

ESPRESSO Terms and Conditions

1. Application of Terms and Conditions

- 1.1 These terms and conditions (“**Terms and Conditions**”) together with the order form (the “**Order**”) set out the agreement (the “**Agreement**”) between the customer named on that Order (the “**Customer**”) and Espresso Education Limited (“**Espresso**”) in relation to the provision by Espresso and the Customer’s use of the Espresso service as described in clause 4 below (the “**Service**”). A contract will only be formed between Customer and Espresso when Espresso confirms its acceptance of the Customer’s Order.

2. Term

- 2.1 Unless otherwise agreed in writing between the parties, this Agreement shall commence on the date of Espresso’s acceptance of the Order and shall continue until the expiry of the Order Period, unless terminated earlier in accordance with clause 10.5 or clause 13 (the “**Term**”). For the purposes of this clause, “**Order Period**” shall mean the period commencing on the date the Service is deemed to commence in accordance with clause 2.2 and continuing for the period indicated on the Order (the “**Initial Term**”), and thereafter in accordance with clause 2.3.
- 2.2 Unless otherwise agreed in writing with the Customer, the Service will be deemed to have commenced once a caching server or other similar hardware solution specified by Espresso has been installed and, where Espresso considers it necessary, at least one computer has been configured for the purposes of receiving the Service, in each case at the relevant address (es) identified on the Order (whether provided by Espresso or a third-party) or where no caching server or other similar hardware solution is required, by notification from Espresso that the Customer is authenticated by Espresso and may access the Service over a designated wide area network which meets the relevant minimum specification as may be specified by Espresso from time to time (“**WAN Authentication**”) (the “**Deemed Service Commencement Date**”). For the avoidance of doubt, there will be no delay to the Deemed Service Commencement Date where the actual provision of the Service is delayed due to the Customer or a third party failing to satisfactorily complete any relevant configuration of the Customer’s machines or any necessary changes or adjustments to computer configurations or network settings and Espresso shall have no liability to the Customer in relation to any such delay.
- 2.3 [Following the Initial Term this Agreement shall automatically continue in effect for successive one year terms (each a “**Renewal Term**”) unless: (i) either party serves the other party a written notice of non-renewal at least 30 days’ prior to the end of the Initial Term or any Renewal Term; or (ii) this Agreement is terminated earlier in accordance with clause 10.5 or 13.]

3. Grant of Licence

- 3.1 Espresso grants to the Customer a non-exclusive and non-transferable licence to use the Service during the Term for the purpose of providing teaching resources on a non-commercial basis at all times subject to the terms and conditions of this Agreement. For the avoidance of doubt, from the end of the Term the Customer shall no longer be entitled to use the Service or any part thereof as further set out in clause 13.4.

4. The Service

- 4.1 The Service will comprise either or both (as indicated on the Order):
- (i) A subscription service comprising of a combination (which will vary from time to time) of video and audio clips, interactive news articles, multi-media games, websites and worksheets (the “**Espresso Primary Service**”); and/or
 - (ii) A digital library of educational clips (including, without limitation, files, data, images and sounds) that have been wrapped with contextualised content (the “**Espresso Clipbank Service**”).
- 4.2 The Service will provide content selected by Espresso to the Customer to use as a teaching resource. It is generally designed to work with the National Curriculum and/or other curricula set by the Qualifications and Curriculum Authority (the public body sponsored by the Department for Education and Skills) (the “**QCA**”) where practicable to do so, is generally categorised into modules that support the same and Espresso will use reasonable endeavours to link and cross-reference the content to the relevant attainment targets. For the purposes of this clause 4, “**National Curriculum**” shall mean the curriculum that sets out the statutory entitlement to learning for all pupils, determines the content of what will be taught, sets attainment targets for learning and is maintained by the QCA.

- 4.3 As part of the Service, Espresso will provide documentation detailing instructions for use of the Service and may also provide from time to time certain other supporting documentation (the “**Documentation**”).
- 4.4 Espresso will use reasonable endeavours to provide regular updates to the Service (“**Updates**”) and Espresso reserves the right to remove, modify or amend certain parts of the content. If the Customer does not receive any Update it is the Customer’s responsibility to promptly inform Espresso and Espresso shall have no liability to Customer for any failure to provide Updates where it is not so informed. Where Espresso is so informed it shall then use its reasonable endeavours to rectify any problem that is Espresso’s responsibility and within its control and shall use its reasonable endeavours to then provide such Update to the Customer. Updates are designed to be supplied via a broadband connection with a minimum specification of 2Mb. Where this is not possible (for example, if the Customer is connected to the internet via an ISDN line) Espresso may at its sole discretion elect to provide any or all Updates to the Customer on CD ROMS.
- 4.6 Where Espresso supplies a Hardware Solution (as defined in clause 5.2 below) to the Customer as is set out in clause 8 then this shall constitute part of the Service.
- 4.7 Espresso warrants that it will use reasonable skill and care in its provision of the Service.

