



Techdrobe Limited t/a Dill (**Dill**)
Company Number: 12485262
Azets Charter Court
Swansea Enterprise Park
Swansea, Wales, SA7 9FS

1. Interpretation and definitions

1.1 The following definitions and rules of interpretation apply in the Contract.

Allergen: the legally required allergen information within the scope of the relevant legislation and Applicable Law to which the Customer is subject.

Applicable Law: all applicable laws, statutes, regulations and codes from time to time in force including without limitation all applicable Allergen/Ingredients laws, any legal requirement to set out full ingredient lists with clear allergen labelling on the food they provide, including, the Regulation (EU) No. 1169/2011 on the provision of food information to consumers (FIC) and the Food Information Regulations 2014 (FIR) and equivalent regulations in Northern Ireland, and Wales, data protection, privacy laws and adequate insurance protection in accordance with law).

Business Day: a day other than a Saturday, Sunday or public holiday in England, when banks in London are open for business.

Business Hours: the period from 9.00 am to 5.00 pm on any Business Day.

Commencement Date: has the meaning given in clause 2.2.

Conditions: these terms and conditions as amended from time to time in accordance with clause 21.8.

Contract: the contract between Dill and the Customer for the supply of the Dill Service and it is made up of the Order Form, the Conditions and the EULA.

Contract Term: has the meaning as being the Initial Subscription Term together with any subsequent Renewal Periods.

Customer: the person or company who entered into the Contract with Dill.

End User: any end-user that the Customer permits to access and use the Dill Software.

End User Licence: the end user licence terms setting out the basis upon which an End User can access and use the Dill Software.

Goods: the Dill Equipment and/or Dill Labels as ordered by the Customer pursuant to an Order from time to time.

Dill Equipment: a printer unit and appropriate charging cables.

Dill Configuration Works: means the customisation of Dill Service that are technically feasible to Dill and based on the Customer's requirements, as further detailed in clause 9.

Dill Labels: the printed adhesive paper provided by Dill for the Customer for the purpose of displaying Item Ingredients and Allergens.

Dill Services: means the supply of Goods and/or Dill Software and/or Dill Configuration Works as more particularly described in an Order.

Dill Software: the web and mobile based application together with any general amendments, updates, new versions or additions made pursuant to any Dill Configuration Works.

Dill Troubleshooting: a type of technical support to the Customer for the provision of the Dill Service as further detailed in clause 8.

Documentation: the documentation (as amended by Dill from time to time) made available to the Customer by Dill online at www.mydill.co.uk or such other web address as notified by Dill to the Customer from time to

time which sets out a description of the Goods and Dill Software and the user instructions for the Dill Services.

EULA: the end user licence agreement setting out the terms for using the Dill Software.

Fees: the fees charged by Dill for the provision of the Dill Services.

Feedback: means any suggestions, ideas, recommendations or other information provided by Customer to Dill relating to the functionality or operation of the Dill Service.

Ingredients: the ingredients contained in Items.

Initial Subscription Term: has the meaning set out in the Order Form.

IPR: all intellectual property rights including patents, rights to inventions, copyright and neighbouring and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

Items: food, meal, beverage or any other product that has been created or handled or imported by the Customer and labelled with an appropriate food label via the Dill Service.

Order: the order for Dill Services as more fully set out in the Order Form.

Order Form: the order form setting out the Dill Services and associated Fees.

Renewal Period: means successive periods of 12 consecutive months each following the Initial Subscription Term;

Outlet: any location, venue or premise including but not limited to restaurants, cafes, convenience stores and canteens from which the Customer carries out its business.

UK GDPR: has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.

VAT: value added tax or any equivalent tax chargeable in the UK or elsewhere.

1.2 Interpretation:

- a. A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- b. A reference to legislation or a legislative provision is a reference to it as amended or re-enacted and includes all subordinate legislation made under that legislation or legislative provision.
- c. Any words following the terms **including**, **include** or any similar expression shall be interpreted as illustrative and shall not limit the sense of the words preceding those terms.
- d. A reference to **writing** or **written** includes email but not fax.
- e. Unless the context otherwise requires, words in the singular shall include the plural and vice versa.



