



Vepple - The Content Hub for Future Students

Client Terms

(v05a - 03/03/23 - 08:30)

103 Kirkstall Road
Leeds, LS3 1JL
+44 (0)1132 053750
hello@revolutionviewing.com
www.revolutionviewing.com

AGREEMENT SCHEDULE

Terms and Conditions Ref: RV001 apply

Between

- 1 **Revolution Viewing Ltd** (Company Registration Number 05247496) whose registered office is at 103 Kirkstall Road, Leeds, West Yorkshire, United Kingdom, LS3 1JL (the **Revolution Viewing**); and
- 2

AGREEMENT SCHEDULE DETAILS

The Terms and Conditions Ref: RV001 apply to this Agreement. All defined terms set out in the Terms and Conditions shall have the same meaning in this Agreement Schedule.

Commencement Date:

Term:

License Fee: £ (excluding VAT)

Per annum, the license fee must be paid and funds received by each anniversary of the Commencement Date.

Package Type:

The full package details can be found on the next page.

Package Details (Visitor Services & Client Services Listed):

Software Support Services:

- Hosting – the Revolution Viewing Software shall be available on a sub-domain of the Client's choosing and shall have a service level of 99.9% availability (excluding planned maintenance)
- Documentation - access to a written knowledge base outlining how Admin Users can utilise the Client Tools
- Onboarding support - up to 8h of one-to-one training delivered remotely by Revolution Viewing to the Client
- Maintenance – support shall be available 9 am to 5 pm (UK times) on Business Days via ticketed support. Support response times shall be as set out in the table below:

Support Requirement	Response Time	Resolution Target Time
Important – major system failure	Initial response time two hours within support times	Target resolution within 3 hours during support times
Medium – system remains operational but significant loss of function	Initial response time four hours within support times	Target resolution within 24 hours during support times
Minor – system remains operational but loss of function	Initial response time six hours within support times	Target resolution within 5 Business Days during support times

Please note: Priority Support is an urgent support service provided under a separate agreement and is chargeable. We shall only provide Priority Support where an agreement for this has been entered. See clause 3.6 in the terms and conditions

Maximum Number of Concurrent Admin Users: 20

Maximum Number of Concurrent Visitors: 500

The maximum number of concurrent visitors may be extended to 5000 for five days each year of the Term, provided that the requisite number (see clause 3.4) of Business Days notice is given to Revolution Viewing per instance of going beyond the standard maximum number of concurrent visitors as stated above. The five-day allocation may be for consecutive or separate days up to the maximum total period for the year.

Data Processor Schedule: Revolution Viewing Data Processing Schedule

Data Processing Details: Using the Visitor Services, Clients will be able to capture, at their option the following categories of data:

- first name
- last name
- mobile phone
- address line 1
- address line 2
- city
- postcode
- country
- date of birth
- where do you currently live
- marketing preferences
- Aggregate session duration
- CTAs Clicked
- Events Attended
- Events Registered
- Filters Applied (including stage in application)
- Posts Viewed

AGREED by the parties and signed:

.....

Name:

Role:

Date:

For and on behalf of Revolution Viewing

.....

Name:

Role:

Date:

For and on behalf of the Client

1 Definitions and interpretations

1.1 Definitions

In this Agreement, the following words shall have the following meanings:

Accessibility Statement: refers to Vepple Accessibility Support Document outline compliance of the Revolution Viewing Software and where responsibility lays between Revolution Viewing and the Client. The Accessibility Statement is available on request;

Admin User: means a person authorised by the Client to use the Portal Tools and the Client Portal;

Agreement Schedule means the schedule signed by the Parties referenced as the Agreement Schedule;

Backup Policy means daily cloud-hosted backups with a 20 day retention period. Backups are also made ahead of any system updates.

