

## 1. Definitions and Interpretation

1.1 Unless the context otherwise requires, the following definitions shall apply:

**AUP** means the Acceptable Use Policy which is a document setting out the principles governing the use of the Services and which forms part of soVision's ISP Standard Terms and Conditions.

**Commencement Date** means the date that the Contract is effected (either by the Customer's acceptance of the terms of the Order or when the Customer starts using the Service, whichever is the earlier event);

**Confidential Information** means any information of a confidential nature obtained under contractual arrangements for or in connection with the Service including, but not limited to, any information regarding the existence of errors or viruses found in the Service and all other information which soVision may define as confidential at the time of its disclosure to the Customer either in writing or orally .

Confidential Information does not include information which the Customer can demonstrate:

- i) is previously rightfully known to it without restriction at the time of disclosure;
- ii) is or becomes, from no act or omission on its own part, generally known in the relevant industry or public domain;
- iii) is disclosed to it by a third party as a matter of right and without restriction at the time of disclosure; or
- iv) is independently developed by it without access to the Confidential Information; or
- v) is required to be disclosed by it in under any applicable Law including disclosure required for compliance with the Freedom of Information Act 2000 or The Regulation of Investigatory Powers (RIP) Act 2000;

**Consumer** means an individual purchasing the Service outside the course of their business;

**Contract** means the agreement between soVision and the Customer incorporating these terms and conditions; the AUP, as applicable; and the Order, all as may be amended from time to time pursuant to condition 4.2;

**Customer** means the person, business or organisation with whom soVision contracts to supply the Service. soVision may accept instructions from another person who it reasonably believes is acting with the Customer's authority or knowledge;

**Equipment** means the switches, routers, servers, computers and other items of hardware necessary to form a connection and interface to the Service;

**Internet** means the global data network comprising interconnected networks using the TCP/IP ("Transmission Control Protocol / Internet Protocol");

**Internet Address** means an Internet Protocol Address (IP Address);

**Initial Contract Term** means a period of 12 months from Commencement Date;

**Law** means any law, statute or regulation, guideline or code of conduct (whether or not having the force of law) in any jurisdiction to which soVision or the Customer is from time to time subject;

**Name** means any name specifically requested by or allocated to the Customer for provision of the Service and shall include, without limitation, any domain name or mailbox name;



**Order** means any information supplied by soVision in written or electronic form that constitutes an offer capable of acceptance by the Customer and which has been accepted by the Customer either expressly or implied by confirmatory action. The Order will define the elements of Service to be provided, the charges applicable to that Service and any special terms that will apply;

**Operational Service Date** means the date when the Service is first made available to the Customer or the date when the Customer first starts to use the Service, whichever is the earlier;

**Service(s)** means the service provided by soVision whereby the Customer may gain access to the Internet and, where applicable, any means and facilities provided by soVision for the Customer in connection with the Service and which are set out in the Order;

**Site** means the premises at which the Service is or is to be provided under the terms of the Contract;

**Software** means any executable code supplied to the Customer by soVision in relation to the Service;

**soVision** means soVision Ltd, a private limited company registered in England No. 3925392 and whose registered office is at Avon House, Avon Mill Lane, Keynsham, Bristol BS31 2UG;

**User Documentation** means any documentation relating to the Service and/or any Software, supplied by soVision, either on paper, electronically or on-line.

- 1.2 The Customer undertakes to operate its Services under the terms of the AUP – published on the website <http://www.soVision.com> and updated from time to time.
- 1.3 The expressions “Customer” and “soVision” shall include their respective successors and permitted assignees and their respective employees and agents.

## 2. Right to cancel [Consumers only]

- 2.1 If the Customer is a Consumer and an Order is placed on-line or via telephone or mail order the right to cancel an order up to 7 working days after receipt of goods or contracting for the supply of services is given under the Consumer Protection (Distance Selling) Regulations 2000 unless, by agreement, those services begin before the end of this ‘cooling off’ period.
- 2.2 Under these terms and conditions the Service begins from the Commencement Date and soVision will automatically initiate arrangements for the provision of Service during this ‘cooling off’ period. The Customer therefore agrees that this right to cancel will not apply.
- 2.3 If the Customer does not agree to this soVision must be advised prior to the Customer placing the Order. In this event soVision will not process the Order until 7 working days from Commencement Date have expired.
- 2.4 No right to cancel will apply if goods or services supplied are made to the Customer’s specification or customized in any way.
- 2.5 Any delay in providing the Service under these circumstances will not affect the Initial Contract Term.
- 2.6 Nothing in these terms and conditions affects the Customer’s statutory rights as a Consumer.