5. Use of the Service

- 5.1 The Service will only be provided once a caching server or other similar solution specified by Espresso has been installed at the relevant address (es) identified on the Order (whether provided by Espresso or a third-party) or where the Customer has received WAN Authentication from Espresso. The Service will be provided to the Customer to be stored on local caching servers or such other similar solution specified by Espresso and run locally on the Customer’s network unless such specific WAN Authentication has been received.
- 5.2 Except where WAN Authentication has been received, the Service must be stored on a caching server or other similar hardware solution located at the address (es) identified on the Order (the “**Hardware Solution**”) (or, in the event of the failure of such Hardware Solution, temporarily on other appropriate equipment) and the Espresso Service may only be accessed and used through the Customer’s internal network (whether this be from the Customer’s premises or remotely in accordance with clause 5.4 and Schedule 1). Where WAN Authentication has been received the Customer may access the Service over the designated wide area network as specified by Espresso in such WAN Authentication.
- 5.3 The Customer may authorise individuals (which, for the avoidance of doubt shall include but not be limited to teachers and pupils) within its own organisation and if other organisations are specified on the Order within such other organisations (“**End-Users**”) to access and use the Service. The Customer is responsible for ensuring that all End-Users comply with the terms and conditions of this Agreement.
- 5.4 The Customer shall be entitled to permit End Users of the Espresso Primary Service who are employed by or contracted to the Customer (or, if relevant, an education establishment whose address is listed on the Order) as teaching staff to access and use the Espresso Primary Service remotely from any location (“**Remote Access End Users**”) provided that (i) the Customer has received Espresso’s prior written consent to permitting such access; and (ii) the Customer complies and ensures that such Remote Access End-Users comply with the terms and conditions set out in Schedule 1, Espresso’s licence agreement for Remote Access End Users as is currently set out in Schedule 2 and any variations thereto as will be available on the Espresso website from time to time (the “**Remote Access End User License Agreement**”), and the instructions and procedures as may be set out on the Espresso website from time to time. For the avoidance of doubt, where the Customer is a “Local Authority” or “Regional Broadband Consortium” or similar body, Espresso’s consent, or otherwise, will be in relation to each individual educational establishment, rather than all educational establishments, at the addresses indicated on the Order (or otherwise agreed with Espresso) unless expressly stated otherwise.
- 5.5 The Customer is responsible for preventing unauthorised use of and access to the Service through its internal network whether such use or access is from the Customer’s premises, remotely pursuant to clause 5.4, Schedule 1 and Schedule 2 or otherwise. Where the Customer is aware or should reasonably be aware that there has been any breach of security or other unauthorised use or access of the Service the Customer must promptly notify Espresso by email at schoolsupport@espresso.co.uk.
- 5.6 If Espresso believes or has reasonable grounds to suspect that the Service is being used by the Customer or its End-Users in any way which is not expressly permitted by this Agreement, then Espresso reserves the right to suspend the Customer’s (and hence it’s End-Users’) use of and access to the Service.