Business Day means any day other than a Saturday, Sunday or UK bank or public holiday or the period from 24th December until 1st January (inclusive) each year;

Claims means all demands, claims and liability (whether criminal or civil, in contract, tort or otherwise) for losses, damages, legal costs and other expenses of any nature whatsoever and all costs and expenses (including without limitation legal costs) incurred in connection therewith;

Client means the party specified as such in the Agreement Schedule;

Client Content means

- (a) the Client Materials;
- (b) the Client marks;
- (c) all text, information, data, software, executable code, images, audio or video material, in whatever medium or form, inputted by the Client or Revolution Viewing on the Client's behalf, for the purpose of using the Revolution Viewing Software or facilitating the Client's access and use of the Revolution Viewing Software and any data generated by or derived from the Client's access or use of the Services whether hosted or stored within the Services or elsewhere; and
- (d) all End-User Content; but
- (e) excludes the Revolution Viewing IP.

Client Materials means any materials or information created, populated or disclosed by the Client or any of its employees or any Authorised User for use in the provision of the Services (including any information or analysis derived from any such materials or information).

Client Obligations: Should the Client wish for the frontend of the platform to be available on a custom subdomain of their choosing, the Client agrees to configure DNS records as requested by Revolution Viewing to facilitate proof of domain ownership and to map the subdomain to Revolution Viewing's server(s). The Client agrees to share with Revolution Viewing a list or range of IP addresses which should be used to whitelist the Client Portal as outlined in clause 6.1.1.9. Support can only be provided to the Client or any Authorised User where the most recent or immediately preceding stable version of the following browsers are used:

- Google Chrome
- Mozilla Firefox
- Apple Safari
- Microsoft Edge

Client Portal means the system accessed by the Client on the hosted link as specified in the Software Support Services via which the Client is able to develop and provide the Visitor Services;

Client Services means the client services specified in the Agreement Schedule which are available to the Client to develop the Visitor Services via the Revolution Viewing Software together with the Package Details, as amended from time to time;

Commencement Date has the meaning set out in the Agreement Schedule;

Confidential Information means: (a) the Revolution Viewing Software and Revolution Viewing IP, and (b) all other information in respect of the business of a party including, without prejudice to the generality of the that statement, any ideas; business methods; finance; prices, business, financial, marketing, development or manpower plans; computer systems, software and software specifications; products or services, including but not limited to know-how or other matters connected with the products or services marketed, provided or obtained by a party, and information concerning a party's relationships with employees, actual or potential customers, students or suppliers and the needs and requirements of the party and of such persons and any other information which, if disclosed, would be liable to cause harm to a party;

Data Protection Legislation means the UK Data Protection Legislation and any other European Union legislation relating to personal data and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of personal data (including, without limitation, the privacy of electronic communications); [and the guidance and codes of practice issued by the relevant data protection or supervisory authority and applicable to a party];

Data Processor Schedule means the terms for data processing specified in the Agreement Schedule;

Disclosing Party has the meaning given in clause 4.2;

Malware means any malicious code, thing or device (including any software, code, file or programme) which may:

- A. destroy, damage, disable or gain unauthorised access to any computer system, software or electronic data;
- B. prevent, impair or otherwise adversely affect the operation of any computer software, hardware or network, any telecommunications service, equipment or network or any other service or device;
- C. prevent, impair or otherwise adversely affect access to or the operation of any programme or data, including the reliability of any programme or data, including the reliability of any programme or data (whether by rearranging, altering or erasing the programme or data in whole or part or otherwise); or
- D. adversely affect the user experience, including worms, Trojan horses, viruses and other similar things or devices.

Parties mean Revolution Viewing and the Client, and **Party** shall mean either of them;

Package Details means the package details as set out in the Agreement Schedule;

Portal Tools means the tools accessed on the Client Portal to develop Visitor Services within the Revolution Viewing Software;

Priority Support means an urgent support service as agreed and set out in a Priority Support Schedule;

Revolution Viewing IP means all intellectual property rights, including but not limited to copyright that Revolution Viewing may have in the Revolution Viewing Software. The meaning of Revolution Viewing IP shall include source code and the graphical user interface, the look and feel of the Revolution Viewing Software, any Third Party software (such as development tools or runtime libraries) which is licensed for use with the Revolution Viewing Software;

Revolution Viewing Software has the meaning given in the Agreement Schedule;