## 3. Term and Termination

- 3.1 The Service, unless otherwise agreed in the Order, shall commence on the Commencement Date and continue thereafter until terminated by sovision or the Customer in accordance with conditions 3.2, 3.3 and 3.5 below, subject to the minimum period of the Initial Contract Term.
- 3.2 The Contract may be terminated by either soVision or the Customer on giving at least 30 days’ written notice to the other expiring on the last day of the Initial Contract Term or at any time thereafter.

- 3.3 soVision shall be entitled to terminate forthwith if:
- i) soVision is precluded from providing the Service by Law or by the decision of any competent judicial or regulatory authority;
  - ii) the Customer becomes insolvent or bankrupt;
  - iii) the Customer commits a breach of condition 8 which in soVision's reasonable opinion is serious enough to merit immediate termination;
  - iv) the Customer commits a breach of any of the provisions in the Contract (including without limitation, non-payment of any charges hereunder) and in the case of a breach of any provision which is capable of remedy, fails to remedy the same within 7 days after receipt of a notice giving particulars of the breach requiring it to be remedied;
  - v) soVision suspects on reasonable grounds that the Customer may have committed or be committing any fraud against soVision; or
  - vi) the Customer provides soVision with any false, inaccurate or misleading information for the purpose of obtaining the Service.
- 3.4 If any of the events described in 3.3 above occur because of the Customer, soVision may suspend the Service (in whole or in part) without prejudice to its right to terminate the Contract. Where the Service is suspended under this condition, the Customer shall pay any charges for the Service until the Contract is terminated.
- 3.5 The Customer shall be entitled to terminate the Contract by notice in writing of 30 days, effective on receipt by soVision of the notice, if the Customer does not consent to any amended terms of Service as set out in condition 4.2 or to any Software licence terms as referred to in condition 9.1.
- 3.6 If notice is given to terminate the Contract, the Customer shall pay all subscription charges up to the expiry of the notice together with any applicable transfer and/or cancellation charges. The Customer's notice does not avoid any liability for Services already provided.
- 3.7 On termination of the Contract the Customer shall immediately cease using the Service. The Customer shall have no further right to use the Service, to access information stored as part of the Service, or to utilise any usage time or credits.
- 3.8 Except as provided for in condition 2.1, cancellation of Orders, in whole or in part, cannot be accepted without soVision's consent in writing and will be accepted on the basis that the Customer indemnifies soVision in respect of all losses, costs and expenses incurred by soVision up to the date upon which soVision accepts the Customer's notice of cancellation.
- 3.9 The right to terminate the Contract shall not prejudice any other right or remedy of soVision in respect of any breach or any rights, obligations, or liabilities accrued prior to termination.

## 4. Provision of Service

- 4.1 soVision will use its reasonable endeavours to provide the Customer with the Service in accordance with the terms and conditions of the Contract.
- 4.2 soVision reserves the right to amend the terms and conditions herein, and any other special terms connected with provision of the Service, from time to time. soVision will notify the Customer in writing or electronic form of changes it makes to any special terms contained or defined in the Order. Changes to the AUP and to soVision's standard terms and conditions will be posted on the soVision website at <http://www.soVision.com>. The Customer may terminate the Contract as provided in condition 3.5 if it does not wish to be bound by such new terms and conditions. Continued use of the Service or failure to terminate the Contract will be deemed to constitute acceptance of the new terms and conditions.