2. Basis of contract

- 2.1 The Order constitutes an offer by the Customer to purchase the Dill Services in accordance with the Contract.
- 2.2 The Order shall only be deemed to be accepted upon the Customer either:
 - a. signing the Order Form; or
 - b. commencing to use the Dill Services.
- 2.3 Any samples, drawings, descriptive matter or advertising issued by Dill and any illustrations or descriptions of the Dill Service contained in Dill's catalogues or brochures are issued or published for general information only. They shall not form part of the Contract nor have any contractual force.
- 2.4 These Conditions apply to the Contract to the exclusion of any other terms that the Customer seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.
- 2.5 Any quotation given by Dill shall not constitute an offer and is only valid for a period of 30 Business Days from its date of issue.
- 2.6 The Customer acknowledges and accepts that the Dill Software can only be accessed or used in conjunction with the Goods. Unless expressly agreed by Dill, under no circumstances shall the Customer be allowed to access or use the Dill Software with or conjunction with any third party equipment that is similar or carries out the same function as the Goods.

3. Goods

- 3.1 The Goods are described in the Documentation.
- 3.2 The Customer agrees that:
 - a. only the Goods can be used in conjunction with the Dill Software. Unless expressly agreed by Dill, you acknowledge and accept that under no circumstances will you use the Software other than in conjunction with the Dill Equipment and Dill Labels;
 - b. Dill shall be entitled to track usage of the Goods in order to ensure compliance with clause 3.2a;
 - c. in the event that the Customer has more than one Outlet then each Outlet will require its own Goods.

4. Delivery of Dill Equipment and the Dill Labels

- 4.1 Delivery of each Order is deemed completed on delivery of the Goods to the Customer Outlet/s.
- 4.2 Dill shall deliver the Goods to the address of the Outlet(s) set out in the Order Form or such other location as the parties may agree.
- 4.3 The Goods shall be delivered to the Customer at the Outlet by a third party courier company. The Customer shall provide Dill with a designated contact who will be responsible for receiving the Dill Goods from the courier and the designated contact shall provide Dill a current mobile phone number and email address, which will be provided to the courier company. The Customer shall immediately contact Dill if it has not received the Goods.

- 4.4 Any dates quoted for delivery of the Goods are approximate only, and the time of delivery is not of the essence.

- 4.5 The Customer shall ensure that it is available to receive the Goods. Dill reserves the right to levy additional fees on the Customer to cover any redelivery, storage or insurance costs in the event that it is unable to deliver the Goods in accordance with this clause 4.

5. Quality of the Goods

- 5.1 Customer shall have the benefit of any manufacturer or other third party warranty with respect to the Dill Equipment. Dill shall execute and deliver such documents as may be reasonably requested by Customer to obtain the benefits of such warranties.
- 5.2 The Customer acknowledges that Dill does not have any control over the conditions under which the Customer uses the Goods and does not and cannot warrant the results obtained by such use.
- 5.3 Dill shall have no liability to the Customer in respect of the Dill Equipment's failure to comply with the third party's warranty set out in 5.1.
- 5.4 Provisions of this Contract shall apply to any repaired or replaced Dill Equipment supplied by Dill.

6. Title and risk

- 6.1 The risk in the Goods shall pass to the Customer on delivery.
- 6.2 Title to the Goods shall not pass to the Customer until Dill receives the Fees in full (in cleared funds) for the Dill Service in respect of which payment has become due.
- 6.3 Until title to the Goods has passed to the Customer, the Customer shall:
 - a. store the Goods separately from all other goods held by the Customer so that they remain readily identifiable as Dill's property;
 - b. not remove, deface or obscure any identifying mark or packaging on or relating to the Goods;
 - c. maintain the Goods in a satisfactory condition;
 - d. notify Dill immediately if it becomes subject to any of the events listed in clause 18.2.
- 6.4 At any time before title to the Goods passes to the Customer, Dill may require the Customer to deliver all Goods in its possession that have not been resold, or irrevocably incorporated into another product and if the Customer fails to do so promptly, enter any Outlets of the Customer or of any third party where the Goods are stored in order to recover them.

7. Dill Software and License to Use

- 7.1 This clause 7 is only applicable to the extent that the Customer is licensing the Dill Software.
- 7.2 Subject to the Customer purchasing a licence to use the Dill Software, Dill hereby grants to the Customer (and its approved End-Users) a non-exclusive, non-transferable right and licence, without the right to grant sublicences, to permit the Customer to use the Dill Software for the Dill Service during the Contract Term solely for the Customer's internal business operations.