Revolution Viewing means Revolution Viewing Ltd, Company No 05247496, Registered Office 103 Kirkstall Road, Leeds, West Yorkshire, United Kingdom, LS3 1JL;

Receiving Party has the meaning given in clause 4.2;

Software Support Services means the software support, maintenance and hosting services supplied by Revolution Viewing as specified in the Agreement Schedule;

Third Party means any person other than a Party;

Vepple Embed means a suite of tools including embeddable widgets and our partner integration that allows an Admin User to push Vepple hosted content to other websites enabling centralised management of interactive content;

Visitor means the persons specified as such in the Agreement Schedule;

Visitor Services means the visitor services specified in the Agreement Schedule which are the services available to Visitors via the Revolution Viewing Software as amended from time to time;

Visitor Terms means the visitor terms which Visitors must accept to obtain the full benefit of Visitor Services as specified by Revolution Viewing and as amended from time to time;

Use means the use of the Revolution Viewing Software hosted by Revolution Viewing via the Client Services through which the Client may develop the Visitor Services;

UK Data Protection Legislation: all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation ((EU) 2016/679); the Data Protection Act 2018; the Privacy and Electronic Communications Directive 2002/58/EC (as updated by *Directive 2009/136/EC*) and the Privacy and Electronic Communications Regulations 2003 (*SI 2003/2426*) as amended; and

Vulnerability means a weakness in the computational logic (for example, code) found in software and hardware components that, when exploited, negatively

impact confidentiality, integrity, or availability, and the term Vulnerabilities shall be construed accordingly.

1.2 Interpretation

In this Agreement:

- 1.2.1 the headings are used for convenience only and shall not affect the interpretation of the Agreement;
- 1.2.2 references to persons shall include incorporated and unincorporated persons; references to the singular include the plural and vice versa; and references to the masculine include the feminine; and
- 1.2.3 references to Clauses and Schedules mean clauses of, and schedules to, this Agreement.

2 Grant of rights

2.1 Licence

Revolution Viewing grants to the Client, subject to the provisions of this Agreement a non-exclusive licence to use the Revolution Viewing Software (hosted by Revolution Viewing) solely for the Use on the terms of this Agreement for the purposes of the Visitor Services. Use is for the Client to use the Client Portal and the Portal Tools for the sole purpose of developing the Visitor Services for the purposes of student recruitment, delivering the Visitor Services (via Revolution Viewing) and monitoring the use of the Visitor Services and Visitors, subject to the maximum permitted number of concurrent Visitors and Admin Users set out in the Agreement Schedule. *Notes: Concurrent Visitors/Admin Users are the Visitors/Admin Users using the applicable service at any time. Use by Visitors is subject to their agreement to the Visitor Terms.*

2.2 No other licence

It is acknowledged and agreed that no licence is granted by Revolution Viewing to the Client other than the licence expressly granted by the provisions of this clause 2. Without prejudice to the generality of the foregoing Revolution Viewing grants no rights or interest, and the Client shall not acquire any rights or interest, in or under the Revolution Viewing IP.

2.3 Sub-licensing

The Client shall not be entitled to grant sub-licences of its rights under this Agreement. For the avoidance of doubt, the license granted permits the Client to allow Visitors to use the Visitor Services.

2.4 User Terms

The Client authorises Revolution Viewing to agree on the Visitor Terms on its behalf with Visitors as part of its hosting service in the Software Support Services.

3 Access to and Use of Revolution Viewing Software

- 3.1 Within 10 Business Days of the Commencement Date, Revolution Viewing shall permit access to the Client of the Revolution Viewing Software on the basis described in the Software Support Services.