- 5.7 The Customer and its End-Users may only retrieve and display materials provided as part of the Service on computer screens, projector screens, electronic whiteboards and similar equipment located at the address (es) specified on the Order and on computer screens at other addresses where the Service is accessed remotely pursuant to clause 5.4, Schedule 1 and Schedule 2, print pages of parts of the Service (including the Documentation), temporarily store parts of the Service in electronic form on disk, hard drive or server other than the Hardware Solution, and may modify individual video clips, worksheets and other elements of the Service written in html computer code, but in each case only to the extent reasonably necessary to provide teaching resources on a non-commercial basis at the address(es) listed on the Order. Espresso reserves the right to audit the Customer's and its End-Users use of the Service to ensure compliance with this Agreement. The parties shall consult with each other and co-operate in relation to such audit to allow Espresso reasonable access to the Customer's premises, equipment and materials at reasonable times to carry out such audit and the Customer shall use all reasonable endeavours to procure reasonable access to Remote Access End Users' premises, equipment and materials at reasonable times for the purpose of such an audit where such Remote Access End Users have accessed the Service remotely.
- 5.8 The Customer may not (except to the extent permitted by any applicable law) without the prior written permission of Espresso: (i) except as expressly set out in clause 5.7 above, modify or reproduce any part or the whole of the Service; (ii) redistribute any part or the whole of the Service; (iii) create a database in electronic or hard copy form by systematically downloading and storing or printing any part or the whole of the Service; or (iv) sub-licence, assign, transfer, loan, sell, lease, rent, charge or otherwise deal in the Service or make the Service available to any third party.
- 6. Support Services**
- 6.1 Espresso will provide support to the Customer (and its End-Users where accessing the Service from the Customer's premises) (as requested in accordance with this clause 6) where the content of the Service does not perform and where the content navigation in relation to the Service does not perform without errors (examples of errors include broken links and page unavailability) and as described in clause 8.5 (each being a "Fault"). For the avoidance of doubt, a Fault does not include any error in relation to the functionality of software or websites other than that provided by Espresso as part of the Service.
- 6.2 Where support is required in relation to a Fault Espresso should be contacted by telephone on 0800 0345 200 or email at schoolsupport@espresso.co.uk (or such other contact details as Espresso may provide to Customer from time to time). Espresso will use reasonable endeavours to respond as soon as reasonably practicable. If the Customer encounters a Fault it is the Customer's responsibility to promptly inform Espresso and Espresso shall not be responsible for providing any support to Customer in relation to any Fault where it is not so informed.
- 6.3 Espresso shall not be responsible for rectifying or providing any support in relation to any problem or issue that is not, in the reasonable opinion of Espresso, a Fault.
- 6.4 In the event of a Fault, the Customer shall provide all reasonable assistance to Espresso in identifying whether the problem is a Fault, all relevant detail in relation to the Fault and in carrying out any repair to the Fault (or such other action as Espresso may take). This assistance may include, but is not limited to, arranging for a suitable qualified individual to liaise with Espresso by telephone and/or email.
- 6.5 Espresso shall use reasonable endeavours to assist the Customer in being able to access the Service from the Customer's computers. Espresso will inform the Customer of the minimum specification for computers that is recommended in order to allow access to the Service. Espresso shall not be liable for any failure to access the Service using a computer that does not meet that minimum specification.
- 6.6 Espresso shall be entitled to use remote access tools for the purposes of providing support to the Customer and End-Users. Through its use of such remote access tools then Espresso shall be entitled to control relevant computers and view and change any settings on such computers. In carrying out such remote access support, Espresso acknowledges that it will only alter the configuration of any computer or other device on the customer's network with the prior consent of the Customer or End-User. Espresso will only be liable for those changes that it makes to settings (and not those made by any other person).
- 6.7 Where the parties agree (on the Order or otherwise) that Espresso is to provide training sessions to the Customer, the Customer shall only be entitled to receive such training sessions during the twelve month period commencing on the date of such agreement (the "Training Period"). Espresso shall use reasonable endeavours to agree suitable dates for such training sessions during the Training Period. On expiry of the Training Period the Customer shall no longer be entitled to

receive such agreed training sessions and shall not be entitled to any refund even where the Customer has made a payment in advance in relation to those training sessions.

7. Access and Technical Issues

- 7.1 The Customer shall promptly upon request provide Espresso with the technical information required for Espresso to provide the Service, which includes, but is not limited to, the Customer's relevant IP (Internet Protocol) addresses, MAC (Media Access Control) addresses and such other information as Espresso may require from time to time. It is the Customer's responsibility to notify Espresso of any changes to the technical information the Customer has provided by email to schoolsupport@espresso.co.uk. Espresso shall not be liable for any failure to provide the Service where the Customer has failed to provide the requisite technical information for Espresso to provide the Service.
- 7.2 The Customer shall promptly upon request provide Espresso with such access to the Customer premises and networks, as Espresso reasonable requires installing and/or configuring any hardware, software or content relevant to the provision of the Service.
- 7.3 The Customer acknowledges that, other than as expressly stated in this Agreement, Espresso will not be responsible for the provision, maintenance or support of any caching server, other hardware, software, any broadband, ISDN or other internet connection or any network connection. Under no circumstances will Espresso be deemed liable for any Internet connection or call costs whatsoever.
- 7.4 If requested by the Customer, Espresso will provide a specification of the cache server and any software that Customer requires in order to be able to use the Service.

