a confidentiality undertaking in the terms of this Clause 15.

15.2 The provisions of Clause 15.1 shall not apply to any Confidential Information which:

(a) is or comes into the public domain other than by breach of this Clause 15;

(b) is or has been independently generated by the recipient Party;

(c) is properly disclosed pursuant to a statutory obligation, the order of a court of competent jurisdiction or that of a competent regulatory body.

16. Assignment

16.1 Subject to Clauses 8.10 and 16.2, neither Party may assign any of its rights under these Terms and Conditions without the written consent of the other (which consent shall not be unreasonably withheld or unduly delayed)

16.2 amatis may assign any and all of its rights and obligations hereunder on written notice to the Customer to any amatis Affiliate or any other person or entity that purchases all or substantially all of the assets or business of amatis.

17. No Waiver

Failure by either Party to exercise or enforce any right conferred by these Terms and Conditions shall not be deemed to be a waiver of any such right nor to operate so as to bar the exercise of enforcement of any such or other right on any later occasion.

18. Notices

All notices shall be in writing and shall be delivered by hand or by prepaid recorded or registered post to the other party's registered address or as may be notified by the other party in writing. Such notices shall be deemed to have been served immediately if delivered by hand or 48 hours after such posting.

19. Entire Agreement

These Terms and Conditions, combined with any applicable Sales Order(s), expresses the entire understanding of the Parties relating to its subject matter and supersedes all previous written or oral agreements, understandings, or representations (unless fraudulently made) insofar as they relate to its subject matter.

20. Governing Law

These Terms and Conditions shall be governed by English law and the Parties shall submit to the non-exclusive jurisdiction of the English courts.

21. Law and Arbitration

21.1 These Conditions and all Agreements are subject to the laws of England.

21.2 These Conditions incorporate the provisions for arbitration if any are available under any Code of Practice issued by the Network Operator under the provision of its licence. Any dispute which may arise between the parties concerning these Terms and Conditions shall be determined either in accordance with such arbitration procedure, if any, or by the High Court of Justice in England and the parties hereby submit to the exclusive jurisdiction of that court for such purpose.

Part B. Services Specific Terms

1. Fraudulent Use of Services

1.1 You are responsible for taking reasonable steps to mitigate the risk of the Services being used fraudulently, including:

(a) ensuring the secure implementation and management of your systems;

(b) maintaining security and confidentiality of authentication details that you require to use the Services or any part of them, and disabling access to any accounts that are compromised;

(c) mitigating exposure to any suspected or known security breach by resetting passwords, implementing adequate control and security (to a level considered to be industry standard) over the Services designed to prevent viruses, logic bombs or worms, "trojan horses" and any other types of disruptive, destructive or nuisance programs and/or any calls generated by rogue diallers or hackers; and

(d) obtaining at your own expense professional security advice with regard to secure use of the Services.

1.2 You must notify us immediately on becoming aware of any Fraud affecting the Services supplied to you. On being notified by you that any such event has occurred, we will attempt to suspend the relevant part of the Services as soon as possible, but you acknowledge that we are reliant on third parties in relation to the supply of certain Services and therefore there might be a delay between the notification of the Fraud to us and the suspension taking effect, which we cannot control.

1.3 Further information on our Exceptional Call Reporting Service (the "ECR Service") is set out in Part B below. The ECR Service aims to mitigate your exposure to fraudulent use of the amatis ("eve") IP Telephony Service. If you choose to opt out of receiving the ECR Service, then we do not accept any liability whatsoever for, and you are solely liable for all Charges incurred in connection with any Fraud, Artificial Inflation of Traffic or other improper use of the Services.

1.4 The Customer acknowledges that the Telephone Service is not immune to fraudulent or unauthorised intrusion or use (including interconnection to long distance networks, computer viruses and other malicious code) and, without prejudice to the provisions of clause 6 General Terms, amatis will not be liable for any costs or losses arising from such intrusion or use.

2. Intellectual Property

2.1 You acknowledge that all Intellectual Property Rights in all data, reports, drawings, specifications, designs, plans, programs, course materials, marketing collateral, advertising, descriptive matter or other material produced, provided, made available or acquired by us in the course of the performance of the Services shall vest in us and remain our property or that of our licensors, suppliers or sub-contractors, unless expressly agreed otherwise by us in advance and in writing. No copies may be made of such material unless expressly agreed otherwise by us in advance and in writing.

2.2 You will have no right, title or interest in any IP address allocated to you in connection with the Connectivity Service (whether during the term of this Agreement or after its termination or expiry). Any allocated IP address is not portable or otherwise transferable by you in any manner whatsoever.