- 3.2 The Client shall use the Client Portal and Portal Tools to develop the Visitor Services. In developing the visitor Services the Client shall:

- 3.2.1 ensure that the Client Portal and Portal Tools shall be used in the manner for which they have been developed;

- 3.2.2 not develop or in any way revise the Revolution Viewing Software to alter any part of the Client Portal or Portal Tools other than as intended to provide the Visitor Services;
 - 3.2.3 Allow access to Revolution Viewing to audit the use of the Revolution Viewing Software, the Client Portal and/or the Portal Tools;
 - 3.2.4 be responsible for all Admin Users and shall ensure that each Admin User uses the Client Portal and Portal Tools in the manner for which they were intended;
 - 3.2.5 comply with all Revolution Viewing's reasonable instructions in relation to the use of the Revolution Viewing Software, the Client Portal and the Portal Tools;
 - 3.2.6 comply with all Revolution Viewing's standard policy documentation relating to the use and operation of the Revolution Viewing Software, the Client Portal and the Portal Tools;
 - 3.2.7 acknowledge that any accessibility requirements for the Visitor Services being met and maintained are its responsibility;
 - 3.2.8 ensure that no Admin User opens or otherwise accesses the tools used by Revolution Viewing to support the Revolution Viewing Software or any other elements of the Revolution Viewing Software not intended for the use of clients without express authorisation (in writing) from Revolution Viewing.
- 3.3 The Client shall comply with and provide the Client Obligations (if any) specified in the Agreement Schedule.
- 3.4 The Client shall notify Revolution Viewing of any planned activity which may increase Visitor numbers (such as an open day or a promotional event). The Client acknowledges and agrees that the levels of support and Visitor access are as set out in the Agreement Schedule, these do not change for any planned events or unexpected increase in traffic. The Client acknowledges that no standard support is provided at a weekend or outside core hours.
- 3.5 Use of the Revolution Viewing Software, the Client Portal and the Portal Tools is subject at all times to Revolution Viewing being able to access the same and audit the usage. Revolution Viewing shall have an account within the Client Portal and the Portal Tools which it shall use to provide support to the Client and for the purposes of this clause 3.5.
- 3.6 Where support above the Software Support Services is required the Client shall notify Revolution Viewing of its requirements (including any changes in the expected level of use and planned activities) at least 20 Business Days in advance. Revolution Viewing shall provide the Client with a proposal to provide Priority Support and if agreed by the parties (and for the required additional fees) the agreed level of Priority Support will be documented in a Priority Support Schedule and be provided on those terms. **If Priority Support is not agreed there will be no additional support provided.**
- 3.7 Use of the Vepple Embed suite of tools shall require the Client to display the "powered by Vepple" badge in the Revolution Viewing Software, and the Client shall not alter, amend or remove the badge.
- 3.8 The Client shall allow Revolution Viewing to set up DNS (the Domain Name System) for the front end of the Revolution Viewing software. This allows Revolution Viewing to manage the DNS configuration and deployment versioning. If the Client is unable to allow Revolution Viewing to manage the DNS setup, the Client acknowledges that Revolution Viewing shall not be liable to provide support for any issues relating in whole or part to the DNS and that any support would be chargeable Priority Support.

Confidentiality and Data Protection

4.1 Obligations of confidentiality on the Client alone

The Client undertakes that during the term the license to use the Revolution Viewing Software is provided and for a period of 5 years thereafter, or for so long as any substantial part of the Revolution Viewing Software remains subject to the obligations of confidence of clause 4.2, whichever is the shorter, it will protect the Revolution Viewing Software as Confidential Information and shall not use the Revolution Viewing Software for any purpose except as expressly permitted in accordance with the provisions of this Agreement.

4.2 Confidentiality obligations on both parties

Each Party (**Receiving Party**) undertakes:

- 4.2.1 to maintain as secret and confidential all Confidential Information and other technical or commercial information obtained directly or indirectly from the other Party (**Disclosing Party**) in the course of or in anticipation of this Agreement and to respect the Disclosing Party's rights therein;
- 4.2.2 to use the Confidential Information exclusively for the purposes of this Agreement; and
- 4.2.3 to disclose the Confidential Information only to those of its employees, contractors and sub-licensees pursuant to this Agreement (if any) to whom and to the extent that such disclosure is reasonably necessary for the purposes of this Agreement.