- 7.3 Except as may be allowed by any applicable law which is incapable of exclusion by this Contract between the parties and except to the extent expressly permitted under this Contract, the Customer shall not:
- a. exceed the number and type of licence granted to the Customer for access and use of the Dill Software;
 - b. attempt to copy, modify, duplicate, create derivative works from, frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Dill Software; or
 - c. attempt to de-compile, reverse compile, disassemble, reverse engineer or otherwise reduce to human-perceivable form all or any part of the Dill Software; or
 - d. access all or any part of the Dill Software in order to build a product or service which competes with the Dill Service; or
 - e. use the Dill Software to provide services to third parties; or
 - f. license, sell, rent, lease, transfer, assign, distribute, display, disclose, or otherwise commercially exploit, or otherwise make the Dill Software available to any third party, or
 - g. attempt to obtain, or assist third parties in obtaining, access to the Dill Software; or
 - h. introduce or permit the introduction of, any virus or other malicious code into Dill's network and information systems.
- 7.4 The Customer shall use all reasonable endeavours to prevent any unauthorised access to, or use of, the Dill Software and, in the event of any such unauthorised access or use, promptly notify Dill.
- 7.5 The rights provided under this clause 7 are granted to the Customer only and shall not be considered granted to any subsidiary or holding company of the Customer.
- 7.6 The Customer may not use any such information provided by Dill to create any software whose expression is similar to that of the Dill Software nor use such information in any manner which would be restricted by any copyright subsisting in it.
- 7.7 The Customer acknowledges and accepts that:
- a. access and use of the Dill Software is subject to the End User complying with the End User Licence. Dill reserves the right at its discretion to restrict, remove or prohibit access or use of the Dill Software to any End User that is or Dill suspects is accessing or using the Software in contravention of the End User Licence;
 - b. it is liable for any breach by an End User of the End User Licence;
 - c. it will supervise and control the use of the Dill Software and ensure that the Dill Software is used by End Users in accordance with the terms of End User Licence;
 - d. it will not provide or otherwise make available the Dill Software in whole or in part (including but not limited to program listings, object and source program listings, object code and source code), in any form to any person other than your employees without prior written consent from us;
 - e. Dill shall be entitled to suspend the Customer and any End User access to the Dill Software if Dill believes that the Customer is in breach of clause 2.6.
- 7.8 The Customer acknowledges and accepts that the Dill Software is provided on an "as is" and "as available" basis. Dill do not represent, warrant or guarantee that End User access to or use of the Dill Software will:
- a. be uninterrupted or error free; or
 - b. result in any requests for orders of Items (and delivery, if applicable).
- 8. Dill Troubleshooting**
- 8.1 Dill shall provide Dill Troubleshooting to the Customer via remote access or on-site support as may be chosen by Dill for the correct functioning of the Dill Service. In order to start a Dill Troubleshooting session, the Customer shall email dillapplication@mydill.co.uk.
- 8.2 The Customer shall fully collaborate with Dill during Dill Troubleshooting including providing it with all necessary information, access and resources as Dill may reasonably request.
- 8.3 The Customer agrees that Dill Troubleshooting shall be limited to reasonable support from Monday to Friday between the Business Hours and not any level of training, consulting or anything else.
- 9. Dill Configuration Works**
- 9.1 This clause 9 applies only to the extent that Dill has agreed to provide Dill Configuration Works to the Customer.
- 9.2 Dill shall carry out any Configuration Works materially in accordance with the Order Form.
- 10. Supply of the Dill Service**
- 10.1 Dill shall:
- a. supply the Dill Service to the Customer in accordance with the Contract in all material respects;
 - b. use all reasonable endeavours to meet any performance dates for the Dill Service specified in the Order Form, but any such dates shall be estimates only and time shall not be of the essence for the performance of the Dill Service.
- 10.2 Dill warrants to the Customer that the Dill Services will be provided using reasonable care and skill, except for:
- a) planned maintenance carried out during the maintenance of the Dill Services;
 - b) unscheduled maintenance performed outside Business Hours, provided that Dill has used reasonable endeavours to give the Customer notice in advance.
- 10.3 The undertaking at clause 10.2 shall not apply to the extent of any non-conformance, which is caused by use of the Dill Services contrary to Dill's instructions, or modification or alteration of the Dill Services by any party other than Dill or Dill's duly authorised contractors or agents. If the Dill Services do not conform with the foregoing undertaking, Dill will, at its expense, use all reasonable commercial endeavours to correct any such non-conformance



promptly, or provide the Customer with a replacement of Dill Software or Dill Equipment (whichever has the non-conformity). Such correction or substitution constitutes the Customer's sole and exclusive remedy for any breach of the undertaking set out in clause 10.2.