8. Hardware Solution

- 8.1 The provisions of this clause 8 shall only apply where Espresso supplies the Hardware Solution to the Customer as part of the Order.
- 8.2 Installation of the Hardware Solution shall take place at the address (es) for installation set out in the Order and the Hardware Solution may only be installed and used at such address (es) unless Espresso otherwise gives its prior written consent.
- 8.3 Any date given for delivery and/or installation of the Hardware Solution is an estimate only and time is not of the essence for such delivery and/or installation. The Customer shall give Espresso 48 hours prior notice should it wish to alter any date given for delivery and/or installation. If the Customer does not give such prior notice or if delivery and/or installation is not possible due to: (i) Customer's own fault; or (ii) because in Espresso's reasonable opinion the Customer's network is not ready; or (iii) the Customer has not complied with the minimum specifications, including those in relation to its internet connection, network, hardware and software and equipment, space and access requirements, in each case as may be set out on Espresso's website or as otherwise advised by Espresso from time to time; then the Customer shall be liable for a sum equal to the amount of the Installation Fee (as set out on the Order Form) relating to the given date and for a further Installation Fee (as set out on the Order Form) relating to the date that such delivery and/or installation does then take place.
- 8.4 Delivery of the Hardware Solution will take place at the relevant address as set out on the Order. The Hardware Solution is at the Customer's risk from the time of delivery and the Customer will be responsible for insuring the Hardware Solution from the time of delivery. Title in the Hardware Solution will pass to the Customer at the end of the Initial Term and Espresso shall not require any additional payment for that Hardware Solution. At any time before title in the Hardware Solution passes to the Customer Espresso may enter the Customer's premises to retake possession of that Hardware Solution.
- 8.5 Where Espresso supplies to the Customer a Hardware Solution and the Customer has purchased "warranty and maintenance" services from Espresso (as indicated on the Order or otherwise agreed between the parties), then the definition of a Fault shall be extended to include Hardware Solution Faults as described in clause 8.6 below and accordingly in such circumstances Espresso shall provide the support services as set out in clause 6 in relation to that extended definition.

- 8.6 “Hardware Solution **Fault**” shall mean any physical breakdown of the Cachepilot or other Hardware Solution. For the avoidance of doubt, this shall specifically not include any error relating to: (i) a Hardware Solution other than a Hardware Solution supplied by Espresso to Customer; or (ii) the caching functionality of any caching server that is comprised in a Hardware Solution.
- 8.7 Where a Hardware Solution Fault occurs and Espresso identifies that this is irreparable then, at Espresso’s sole discretion, Espresso may arrange for the collection of the Hardware Solution by Espresso or its agent and either:
- (i) Send a replacement pre-configured Hardware Solution to the Customer; or
 - (ii) Send an engineer to the Customer’s premises to install a replacement Hardware Solution.

9. Intellectual Property Rights

- 9.1 All trademarks, registered designs, patents, copyright, database rights, rights in databases, design rights, know how, trade and business names, moral rights, publication rights, performance rights, trade get-up, goodwill and any other similar protected rights in any country howsoever arising and all applications for any of the foregoing (“**Intellectual Property Rights**”) in the Service shall vest and remain vested in Espresso or its licensors for the full term of the same and all renewals, extensions and continuations thereof and the Customer shall have no rights in respect of the Service save for the limited rights of use expressly granted in this Agreement.
- 9.2 The Customer acknowledges that “Espresso”, “Netmedia”, “Channel 4 Learning” and other brands, cartoons, characters and animations used on Espresso are subject to Intellectual Property Rights that are owned by Espresso or its licensors. The Customer may not use such Intellectual Property Rights without Espresso’s prior written consent other than in its reasonable use of the “Espresso” trademark in documents and literature for internal distribution only for the purpose of providing teaching resources on a non-commercial basis.
- 9.3 Espresso warrants to the Customer that, to Espresso’s knowledge, the Service, when used in accordance with this Agreement, does not infringe any existing Intellectual Property Rights of any third party. This warranty does not apply and Espresso shall have no liability to the extent that any such infringement results from the use of the Service in combination with any equipment or software or content not supplied or approved by Espresso or from any modification of the Service by a party other than Espresso or its authorised agent.