4.3 Exceptions to obligations

The provisions of clause 4.2 shall not apply to Confidential Information which the Receiving Party can demonstrate by reasonable, written evidence:

- 4.3.1 was, prior to its receipt by the Receiving Party from the Disclosing Party, in the possession of the Receiving Party and at its free disposal;
- 4.3.2 is subsequently disclosed to the Receiving Party without any obligations of confidence by a Third Party who has not derived it directly or indirectly from the Disclosing Party;
- 4.3.3 is or becomes generally available to the public through no act or default of the Receiving Party or its agents or employees;
- 4.3.4 the Receiving Party is required to disclose under a statutory obligation (e.g. Freedom of Information) or to the courts of any competent jurisdiction, or to any government regulatory agency or financial authority, provided that the Receiving Party shall:
 - 4.3.4.1 inform the Disclosing Party as soon as is reasonably practicable, and
 - 4.3.4.2 at the Disclosing Party's request seek to persuade the court, agency or applicable authority to have the information treated in a confidential manner, where this is possible under the court, agency or authority's procedures or that an exception to the statutory obligation applies;
- 4.3.5 is developed independently by any of the Receiving Party's employees who have not had any direct or indirect access to, or use or knowledge of, the confidential information of the Disclosing Party.

4.4 Disclosure to employees

The Receiving Party shall procure that all of its employees, contractors and sub-licensees pursuant to this Agreement (if any) who have access to any of the Disclosing Party's information to which clause 4.2 applies, shall be made aware of and subject to these obligations and shall have entered into written undertakings of

confidentiality at least as restrictive as those in clauses 4.1 and 4.2 and which apply to the Disclosing Party's Confidential Information.

4.5 Return of information

On termination of this Agreement for any reason the Receiving Party shall return immediately to the Disclosing Party or destroy all documents or other materials which contain the Confidential Information of the Disclosing Party (including any and all copies made) and make no further use or disclosure thereof.

4.6 Data Protection

4.6.1 Both Parties shall comply with all obligations which fall upon them from the Data Protection Legislation.

4.6.2 The Parties shall comply with the requirements of the Data Processing Schedule

4.7 Anonymised Data

Revolution Viewing shall be permitted to anonymise data from the use of the Revolution Viewing Software, the Client Portal and/or the Portal Tools in such manner that no person or organisation can be identified and use any such anonymised data for its own purposes.

Revolution Viewing reserves the right to use and aggregate this data and use this data in accordance with clause 11.12.

5 Payments

5.1 Initial payment[s]

On the signing of this Agreement OR Within 30 days of the Commencement Date (whichever is sooner), the Client shall pay to Revolution Viewing the sum specified as the Initial Fee in the Agreement Schedule.

5.2 Licence fees

The Client shall pay to Revolution Viewing the licence fee set out in the Agreement Schedule. If the Client fails to pay any such amount by the specified date, Revolution Viewing may in its sole and absolute discretion either:

5.2.1 Suspend the use of the Revolution Viewing Software; or

5.2.2 Terminate this Agreement in accordance with clause 10.2.

5.3 Payment terms

All sums due under this Agreement:

5.3.1 are exclusive of VAT which where applicable will be paid by the Client to Revolution Viewing in addition;

5.3.2 shall be paid in pounds sterling as specified in our invoice;

5.3.3 shall be made without deduction of income tax or other taxes charges or duties that may be imposed, except in so far as the Client is required to deduct the same to comply with applicable laws. The Parties shall cooperate and take all steps reasonably and lawfully available to them, at the expense of Revolution Viewing, to avoid deducting such taxes and to obtain double taxation relief. If the Client is required to make any such deduction it shall provide Revolution Viewing with such certificates or other documents as it can reasonably obtain to enable Revolution Viewing to obtain appropriate relief from double taxation of the payment in question; and

5.3.4 shall be made by the due date, failing which Revolution Viewing may charge interest on any outstanding amount on a daily basis at a rate

equivalent to 3% above the Barclays Bank plc base lending rate then in force.

5.4 Payment Obligations

- 5.4.1 The Client shall provide a valid purchase order before any services or access is provided.
- 5.4.2 Revolution Viewing are not obliged to deliver any services, access, Revolution Viewing Software, the Client Portal or the Portal Tools unless payment in advance has been made.
- 5.4.3 The price of the Revolution Viewing Software shall stay fixed for the duration of the Term outlined in the Agreement Schedule, however, Revolution Viewing may update the pricing at the end of any agreed fixed price period or (if no fixed price period applies) at the end of each 12-month period from the Term or the end of a fixed price period. Pricing updates shall be discussed and agreed upon with the Client prior to the Term ending.