- 4.3 It is technically impracticable to provide the Service free of faults and soVision does not undertake to do so. In the event of a fault in the Service, the Customer should report it by telephone on the customer support number set out in the User Documentation or such other number as soVision may from time to time provide to the Customer or publish on its website. Upon receipt of a fault report, soVision will endeavour to advise the Customer how to correct the fault as soon as reasonably practicable.
- 4.4 The Customer accepts that limitations of the available telecommunications infrastructure may restrict the level of Service physically capable of being provided, and that such limitations may not become evident until after installation. In the event that such limitations result in the Service falling below the standard that could reasonably be expected, the Customer may terminate the Contract forthwith in writing, and will remain liable only for the direct costs associated with the installation and pro-rata costs for the proportion of the first charging period which has elapsed before the Contract is terminated.
- 4.5 The Customer is responsible for obtaining all computers and other equipment or services necessary to properly use the Service. In particular, where connection to the Service is via a fixed telecommunications link or dial-up connection the Customer is responsible for making separate application for the appropriate service, and for compliance with the terms and conditions applicable to those telecommunications services. soVision does not control and is not responsible for the telecommunications services used.
- 4.6 soVision will endeavour to meet any date proposed for the provision of Service, but any such date is to be treated as an estimate only and soVision accepts no liability for failure to meet it.
- 4.7 The Customer shall allow any person accredited by soVision, on production of authorisation, access to the Site at all reasonable times for the purposes of providing Service or to remove Equipment belonging to soVision upon termination of the Service.
- 4.8 If requested by soVision, the Customer shall obtain any consent from third parties for the installation and use of any soVision Equipment which is to be installed under the Contract.
- 4.9 The Customer shall at its own expense provide reasonable facilities and assistance to soVision in the installation of soVision Equipment. The Customer shall be responsible for ensuring the supply of any electricity required for the proper functioning of soVision Equipment and shall provide or procure suitable accommodation, facilities and environmental conditions for housing of the soVision Equipment and all necessary electrical and other installations and fittings.
- 4.10 The Customer shall be responsible for soVision Equipment while it is at a Site and shall not add to, modify or in any way interfere with the soVision Equipment. The Customer shall be liable to soVision for any loss or damage to soVision Equipment, except in so far as any such loss or damage is attributable to the negligent or wilful act or omission of soVision, its agents or subcontractors.
- 4.11 Bandwidth between the Customer's Equipment and soVision will be agreed between soVision and the Customer as expressed in the Order. LAN interface services will be regulated so that the maximum bandwidth is that stated in the Order. Given the nature of the Internet, it is impossible for soVision to guarantee the bandwidth available between a Customer and another site elsewhere on the global Internet. This depends on the bandwidth available at the other site and the bandwidth available on the various circuits over which traffic between the Customer and the other site passes.
- 4.12 soVision will make reasonable endeavours to ensure that viruses, worms or other destructive devices are not transmitted to the Customer. However, it is the sole responsibility of the Customer to ensure that it has the necessary software and hardware loaded and commissioned to minimise this risk.
- 4.13 Whilst soVision will make every reasonable effort to ensure that a Customer's data held on a server or website it hosts is protected from unwanted external intrusion or destruction, soVision has no liability for any loss of or damage to any data so stored and notwithstanding that the Service may include provision of data and system backup services, soVision will not be liable for recovery or reinstatement of lost or corrupted data howsoever such loss or corruption is sustained. It is the Customer's responsibility to effect and maintain adequate insurance cover in respect of any loss of or damage to data so stored.

### 5. Charges

- 5.1 The Customer will pay all charges for the Service (including but not limited to any usage time, subscription, installation and maintenance charges). Charges will be calculated according to the rates on the Order.
- 5.2 Subject to any provision of the Contract and unless soVision notifies the Customer otherwise, liability for charges shall commence on the Operational Service Date.
- 5.3 Wherever possible soVision will submit invoice and credit notes electronically in Portable Document Format (pdf) and the Customer will be requested to provide an electronic address for such purpose. If the Customer wishes to receive hard copy documents, or if no electronic address is provided, invoices and credits will be sent to the Customer's last notified postal address.
- 5.4 Charges for the first quarterly period from the Operational Service Date will be payable immediately. Thereafter charges invoiced for each consecutive billing period will be payable in advance. Installation and any other set up charges are payable against invoice upon entering into the Contract.
- 5.5 soVision reserves the right to require the Customer to establish Standing Order or Direct Debit instructions for settlement of monthly or quarterly charges. Unless otherwise stated, payment of all charges is due within 14 days of the date of invoice.
- 5.6 Charges quoted by soVision are exclusive of VAT which, unless otherwise stated, will be charged at the rate prescribed by law at the time of invoice. All payments must be in UK Pounds Sterling.
- 5.7 Without prejudice to any other of its rights soVision may at its sole discretion exercise its statutory right to claim interest and compensation for debt recovery costs under applicable late payment legislation on any amounts that remain due more than 30 days from the date of invoice and may suspend without notice all Services it provides to the Customer until such overdue amounts are settled in full.
- 5.8 If any payment is returned by the Customer's bank as unpaid for any reason, the Customer will be liable for an additional charge for administration of **£25 plus VAT**.
- 5.9 soVision shall be entitled to set off any amounts it owes to the Customer against any amounts owed to it by the Customer for provision of any Services.
- 5.10 If at any time the Customer fails to meet the standard of creditworthiness deemed acceptable by soVision from time to time, soVision shall be entitled to withdraw credit facilities to the Customer or terminate the Contract forthwith.
- 5.11 In the case of dial-up service, the Customer is responsible for all telephone charges associated with connecting to the Service via soVision's access number. Except when explicitly stated in writing soVision does not warrant that the service can be accessed via a local call.
- 5.12 The accessing of information and services provided by third parties via the Service may be subject to those third parties' terms and conditions (including but not limited to terms relating to payment). The Customer is responsible for compliance with such terms and conditions.
- 5.13 Where a Customer has managed or co-location services for the provision of hosted servers if in any period of ninety days during the Contract term the Services are not available at the rate referred to below, the Customer shall be entitled to a credit against the quarterly service charge on the following basis:



Network Availability as a percentage of the service level in the ninety day period*	Amount of credit
99.5% or more	None
96.67% - 99.49%	1 day's service charge
Below 90%	7 days' service charge

\* Excludes scheduled maintenance or where soVision provides 72 hours' notice of any downtime.

\* Excludes interruption of access to the Internet via soVision's network caused by a fault in a third party's supply to soVision which is beyond the control of soVision.

- 5.14 soVision shall issue the credit to the Customer in the quarter following the period when the interruption occurred. soVision shall have no liability if the customer terminates the Service prior to such credit being issued.
- 5.15 A credit to the Customers account will only be made where the Customer makes a claim in writing within 14 days of the end of the quarter for which the credit is claimed.

**6. Names and Internet Addresses**

- 6.1 The Customer represents and warrants that it is the owner of or that it has been and is duly authorised by the owner to use any trade mark or name requested or allocated as its Name, and that the use of any such trade mark or name does not conflict with or infringe the rights of any third party.
- 6.2 The Customer acknowledges that soVision cannot guarantee that any Name requested by the Customer will be available or approved for use. soVision will undertake to attempt the registration within 5 working days of the Customer's written instruction but will not be held responsible should that domain name be registered to another party within that period.
- 6.3 soVision will submit an invoice to the Customer approximately 60 days before a domain name is due for renewal. If the Customer decides that the domain should not be renewed, the Customer must notify soVision in writing (or electronically to an email address soVision has advised for the purposes) as quickly as possible and in any event no later than 14 days before the domain renewal date. Failure to give timely notice will result in the Customer becoming liable for the full renewal fee.
- 6.4 soVision may require the Customer to select a replacement Name and may suspend the Service if, in soVision's opinion, there are reasonable grounds for soVision to believe that the Customer's current choice of name is, or is likely to be, in breach of the provisions of condition 6. 1.
- 6.5 Any Internet address allocated by soVision to the Customer will at all times remain the sole property of soVision and the Customer will have a non-transferable licence to use such address for the duration of the Contract. Upon termination of the Contract, for whatever reason, the Customer's licence to use the Internet address shall automatically terminate and thereafter the Customer will not use the address.
- 6.6 Domain Names will normally be managed for the Customer by soVision. Transfer of the Name to an alternative host or manager will only be undertaken after receipt of written instructions (by letter or email to an address advised by soVision for the purpose) from the Customer and after all outstanding charges related to Services associated with the Name have been paid in full. soVision will make an **Administration Charge of £10 plus VAT** for each domain name transferred.
- 6.7 The Customer shall provide soVision with all personal details reasonably required by soVision for provision of Service, including but not limited to the Customer's full name, address, telephone number, age and payment details (such as credit card information). The Customer will notify soVision within thirty days of any change to any of the personal details provided to soVision.

- 6.8 The registration and use of the Customer's domain name is subject to the terms and conditions of use applied by the relevant naming authority. The Customer shall ensure that it is aware of those terms and conditions and that it complies with them. For UK domain registrations the relevant terms and conditions are those of Nominet UK, the UK naming authority, and these terms can be found at <http://www.nominet.org.uk/registrants/legal/terms/>. The Customer shall have no right to bring any claim against soVision in respect of refusal to register a domain name or cancellation of the domain name by the relevant naming authority.
- 6.9 The Customer shall remain responsible for any charges levied by the naming authority for the registration, transfer or renewal of registration of the domain name and any administration charge paid by the Customer to soVision shall be non-refundable notwithstanding refusal by the naming authority to register a Name.
- 6.10 In the event that the Customer requests soVision to register and install a Secure Certificate, soVision shall have no liability should this process fail due to any incompatibility between information held against the Domain Name, the Certificate of Incorporation, etc. The Customer shall remain liable for any costs incurred by soVision notwithstanding that an installation is unsuccessful.