2.3 If an IP address is renumbered or reallocated by us and/or a Service Provider, we will use reasonable endeavours to avoid any disruption to you but, subject to clause 6 of the General Terms, we will have no liability to you in connection with any losses suffered in connection with such renumbering or reallocation

2.4 We warrant to you that the provision of the Services and use by you of any Software in accordance with the terms of this Agreement will not infringe the Intellectual Property Rights of any third party.

2.5 We will indemnify you from all liabilities (including reasonable legal costs) incurred by you as a result of any finding in favour of a third party that alleges that the provision of the Services or any portion thereof infringes their Intellectual Property Rights, provided that you:

(a) give us prompt written notice of such claim;

(b) give us reasonable assistance and sole authority to conduct and/or settle all negotiations and litigation and defend and/or settle such claims. For the avoidance of doubt, the costs incurred or recovered in such negotiations and litigation shall be at our expense; and

(c) have no dealings with such third party in relation to its claim and make no admissions in relation to such a claim without our prior written consent.

2.6 If any infringement claim is made of the type referred to in clause 2.5, or in our opinion is likely to be made, we shall have the right, at our option to either:

(a) obtain for you the right to continue using the item in question or to receive the Services;

(b) replace or modify the item in question or the Service so it ceases to be infringing; or

(c) as a last resort, grant to you a credit for that portion of the Charges attributable to the item or Service at issue in such claim, as depreciated, and accept such item's return or termination of the Service affected.

2.7 We shall not have any obligation to indemnify you if the alleged infringement is based upon:

(a) use of a Service, other than in accordance with the terms of the Agreement and any other instruction we may give concerning its use; or

(b) use of the Service in an unauthorised manner for which the Service is not designed.

2.8 Neither we nor any third-party licensors shall have any liability to you in respect of any infringement, alleged infringement, violation or misappropriation of any Intellectual Property Rights except as expressly provided in this clause 2.

2.9 You agree to indemnify us against any action, claim, loss, damage, proceedings and/or expenses (including legal costs) suffered or incurred by us or any of our Group Companies arising from any act in the course of your use of the Services that is directly or indirectly related to infringement of our or any third party's Intellectual Property Rights.

3. Transfer of Lines to Us

3.1 Where we agree to the transfer of a Line to us, you agree to pay for any additional services that continue to exist on the relevant Lines at the time of transfer to us that you have not made us aware of at the time of ordering, regardless of when such services are billed to us by our supplier.

4. Lines and Telephone Numbers

4.1 You have no title in any calling line identification (CLI) or number allocated to any Line you rent as part of the amatis ("eve") IP Telephony Service. The CLI may not be transferred without our prior consent. Changes to the CLI allocated to a Line will be provided to other communications providers with services on that Line.

4.2 We will use all reasonable endeavours to provide you with number portability provided that:

(a) there are no technical reasons preventing us from doing so; and

(b) you pay any associated charges arising in relation to such transfer.

(c) Where, having used reasonable endeavours, we are unable to secure a number transfer from your previous supplier, we will provide you with a new number provided that you pay any associated Charges.

5. Amatis ("eve") IP Telephony

5.1 Where amatis ("eve") IP Telephony is supplied to you, we may provide you with access to an online portal to support your use of it. If we do so, you are responsible for providing suitable computer hardware, software and telecommunications equipment and services necessary to access and use the portal. We may withdraw access to the portal at any time at our discretion for scheduled maintenance (in which case we will provide you with advance notice where practicable) or for other operational reasons.

5.2 There may be individual technical or geographical limitations that inhibit or prevent the installation, provision and/or performance of amatis ("eve") IP Telephony. In particular, the availability of amatis ("eve") IP Telephony and your ability to make and receive calls (including 999 or other emergency calls) is dependent on the adequacy and resilience of the Network and/or the availability of sufficient network coverage and/or internet connectivity at any particular geographic location. Amatis ("eve") IP Telephony may cease to function if there is a power cut, failure within the Network and/or there is otherwise no or insufficient network coverage or loss of connectivity to the internet for any reason. These failures or outages may be caused by reasons outside our control and, subject to clause 6 of the General Terms, we shall not be liable to you for them.

5.3 Network numbers are registered to a particular Site address. That Site address remains fixed and does not vary depending on the device on which an End User is making a call or the physical location of that End User. If a 999 or other emergency call is made, the location information received by the emergency services will be the Site address. If a network number is reallocated to a different Site it will take several days to update the location information with the new registered Site address details. You acknowledge and agree that, until the location information received by the emergency services is updated, the location information received by the emergency services will be the registered Site address before the network telephone number was reallocated.