6 Client Obligations

6.1 General Obligations

- 6.1.1 The Client shall
 - 6.1.1.1 not without the written consent of Revolution Viewing, obtain equivalent services or an alternative to the Visitor Services (in whole or in part) through an alternative provider.
 - 6.1.1.2 ensure the reasonable support of its employees and sub-contractors in the provision of the Visitor Services, Client Services and Software Support Services and any other matters which may require support under this Agreement.
 - 6.1.1.3 support the provision of the services as specified in the Agreement Schedule.
 - 6.1.1.4 take reasonable steps to ensure that it has appropriate hardware, software or other protection (including virus protection) to enable the use of the Revolution Viewing Software and for information to be viewed and downloaded safely and securely.
 - 6.1.1.5 promote the Visitor Service to Visitors on the basis it was designed to be used for.
 - 6.1.1.6 not (and shall in so far as possible ensure third parties cannot) disassemble, decompile, reverse-engineer or create derivative works.
 - 6.1.1.7 ensure that any information it provides is accurate, honest and truthful and that where any information relates to a Visitor (or it accesses via the Revolution Viewing Software) it is authorised to provide (or use) such information.
 - 6.1.1.8 use all reasonable endeavours to prevent the unauthorised access to, or use of the Revolution Viewing Software, and in the event of such use notify Revolution Viewing;
 - 6.1.1.9 ensure that all Admin Users connect to the Revolution Viewing Software from a network approved by Revolution Viewing unless Revolution Viewing has consented in writing (such consent not to be unreasonably withheld);
 - 6.1.1.10 comply with the Revolution Viewing corporate conduct policy;
 - 6.1.1.11 only use the Revolution Viewing Software for the purposes of the Client Services and/or the Visitor Services.
- 6.1.2 The Client acknowledges that the use of the Revolution Viewing Software for purposes outside of those for which it was intended to be used may hinder the performance of the Revolution Viewing Software and/or increase the cost of use. If the usage of the Revolution Viewing Software

by the Client is outside of the intended use and/or its usage exceeds the normal usage by reasonably comparable clients by more than 30% Revolution Viewing may at its own option elect to increase the charges due from the Client (which shall be paid within 30 days), limit any functionality or suspend the usage until and unless appropriate usage levels are reinstated. Normal usage is classed as 1,000,000 page views per month on the frontend and a storage limit in the back end of 50G. A charge of £2 per GB overage above the normal usage at the end of each month and £1 per 1,000 page visits above the 1,000,000 page views calculated at the end of the month.

7 Revolution Viewing Obligations

7.1 General Obligations

- 7.1.1 Revolution Viewing shall provide the Revolution Viewing Software, the Client Service and the Software Support Services as specified in the Agreement Schedule on the terms set out in this Agreement.
- 7.1.2 Revolution Viewing shall provide the Client Services in all material respects in compliance with the Agreement Schedule. **The Visitor Services are part of the Revolution Viewing Software but are developed by the Client and not Revolution Viewing. Visitors must enrol on the Revolution Viewing Software in order for the full benefit to be obtained.**
- 7.1.3 Revolution Viewing may amend the Client Services and/or the Visitor Services at any time due to circumstances outside its control or which it believes will enhance the benefits of all users (e.g. security updates) and to deliver product feature updates.
- 7.1.4 Revolution Viewing will endeavour to meet any specific performance dates, but time is not of the essence, provided always that Revolution Viewing will provide Software Support Services as outlined in the Agreement Schedule.
- 7.1.5 In relation to the Services, Revolution Viewing shall take all reasonable steps not to introduce Malware or Vulnerability into the Client's network and information systems via the Services or otherwise.
- 7.1.6 Revolution Viewing shall follow its archiving procedures for Client Content as set out in its Backup-Policy.