## 7. Access to Service

- 7.1 For dial-up Services only, soVision shall allocate a password to the Customer to enable it to use the Service and the Customer shall be responsible and liable for all use of the Service through the Customer's password (including without limitation all charges incurred and any breaches of the terms of the Contract), even where the Service is not actually used by the Customer but by some other person or organisation using the Customer's password.
- 7.2 The Customer will keep its password confidential and will immediately notify soVision if any unauthorised third party becomes aware of that password.
- 7.3 soVision does not warrant that the Customer's use of the Service will be uninterrupted and given the nature of the Internet does not warrant that any messages or information transmitted via the Service will be transmitted accurately, reliably, in a timely manner or at all. soVision undertakes no liability whatsoever for any failure in provision of access to the Internet. The Customer's sole remedy for dissatisfaction with the Service is to terminate the Contract as provided under condition 3.5.
- 7.4 The Customer's access to the Service may occasionally be restricted to allow implementation of new facilities and to allow data archival.
- 7.5 soVision may temporarily suspend the Service for the purpose of repair, maintenance or improvement of any of soVision's facilities which are necessary to provide the Service; or vary the technical specification of the Service for operational reasons subject to soVision giving the Customer as much on-line, written or oral advice as is reasonably practicable in the circumstances, and restoring the Service as soon as reasonably practicable after such temporary suspension.
- 7.6 soVision shall not be held responsible for the Customer's inability to use the Service due to any incompatibility between the Customer's Equipment and soVision's Equipment or the Service, or for any breakdown or failure in the Equipment used by the Customer, or for any incapability of the Equipment used by the Customer to access or utilise the Service.
- 7.7 The Customer shall remain liable for any charges for the Service, notwithstanding that the Customer is unable to use the Service for any period of time, unless the reason that the Customer is unable to use the Service is wholly attributable to soVision's negligence or wilful default or omission.

## 8. Use of the Service

- 8.1 Use of the Service enables the Customer to access the Internet and other material. Apart from any World Wide Web site controlled by soVision and other material provided by it, soVision does not control and is not responsible for the content of material obtained using the Service. The Customer is responsible in all circumstances for determining the suitability, legality or lawfulness of accessing, viewing or downloading any material from the Internet.

8.2 The use of Services is governed by the AUP – see <http://www.soVision.com> .

### 9. Software

- 9.1 Intellectual property rights in any Software supplied to the Customer remain the property of soVision or its licensors. The Customer agrees to comply with the terms of any licences of Software reasonably required by the owner of any intellectual property rights in any of the Software for the protection of that Software notified to the Customer or appearing on screen as part of the Service. If the Customer does not consent to any such terms, the Customer may terminate the Contract pursuant to condition 3.5. Continued use of the Service or failure to terminate the Contract will be deemed to constitute acceptance of such Software licence terms and conditions
- 9.2 soVision warrants that any media containing the Software, if provided by soVision, is free from defects in material and workmanship and will so remain for ninety (90) days from the date the Customer acquires the Software. Whilst soVision or its suppliers have used reasonable efforts to minimise defects or errors in the Software and to check the Software for viruses, soVision does not warrant that the Customer's use of the Software will be uninterrupted or that the operation of the Software will be error free, virus free or secure, or that the functions of the Software will meet the Customer's requirements.
- 9.3 soVision's sole liability for any breach of the warranties in condition 9.2 shall be, in soVision's sole discretion:
- i) to replace the Customer's defective media or copy of the Software;
  - ii) to advise the Customer how to achieve substantially the same functionality as described in any User Documentation with the Software through a procedure different from that set forth in the User Documentation; or
  - iii) if the above remedies are impracticable, to refund that part of the fee the Customer paid for the provision of the Software.
- 9.4 Repaired, corrected or replaced Software shall be covered by this limited warranty for the period remaining under the warranty that covered the original Software, or if longer, for thirty (30) days after the date of shipment to the Customer of the replacement media or copy of the Software, or the date soVision advised the Customer how to operate the Software so as to achieve the functionality described in any User Documentation.
- 9.5 Only if the Customer informs soVision of a problem with the Software during the applicable warranty period, returns the Software to soVision at its own expense and provides evidence of the dates when it acquired the Software, will soVision be obligated to honour the warranties contained in condition 9.2.
- 9.6 The warranties contained in condition 9.2 are the only warranties made by soVision concerning Software. soVision makes no other express or implied warranty relating to the performance, quality or fitness for a particular purpose of the Software. No soVision agent or employee is authorised to make any modifications, extensions, or additions to this warranty. If any modifications are made to the Software by the Customer during the warranty period; if the media is subjected to accident, abuse, or improper use; or if the Customer is in breach of the terms of the Contract then these warranties shall immediately be terminated. These warranties shall not apply if the Software is used on or in conjunction with hardware or programs other than the unmodified version of hardware and programs with which the Software was designed to be used as described in any User Documentation.
- 9.7 The Service may comprise software, services, technical information, training materials or other technical data which are subject to the United States of America Export Control Regulations or the Laws of another country. The Customer may not download or otherwise export or re-export the Software or any underlying information or technology except in full compliance with all United States' and other applicable Laws.
- 9.8 Other than software, hardware and installation services that soVision provides in connection with the Service, it is the Customer's sole responsibility to ensure that it has the necessary and appropriate