5.4 You undertake to us that, in any circumstances where you use amatis ("eve") IP Telephony to send or receive credit card details or other payment information, you will comply, and you will procure that all End Users comply, at all times during your use of amatis ("eve") IP Telephony, with the Payment Card Industry Data Security Standards (or any replacement or equivalent standards published from time to time).

5.5 You warrant and represent that you have, and undertake to ensure at all times that you will maintain, all necessary permissions to present to third parties the telephone number that is presented externally by you when making calls using amatis ("eve") IP Telephony.

6. Call Recording

6.1 Where your use of the Services enables you to record calls, including through the use of the amatis ("eve") Network and/or amatis ("eve") IP Telephony, you warrant and represent to us that:

(a) you have made yourself aware (and will procure that each End User is aware) of all legal rules and regulations governing the recording of Calls, including the circumstances in which and purposes for which such recording may be made, the length of time of retention of such information, the need to notify and manner of notification given to those taking part in such Calls; and

(b) you will comply at all times with all relevant legislation relevant to the recording of Calls, including the Regulation of Investigatory Powers Act 2000, Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000, Data Protection Act 1998, The Employment Practices, Data Protection Code, Telecommunications (Data Protection and Privacy) Regulations 1999, and the Human Rights Act 1998.

6.2 You agree to indemnify us and hold us harmless against all and any costs, claims, damages, expenses or other liabilities that we incur as a result of your breach of Part B paragraph 6.1.

7. Exceptional Call Reporting

7.1 Where we supply you with the amatis ("eve") IP Telephony Service, you will also receive the Exceptional Call Reporting Service (the "**ECR Service**") unless you expressly opt out in writing from receiving this Service to

accounts@amatisnetworks.com. **If you opt out, we draw your attention to Clause 1.3 within Part B regarding your financial exposure for all Charges incurred regardless of whether any Fraud has taken place.**

7.2 Where we supply you with the ECR Service, we will use reasonable endeavours to:

(a) monitor Call activity on all Lines that we supply to you for 365 days per year;

(b) suspend outbound calls on any affected Line when we reasonably suspect that Exceptional Call Activity is taking place (and notify you of the same as soon as practicable); and

(c) (following receipt of a written request from you) use reasonable endeavours to procure that bars be placed to mitigate any suspected Exceptional Call Activity. In the absence of any request from you, we may, but are not obliged to, suspend any Service where we are aware or reasonably suspect that Exceptional Call Activity is taking or may imminently take place. You acknowledge that the placement and removal of bars is reliant on our suppliers and other third parties and will not take effect instantaneously. You will indemnify us against any Liability incurred by a member of our Group arising out of or in connection with the placement and removal of any such bars.

7.3 The ECR Service is available only in respect of the amatis ("eve") IP Telephony Service that we supply to you, and only across all (and not some only) Lines and Calls.

7.4 Following receipt of a notification of Exceptional Call Activity from us in accordance with sub paragraph 7.2 (b) above, or on becoming aware of any suspected Exceptional Call Activity by any other means, you will:

(a) procure that the Police and any other appropriate competent authority are notified within 48 hours, providing to them (where relevant) and to us a crime reference number;

(b) if required (at our discretion) and at your own cost, procure all necessary permissions for us to enter all relevant Sites in order to undertake a site survey for the purpose of establishing how the Exceptional Call Activity took place;

(d) if required (at our discretion) provide evidence to our reasonable satisfaction that all processes and procedures as advised to you by us prior to the Exceptional Call Activity were taking place and continue to operate;

(e) fully assist us and/or the Police and any Competent Authority in any investigations into Exceptional Call Activity; and

(f) pay the first £250 of the Charges and the balance of the Charges exceeding £5,250 attributable to the Exceptional Call Activity.

7.5 Provided that you comply with the requirements of paragraph 7.4 above to our reasonable satisfaction, we may (but are not obliged to) waive a maximum of £5,000 of Charges directly related to one instance of (or, in our discretion, series of related) Exceptional Call Activity. You will remain liable for the first £250 of any such Charges, and any Charges in excess of £5,250. Where you have not complied with the requirements of paragraph 5.3 above, or are otherwise ineligible or other criteria have not been met, you will remain liable for the full amount of the Charges, including any relating or suspected to relate to Exceptional Call Activity. Any Charges attributable to Fraud that does not (in our sole opinion) constitute Exceptional Call Activity shall remain your responsibility.

7.6 In addition to our other termination rights set out elsewhere in the Agreement, we may at any time and at our discretion terminate the supply of the ECR Service to you if we have cause to believe that you are abusing the ECR Service in any respect.