8 Intellectual property

8.1 Infringement of Revolution Viewing IP

- 8.1.1 The Client shall inform Revolution Viewing promptly if it becomes aware of any infringement or potential infringement of any of the Revolution Viewing IP, and the Parties shall consult with each other to decide the best way to respond to such infringement.
- 8.1.2 Save where any damages are payable as a result of the Client's activity and in particular its development of Visitor Services, Revolution Viewing will indemnify the Client against any damages payable to any third party in respect of any successful claim that the possession or use of the Revolution Viewing Software is an infringement of the third parties rights:
 - 8.1.2.1 give notice of any infringement.
 - 8.1.2.2 give the indemnifier the right to defend any claim.
 - 8.1.2.3 act in accordance with reasonable instructions of the indemnifier.

9 Warranties and liability

9.1 Warranties by Revolution Viewing

Revolution Viewing warrants, represents and undertakes that it owns or has a license to the Revolution Viewing IP as may be necessary for the purposes of this Agreement.

9.2 **Acknowledgements**

The Client acknowledges that:

- 9.2.1 The Revolution Viewing IP and the Revolution Viewing Software, are provided under this Agreement 'as is' and without any express or implied warranties, representations or undertakings; and
- 9.2.2 Revolution Viewing has not performed any searches or investigations into the existence of any Third Party rights that may affect any of the Revolution Viewing IP or Revolution Viewing Software. Any use of Third Party rights by the Client is at its own risk and the Client shall indemnify Revolution Viewing from any claim made by a Third Party where the Client has added the Third Party content.

9.3 **No other warranties**

- 9.3.1 Each of the Client and Revolution Viewing acknowledges that, in entering into this Agreement, it does not do so in reliance on any representation, warranty or other provision except as expressly provided in this Agreement, and any conditions, warranties or other terms implied by statute or common law are excluded from this Agreement to the fullest extent permitted by law.
- 9.3.2 Without limiting the scope of clause 9.3.1, Revolution Viewing does not give any warranty, representation or undertaking:
 - 9.3.2.1 as to the efficacy or usefulness of the Revolution Viewing IP and Revolution Viewing Software;
 - 9.3.2.2 that the Revolution Viewing Software as supplied to the Client (and any Visitor) will be error-free, bug-free or virus free;
 - 9.3.2.3 that any of the intellectual property in the Revolution Viewing IP is or will be valid or subsisting.

9.4 **Liability**

- 9.4.1 Notwithstanding any other provision in this Agreement, neither Party shall be liable to the other Party in contract, tort, negligence, breach of statutory duty or otherwise for any loss, damage, costs or expenses of any nature whatsoever incurred or suffered by that other party of an indirect or consequential nature including without limitation any economic loss or other loss of turnover, profits, business or goodwill.
- 9.4.2 Revolution Viewing does not exclude or limit liability for:
 - 9.4.2.1 fraud, death or personal injury;
 - 9.4.2.2 any other liability which is not permitted to exclude or limit as a matter of law;
- 9.4.3 Subject to clauses 9.4.1 and 9.4.2, Revolution Viewing entire liability will be limited to the higher of, £10,000 and the fees paid in the 12 month period prior to any incident, in respect of any incidents arising during this agreement.

10 **Duration and termination**

- 10.1 This Agreement, and the licences granted hereunder, shall come into effect on the Commencement Date and, unless terminated earlier in accordance with this clause 10, shall continue until the end of the Term, and on such date this Agreement and the licences granted hereunder shall continue for further periods of 12 months unless and until either party give 3 months written notice of termination.

- 10.2 Either Party can terminate this agreement in writing:
- 10.2.1 For any material breach not remedied within 30 days of a written request.
 - 10.2.2 When the other Party fails to pay its debts as they fall due.
 - 10.2.3 If a notice is filed to wind up the other party.
 - 10.2.4 If an order is made for the appointment of an administrator or receiver to the other Party.
 - 10.2.5 If the other Party suspends a substantial part or all of its business.
 - 10.2.6 If the other Party fails to comply with the provisions of the Bribery Act 2010.
- 10.3 In the event that it is unable to continue to provide the Revolution Viewing Software, the Client Services or the Client Portal for any reason Revolution Viewing may provide 90 days' written notice of termination.
- 10.4 Any termination will be without prejudice to any other rights or remedies.
- 10.5 In the event of the expiry or termination of this Agreement for any reason We shall be entitled to payment in full of any outstanding Fees, if the contract has been paid in full, the Client shall be liable to pay for any additional costs incurred during the Term, if any.
- 10.6 Any provision intended by its nature to survive termination or expiry of the agreement shall continue in full force and effect.