software (including any necessary licences and / or permissions, operating systems, equipment and facilities) to use the Service.

### 10. Limitation of Liability

- 10.1 Except as otherwise provided herein, soVision shall not have any liability under the Contract other than in respect of:
- i) death or personal injury arising from its own negligence or that of its employees, agents or contractors while acting in the course of their employment by soVision; or
  - ii) direct physical damage to the Customer's property or premises to an amount not exceeding £100,000.00 in respect of any one event or series of connected events where such damage arises from the negligence of soVision, its employees, agents or contractors while acting in the course of their employment by soVision; or
  - iii) any liability of soVision which cannot by Law be excluded or restricted.
- 10.2 In performing any obligation under the Contract, soVision's duty is only to exercise the reasonable care and skill of a competent Internet access provider.
- 10.3 soVision does not warrant and excludes all liability in respect of the accuracy, completeness, fitness for purpose or legality of any information accessed using the Service and soVision excludes all liability of any kind for the transmission or the reception of or the failure to transmit or to receive any material of whatever nature.
- 10.4 The Customer may enter into or seek to enter into transactions with third parties in relation to the sale, rental or provision of goods and services via the Service. soVision will not be a party to such transactions and will not be liable whether in contract, tort (including liability for negligence), or otherwise for any loss, cost or damage incurred by the Customer arising out of or in relation to the transaction or attempt to enter into a transaction (including but not limited to failure to transmit or distortion of any messages sent via the Service).
- 10.5 soVision accepts no liability whatsoever whether in contract, tort (including liability for negligence), or otherwise for the acts or omissions of providers of telecommunication services or for faults in or failures of their apparatus.
- 10.6 soVision provides no warranty of any kind with respect to the security and integrity of the Customer's equipment or network systems and any liability whatsoever arising from or out of:
- i) connection to the Internet or;
  - ii) any person's act of interference (whether malicious, wilful or accidental)
- is hereby expressly excluded.
- 10.7 soVision will not be liable in contract, tort (including liability for negligence), or otherwise for loss, whether direct or indirect of business, revenue or profits, anticipated savings or wasted expenditure, corruption or destruction of data or for any indirect or consequential loss whatsoever.
- 10.8 Equipment owned by the Customer and sited at soVision's premises is left at the Customer's risk and soVision shall not be liable for any loss or damage, except in so far as any such loss or damage is attributable to the negligent or wilful act or omission of soVision, its agents or subcontractors. In any such case liability will be limited to repair or replacement with equivalent or superior equipment at soVision's discretion.

### 11. Confidentiality

- 11.1 The Customer must at all times, both during the term of the Contract and for a period of two (2) years after its termination, keep in confidence all Confidential Information using at least the same standard of care the Customer uses with their own confidential information, but in any event no less than reasonable care.