10. Charges

- 10.1 The Customer shall pay the Charges annually in advance as calculated in accordance with the Order and this clause 10 (“**Charges**”). All amounts payable under this Agreement are expressed exclusive of VAT and other taxes which shall be payable by the Customer at the applicable rate from time to time. Espresso shall be entitled to invoice the Customer annually in advance for the relevant Charges and all invoices shall be paid by the Customer within 30 days of the date of invoice.
- 10.2 Espresso reserves the right to suspend provision of all or part of the Service without notice to the Customer if the Customer does not pay the Charges by the due date.
- 10.3 Espresso may charge the Customer interest on any overdue sums at the rate of four per cent (4%) per annum above the base rate of HSBC Bank plc from time to time from the relevant due date until the date payment is made.
- 10.4 Where the Service includes the Espresso Primary Service, the Customer acknowledges that to calculate the appropriate amount of the Charges Espresso needs to know the number of pupils in full time education at the relevant school(s) (or such other entities as may be appropriate in the circumstances) (the “**FTE Number**”). The Customer warrants that the FTE Numbers it provides to Espresso are accurate. At least forty-five (45) days (but no more than sixty (60) days) prior to each renewal of this Agreement the Customer shall provide to Espresso the FTE Number that is accurate at that time.
- 10.5 Espresso shall be entitled to increase the Charges in relation to each Renewal Term provided that it notifies the Customer at least 30 days in advance (“Charges Increase Notice”). Customer shall be entitled to terminate this Agreement by giving written notice of termination to Espresso within thirty (30) days of the date of the Charges Increase Notice, such termination to take effect only on the date immediately preceding the date that the relevant increase in Charges would otherwise have taken effect.

- 10.6 For the avoidance of doubt, Espresso shall not be responsible for sending the Customer any invoices in relation to anything other than the Charges for the Services. Where other services are provided by a third party the Customer shall be responsible for liaising directly with that third party in relation to the provision of those services and any invoices related to those services.

11. Confidentiality

- 11.1 Each party shall keep all commercial, financial or other confidential information obtained from the other in connection with the Service (“**Confidential Information**”) confidential. The Customer acknowledges that all information provided by Espresso in connection with the Service is confidential information and that any pricing information is commercially sensitive, but the parties agree that such confidential information (other than any pricing information) may be made available by the Customer internally and to its End-Users to the extent necessary for their use of and access to the Service in accordance with the terms and conditions of this Agreement. The Customer further acknowledges that Espresso may disclose Confidential Information to its professional advisers, agents and subcontractors.
- 11.2 The obligations of confidentiality set out above shall not apply to the disclosure of Confidential Information of and to the extent required by law, any competent regulatory authority or recognised stock exchange, or if such information is in the public domain other than through breach of this clause.

12. Exclusions and Limits of Liability

- 12.1 Nothing in this Agreement shall operate to limit or exclude either party’s liability to the other for death or personal injury caused by that party’s negligence, fraudulent misrepresentation or fraudulent concealment, or any liability that cannot be limited or excluded by law.
- 12.2 Subject to clauses 12.3 and 12.4, Espresso’s total aggregate liability to the Customer for all claims arising under or in connection with this Agreement regardless of form of action and whether in contract, tort, warranty (including the warranty at clause 9.3) or other legal or equitable grounds (including in each case negligence) is limited in any one year for all such claims arising within that year to an amount equal to the Charges payable in that year.
- 12.3 Espresso’s total aggregate liability to the Customer for all claims arising under or in connection with the Espresso Primary Service regardless of form of action and whether in contract, tort, warranty (including the warranty at clause 9.3) or other legal or equitable grounds (including in each case negligence) is limited in any one year for all such claims arising within that year to an amount equal to the Charges relating to the Espresso Primary Service payable in that year.
- 12.4 Espresso’s total aggregate liability to the Customer for all claims arising under or in connection with the Espresso Clipbank Service regardless of form of action and whether in contract, tort, warranty (including the warranty at clause 9.3) or other legal or equitable grounds (including in each case negligence) is limited in any one year for all such claims arising within that year to an amount equal to the Charges relating to the Espresso Clipbank Service payable in that year.
- 12.5 Espresso shall not be liable to the Customer for any loss of profits, anticipated savings or good will or for any loss or corruption of data or for any indirect or consequential loss whatsoever even if that party was advised in advance of the possibility of such loss or damage.
- 12.6 The Service (including the provision of any equipment or software) is provided on an “as is” and “as available” basis and Espresso does not warrant that the Service will be uninterrupted or error free. Espresso’s sole obligations and liabilities in respect of the supply of the Service are as stated in this Agreement and all other innocent or negligent representations (but not fraudulent), conditions, warranties and terms express or implied whether by statute, law or otherwise (including without limitation those relating to accuracy, merchantability and fitness for purpose of the Service) are hereby excluded to the fullest extent permitted by law.