7.7 If you wish to opt out of the ECR Service you will continue to be liable for the fees attributable to our provision of the ECR Service and bound by this paragraph 7 of Part B1 until we receive and acknowledge receipt of written notice from you expressly electing to opt out from receiving the ECR Service.

7.8 If you wish to query or dispute any Charges (including any claim in connection with the ECR Service), you will need to raise them with us within 60 days of the date of the relevant invoice and in accordance with our Code of Practice on Complaint Handling and Dispute Resolution, which is published on the Website.

8. Product & Service Notes

8.1 General

(a) All pricing is valid for 21 days only from date of Sales quotation.

(b) Pricing subject to UK taxes (VAT).

(c) Payment is due monthly via direct debit.

(d) Errors & Omissions Exempt.

(e) The Initial Sales Order Term (as detailed in the above Sales Order) is from the end of the month in which the service is handed over. The contract will continue for subsequent periods of 12-months beyond the Initial Service Term ("the Subsequent Term") unless terminated by giving 3-full months' written notice by email to accounts@amatisnetworks.com a minimum of 30 days prior to the commencement of any Subsequent Term.

(f) Services may be delivered in part to make the delivery process as efficient as possible. These services will be billed pro-rata until the new minimum Sales Order contract term start date, which will take effect from the 1st of the calendar month after the solution has been delivered in its entirety.

(g) PRICE & PRICE INCREASE: Customer's obligation to pay the Fees for the Services on the effective date. All fees and charges will be fixed for the Initial Term except where an increase in amatis' direct supply costs exceeds 3% in which case amatis may increase the fees for services by up to the total % increase. This may take effect at any time during the contract term but will normally be reviewed annually. Amatis will provide written notice of any charge increases a minimum of 30 days in advance of any amendments to billing.

(h) Any engineering quoted is based on work taking place in normal working hours (Mon-Fri, 9:00am-4:30pm). If any out of hours work is required, weekday evenings, Saturdays, Sundays and Bank Holidays then standard multipliers will apply.

(i) To cancel the service in the attached Sales Order Form, the Customer is required to raise 3-full calendar months' notice of cancellation in writing by emailing accounts@amatisnetworks.com and stating the relevant ID reference/s of the service/s to be ceased.

8.2 Connectivity

(a) Subject to customer site survey & site signal survey.

(b) Managed hardware supplied under the terms of the service remains the property of amatis and will need to be returned in good working condition, complete with power supplies, network cables provided and original packaging at the end of the contract. Full details are available upon request under amatis' Cancellation Policy.

(c) Carrier level resilience does not ensure full circuit diversity and no commonality.

(d) Upon termination of any broadband connectivity service/s a one-off £50.00 (+VAT) cease charge will apply per circuit.

(e) Amatis reserves the right to deliver an alternative managed router device to that which has been quoted. Any alternative device shall be compatible with the delivery and management of any other service as specified on the same or any directly associated quotation.

(f) Router or managed hardware will be shipped to site for Customer self-installation, unless stated otherwise in the Sales Order Form and the Customer has ordered a "managed installation".

(g) The Customer is responsible for all "IT" related issues – amatis is responsible for the initial configuration of non-managed devices (non-Cisco).

(h) For any non-Cisco devices provisioned, amatis is not responsible for router device configuration backups, subsequent changes, firmware or software updates, security updates or patching.

(i) In the event of a non-Cisco device failure, there is no hardware maintenance included. It is the Customer's responsibility to raise an incident with the amatis ServiceDesk (by emailing voice@amatisnetworks.com) and agree the one-off charges applicable for each device (based on the latest market rate, and excluding shipping) and a new replacement device will be pre-configured and shipped to site within 72-hours. This new replacement device will be configured by amatis to the same configuration as the original "day zero" device.

(j) If the Customer requires diverse "RAO2" circuit diversity, amatis will request RAO2 diverse delivery from Openreach at point of order to ensure optimum resilience through physical path routing diversity. This may be subject to ECC's (Excess Construction Charges) following results of the carrier site survey.

8.3 Voice & Telephony

(a) Each "Prime" eve user licence includes local, national and UK mobile telephone calls with a usage policy of 5,000 minutes per month.

(b) International calls and other destinations will be charged at our standard rates and billed monthly in arrears.

(c) It is assumed that either a PC or data outlet (CAT5/6) is available at the location of each telephone.

(d) A handset power supply can be provided by amatis upon request for an additional one-off charge of £15.00 (+VAT) per handset.