- 11.2 The Customer may not use or disclose any Confidential Information other than for purposes and activities specifically permitted by the Contract. The Customer may only disclose Confidential Information to an employee or contractor under binding obligations of confidentiality substantially similar to those set forth herein on a "need to know" basis.
- 11.3 If the Customer is legally compelled to disclose any Confidential Information, then, prior to such disclosure, the Customer must:
- i) immediately notify soVision to allow soVision the opportunity to contest the requirement for disclosure;
  - ii) affirm the privileged and confidential nature of the Confidential Information; and
  - iii) co-operate fully with soVision in protecting against any such disclosure and/or obtaining a protective order narrowing the scope of such disclosure and/or use of the Confidential Information. In the event that such protection is not obtained the Customer may disclose the Confidential Information only to the extent necessary to comply with applicable legal requirements.

## 12. Indemnity

- 12.1 The Customer shall indemnify soVision against each loss, liability or cost incurred by soVision arising out of :
- i) any claims or legal proceedings arising from the Customer's use of the Service or use of the Service through the Customer's computer servers or passwords which are brought or threatened against soVision by any other person; or
  - ii) any breach of this Agreement by the Customer.
- 12.2 The Customer shall defend and pay all costs, damages, awards, fees (including any reasonable legal fees) and judgements awarded against soVision arising from the above claims and shall provide soVision with notice of such claims, full authority to defend, compromise or settle such claims and reasonable assistance necessary to defend such claims, at the Customer's sole expense.

## 13. Assignment

- 13.1 The Customer shall not assign or delegate or otherwise deal with all or any of its rights or obligations under the Contract. soVision shall have the right to assign or otherwise delegate all or any of its rights or obligations under the Contract to any person or entity.

## 14. Force Majeure

- 14.1 soVision shall not be liable for any breach of its obligations under the Contract where it is hindered or prevented from carrying out its obligations by any cause outside its reasonable control, including without limitation, by lightning, fire, flood, extremely severe weather, strike, lock-out, labour dispute, act of God, war, terrorism, riot, civil commotion, malicious damage, failure of any telecommunications or computer system or other service provider, compliance with any law, accident (or by any damage caused by any of such events).

## 15. Entire Agreement and no Waiver

- 15.1 These terms and conditions together with any documents expressly referred to in them, contain the entire agreement between soVision and the Customer relating to the subject matter covered and supersede any previous agreements, arrangements, undertakings or proposals, written or oral, between the parties in relation to such matters.

- 15.2 No oral explanation or oral information given by any party shall alter the interpretation of these terms and conditions. In agreeing to these terms and conditions, the Customer has not relied on any representation other than those expressly stated in these terms and conditions and agrees that it shall have no remedy in respect of any misrepresentation which has not been made expressly herein.
- 15.3 No waiver by soVision of any default of the Customer under the Contract shall operate or be construed as a waiver by soVision of any future defaults, whether of a like or different character. No granting of time or other forbearance or indulgence by soVision to the Customer shall in any way release, discharge or otherwise affect the liability of the Customer under the Contract.
- 15.4 If any one or more of the terms and conditions herein is found to be unenforceable or invalid, the validity of the remaining terms will not be affected.

## 16. Notices

- 16.1 Any notice to be given by either party to the other, unless as otherwise provided in these terms, may be sent by email, fax or postal service to the address of the other party as it appears in the Order or such other address as such party may from time to time have communicated to the other in writing or, if either party is a limited company, to its registered address. A notice if sent by email shall, unless the contrary is proved, be deemed to be received on the day it was sent or if sent by fax shall be deemed to be served on receipt of an error free transmission report, or if sent by post shall be deemed to be served two days following the date of posting.

## 17. Data Protection

- 17.1 soVision may use any information supplied by the Customer for its own administrative and customer service purposes or for any purpose required by Law.
- 17.2 Unless the Customer notifies soVision in writing, soVision may;
- i) use information supplied by the Customer for market research purposes or to supply the Customer with information about other products or services available from soVision and its associated companies;
  - ii) provide information supplied by the Customer to third parties for market research purposes or to enable them to supply the Customer with information about their products or services;
  - iii) communicate information that describes the habits, usage patterns and/or demographics of the whole or a part of soVision's customer base (including the Customer) but does not describe or reveal the identity of any particular customer, to third parties; or
  - iv) make the Customer's name, domain names and Internet addresses available as part of a public directory enquiry service.

## 18. Governing Law

- 18.1 The Contract shall be governed by and construed in accordance with English law and soVision and the Customer agree to submit to the exclusive jurisdiction of the English Courts.