13. Termination

- 13.1 Either party may terminate this Agreement by notifying the other in writing if that other party materially breaches any of the terms of this Agreement and fails to remedy that material breach (if capable of remedy) within 14 days of the notice of the breach. For the avoidance of doubt, any material breach of the provisions of Schedule 1, and any material breach of the provisions of (if applicable) the Remote Access End User Licence Agreement, will each constitute a material breach of this Agreement.

- 13.2 Espresso may terminate this Agreement (i) at any time by giving at least 60 days' prior written notice to the Customer and (ii) if Espresso discontinues the Service by giving the Customer reasonable notice. Within 30 days of any such termination by Espresso, Espresso shall refund to the Customer such proportion of the Charges that have been paid by the Customer and which reasonably relate to the period after termination for which the Agreement would have continued had it not been for such termination.
- 13.3 Espresso may at any time terminate this Agreement immediately on written notice to the Customer if Espresso becomes aware or reasonably suspects that any part of the Service infringes the Intellectual Property Rights of any third party.
- 13.4 On termination of this Agreement the licence to use the Service shall terminate and accordingly the Customer shall no longer be entitled to receive or use the Service or any part thereof and shall cease to use the Service and all parts thereof, and in each case this shall include the content referred to in clauses 4.1 and 4.2, the Documentation and any Updates. The Customer shall also promptly return to Espresso all Espresso Confidential Information and Documentation that is has in its possession.
- 13.5 The provisions of clause 9 (Intellectual Property), clause 11 (Confidentiality), clause 12 (Exclusions and Limits of Liability), clause 13 (Termination), and clause 14 (General) will survive any termination or expiration of this Agreement. Termination, howsoever arising, will not affect the rights and obligations of either party accrued prior to termination.

14. General

- 14.1 Neither party will be liable for any failure or delay in performing its respective obligations under this Agreement to the extent that the failure or delay is the result of any cause or circumstance beyond its reasonable control. The rights, powers and remedies provided in the Agreement are (except as expressly provided) cumulative and not exclusive of any rights, powers and remedies provided by law, or otherwise.
- 14.2 Neither party may assign or transfer its rights or obligations under this Agreement without the other party's prior written consent, except that Espresso may assign or transfer its rights and obligations under this Agreement to another member of the Espresso Group. "**Espresso Group**" shall mean Espresso, its Subsidiaries and its Holding Companies and their Subsidiaries (where "Subsidiary" and "Holding Company" shall have the meaning given in s.736 and s.736A of the Companies Act 1985). Espresso may subcontract part or all of the performance of its obligations under this Agreement without notice to the Customer or requiring its consent.
- 14.3 This Agreement represents the entire terms agreed between the parties in relation to the Service and supersedes all other agreements, oral or written, and all other communications between the parties relating to the Service (or part thereof).
- 14.4 If any provision of this Agreement is found to be invalid by any court having competent jurisdiction, the invalidity of that provision will not affect the validity of the remaining provisions of this Agreement that shall remain in full force and effect.
- 14.5 No failure or delay by either party in exercising any right or remedy under this Agreement (and no course of dealings between the parties) shall operate as a waiver of that right or remedy.
- 14.6 Except where expressly provided to the contrary, this Agreement is not intended to be for the benefit of, and shall not be enforceable by any person who is not a party to it, under the Contracts (Rights of Third Parties) Act 1999 or otherwise and neither party can declare itself a trustee of the rights under it for the benefit of any third party.
- 14.7 This Agreement is not intended to create a partnership or joint venture between the parties and neither party is authorised to act as the agent of the other.
- 14.8 The Customer agrees that Espresso may advertise its involvement with the Customer in Espresso's marketing materials, on the Espresso website and in press releases.
- 14.9 Espresso will be entitled to make changes to this Agreement at any time and the Customer will be subject to any such amended terms and conditions from the date that such changes are made. The most recent version of Espresso's terms and conditions from time to time can be found at www.espresso.co.uk or as may be sent to Customer by Espresso from time to time. Where the Customer wishes to make any changes to the Agreement it may only do so by obtaining the prior written consent of Espresso.

- 14.10 All notices between the parties shall be in writing and addressed to the parties respective addresses as set out on the Order, or such other address as may be notified from time to time, and shall be sent by hand or post (notices being deemed to have been given 3 days after the date of posting).
- 14.11 This Agreement shall be governed by and construed in accordance with English law and the parties submit to the exclusive jurisdiction of the English courts.