11 General

11.1 **Force majeure**

Neither Party shall have any liability or be deemed to be in breach of this Agreement for any delays or failures in performance of this Agreement which result from circumstances beyond the reasonable control of that Party, including without limitation labour disputes involving that Party. The Party affected by such circumstances shall promptly notify the other Party in writing when such circumstances cause a delay or failure in performance and when they cease to do so.

11.2 **Amendment**

This Agreement may only be amended in writing and signed by duly authorised representatives of Revolution Viewing and the Client.

11.3 **Assignment and third party rights**

11.3.1 Subject to clause 11.3.2 below, neither Party shall assign, mortgage, charge or otherwise transfer any rights or obligations under this Agreement without the prior written consent of the other Party.

11.3.2 Either Party may assign all its rights and obligations under this Agreement to any company to which it transfers all of its assets or business, PROVIDED that the assignee undertakes to the other Party to be bound by and perform the obligations of the assignor under this Agreement. However, a Party shall not have such a right to assign this Agreement if it is insolvent or any other circumstance described in clause 10.2 applies to it.

11.4 **Waiver**

No failure or delay on the part of either Party to exercise any right or remedy under this Agreement shall be construed as or operate as a waiver thereof, nor shall any single or partial exercise of any right or remedy preclude the further exercise of such right or remedy.

11.5 **Invalid clause**

If any provision or part of this Agreement is held to be invalid, amendments to this Agreement may be made by the addition or deletion of wording as appropriate to remove the invalid part or provision but shall otherwise retain the provision and the

other provisions of this Agreement to the maximum extent permissible under applicable law.

11.6 No agency

Neither Party shall act or describe itself as the agent of the other, nor shall it make or represent that it has the authority to make any commitments on the other's behalf.

11.7 Notices

11.7.1 Any notice to be given under this Agreement shall be in writing and shall be sent by first class mail or email to the address of the relevant Party set out in the Agreement, or to such other address or fax number as that Party may from time to time notify to the other party in accordance with this clause

11.7.2 Notices sent as above shall be deemed to have been received 3 working days after the day of posting (in the case of inland first class mail), or on the next working day after transmission (in the case of email).

11.8 Announcements

Neither party shall make any press or other public announcement concerning any aspect of this Agreement, or make any use of the name of the other Party in connection with or in consequence of this Agreement, without the prior written consent of the other Party.

11.9 Entire Agreement

This Agreement, including its Schedules, sets out the entire agreement between the Parties relating to its subject matter and supersedes all prior oral or written agreements, arrangements or understandings between them relating to such subject matter. The Parties acknowledge that they are not relying on any representation, agreement, term or condition that is not set out in this Agreement. However, nothing in this agreement purports to exclude liability for any fraudulent statement or act.

11.10 Third parties

This Agreement does not create any right enforceable by any person not a party to it.

11.11 Law and Jurisdiction

The validity, construction and performance of this Agreement shall be governed by English law and shall be subject to the exclusive jurisdiction of the English courts to which the Parties submit, except that a Party may seek an interim injunction in any court of competent jurisdiction.

11.12 General Marketing and Publicity

11.12.1 Revolution Viewing shall be entitled to distribute a link to the Client Portal version of the Revolution Viewing Software and written/visual notification of a working partnership between Revolution Viewing and the Client in its promotional and advertising materials, articles and publications including but not limited to Revolution Viewing's website unless the parties to this Agreement have agreed otherwise in writing.

11.12.2 The Client hereby grants to Revolution Viewing an irrevocable non-exclusive worldwide licence of the Client's Intellectual Property and the Background Intellectual Property Rights associated with any Client content hosted within the Revolution Viewing Software.