8.4 Cloud & VDC (Virtual Data Centre)

(a) All licencing on this solution must be SPLA provided to ensure Microsoft compliance. Retail / Volume / Open Licencing is strictly prohibited ** SPLA pricing can change once per year in January following an annual review conducted by Microsoft without notice. It can also change at any time due to currency / exchange rate fluctuations as advised by Microsoft. Please note that if pricing is increased you will be notified as far in advance of your next invoice as possible. **

(b) Customers with the ability to create new VM's in their environment, will be billed monthly in arrears for additional licences used in addition to the volume included under their original sales order. Additional licences will be charged at the same rate as the per licence charge under the original sales order.

(c) It is possible to upgrade to a higher tier during the contract term with the proviso that a minimum period of 6 months must be remaining on the contract. In any other circumstances a contract with a new Initial Service Term will need to be agreed.

(d) amatis may provide Open Source Licences as part of the service or separately. Any use or distribution will be under the same licence terms as received by amatis. Open Source licence terms take precedence in the event of any conflict with any other sales order terms or general terms and conditions of sale.

8.5 Cloud backup

(a) Customers have the ability to burst into amatis' backup vStorage resource pool to ensure successful continuation of backup jobs if their committed backup vStorage allocation reaches its contracted capacity. Additional storage used will be billed monthly in arrears per 1000GB (TB) per month or part thereof used at an enhanced rate (x1.5) of per 1000GB (TB) backup vStorage value under the original sales order. Customers can manage this overage charge by discussing a new monthly committed backup vStorage allocation with their account manager at a reduced rate for committed resource.

(b) The Customer will have control over backup jobs, policies and restores e.g. frequency, specific VM backups, restore own backups from Veeam data store and allow amatis remote management.

(c) myamatis cloud (mac) customers with the ability to create new VM's in their private cloud environment, will be billed monthly in arrears for Veeam Snapshot backup licences used in addition to the volume included under their original sales order. Each additional licence will be charged at the same rate as the per licence charge under the original sales order.

(d) Amatis Backup services are not billed pro-rata. If the service is delivered part way through a calendar month, then the Customer will incur a full month's charge.

8.6 Colocation

(a) Colocation services contracts are subject to an annual pricing review at the end of the minimum term and each subsequent anniversary. At least 30 days prior written notice of any variation in charges will be given by amatis. Any increase will normally be limited to the percentage increase in the Retail Price Index (over 12 months, at the end of the month being three months prior to the end of minimum term or anniversary) plus 2%.

(b) Colocation power overages will be billed monthly in arrears at £132.00 per month per amp or part thereof used.

(c) Upon contract termination, it is the responsibility of the customer to ensure that all customer equipment is removed from the amatis facility by them on or before the last working day of the final service period of the contract.

Failure to remove equipment will result in additional charges for:

- A minimum of one full months' service charge as amatis is unable to re-use the facility to fulfil other customer requirements.

- Any costs incurred by amatis for the removal and any subsequent disposal of customer equipment in the event of ongoing default by the customer.

Nb: Under Part A Section 7.8 of amatis Terms and Conditions, amatis reserves the right to:

(1.) remove the Client's Equipment from the Premises if the Client has failed to remove it after the expiry of the termination date

(2.) exercise a lien over the Client's Equipment in respect of any unpaid Fees beyond the termination date and shall be entitled to sell the Equipment or take ownership from the termination date in order to recoup any unpaid fees.

(d) All equipment must be installed inside the dedicated half rack footprint.

(e) All equipment is to be powered using IEC C13/C14 cables.

(f) No 'daisy chaining' or installation of any additional PDU / extension lead is permitted.

(g) If UK 3-Pin power is required, please raise a case to the amatis ServiceDesk Team who will advise on process and associate charges to install an approved PDU in the data centre.

(h) In accordance with the amatis ISO:27001 data security and integrity standard a minimum of 2-working days' notice (except in an emergency) is required for data centre access. Access requests must be raised via amatis' Self-Service Portal: amatis.service-now.com/ and please be aware that access is only confirmed upon written confirmation from amatis.

Terms of data centre access as per the above are as follows:

All Colo customers have access to site during normal office hours (Monday to Friday, 9:00am to 5.00pm, excluding Public Holidays). Two emergency access visits are included per calendar year (Jan-Dec), any additional emergency access and all other access requests (e.g. out of normal office hours) visitation is chargeable as per amatis's standard Ancillary Charges for each visit required.

(i) Amatis has a general health and safety expectation that all customer equipment (including electrical equipment) is safe and regularly inspected and maintained by the customer. The customer warrants, as part of the terms of this order, that any equipment brought on to any amatis site at any time, will be and will remain, compliant in this regard.