10.4 Dill does not warrant that:

- a. the Customer's use of the Dill Service will be uninterrupted or error-free; or
- b. the Dill Services and/or the information obtained by the Customer through the Dill Service will meet the Customer's requirements.

10.5 Dill is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including the internet, and the Customer acknowledges that the Dill Services may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

11. Customer's obligations

11.1 The Customer shall:

- a. ensure that the information it provides in the Order Form is complete and accurate;
- b. co-operate with Dill in all matters relating to the Dill Services;
- c. provide Dill, its employees, agents, consultants and subcontractors, with access to the Customer's Outlets, office accommodation and other facilities as reasonably required by Dill in connection with delivery of the Dill Services;
- d. be solely responsible for the provision of accurate Ingredients or Allergen information to its customers;
- e. grant permission for Dill to use the Customer's logo and name in its marketing materials, website, catalogue, brochure, and any social media outlets in relation to promote the Dill Services;
- f. provide Dill with such information and materials as Dill may reasonably require in order to supply the Dill Services, and ensure that such information is complete and accurate in all material respects;
- g. prepare the Outlet for the supply of the Dill Services;
- h. comply with all Applicable Laws, including health and safety laws;
- i. comply with any additional obligations as set out in the Order Form.

11.2 The Customer acknowledges and accepts that it is solely responsible for ensuring that all information added or provided by the Customer is accurate and complete. To the fullest extent permitted by law, Dill will not be liable for any error or omission on any information (including without limit any error or omission in Ingredient, Item, use by date, best before date) contained on any label (including Dill Label) or barcode.

11.3 The Customer acknowledges that Dill does not handle the Items nor control them in any way. The sole responsibility in connection with the Items, their Ingredients and Allergen information and ensuring whether the Dill Service printed the correct Ingredients

and Allergen information on any labels (including the Dill Labels) are accurate vests in the Customer. The Customer owns and holds possession of the Items and shall be, at all times, in full compliance with the Applicable Laws regarding the provision of correct Ingredients and Allergen information labelled on the Items.

11.4 The Customer might choose to use Ingredients and Allergen information imported from a third party. In this case, the Customer acknowledges that Dill does not represent, warrant or guarantee the Ingredients and Allergen information provided by such third party is accurate and the Customer is responsible at all times for ensuring that complete and accurate Ingredients and Allergen information are provided on the labels.

11.5 The Customer may provide Feedback to Dill in relation to the use of the Dill Service and the Customer grants to Dill a perpetual, irrevocable, worldwide, royalty-free, fully sub licensable right to use such Feedback without any restrictions.

11.6 The Customer and its end users must accept the terms and conditions of the EULA before using the Dill Software.

11.7 If Dill's performance of any of its obligations under the Contract is prevented or delayed by any act or omission by the Customer or failure by the Customer to perform any relevant obligation (**Customer Default**):

- a. without limiting or affecting any other right or remedy available to it, Dill shall have the right to suspend performance of the Dill Service until the Customer remedies the Customer Default, and to rely on the Customer Default to relieve it from the performance of any of its obligations in each case to the extent the Customer Default prevents or delays Dill's performance of any of its obligations;
- b. Dill shall not be liable for any costs or losses sustained or incurred by the Customer arising directly or indirectly from Dill's failure or delay to perform any of its obligations as set out in this; and
- c. the Customer shall reimburse Dill on written demand for any costs or losses sustained or incurred by Dill arising directly or indirectly from the Customer Default.

12. Charges and payment

12.1 The price for the Goods and Dill Software licence shall be the price set out in the Order Form or, if no price is quoted, the price set out in Dill's published price list as at the date of the order.

12.2 The annual subscription license fee price for the Software shall be the price set out in the Order Form and a recurring payment taken annually, as specified in the Order Form, for the Contract Term at the beginning of the Contract.

12.3 Unless otherwise stated in an Order Form, the Customer shall pay each invoice within 30 days after the date of such invoice.

12.4 If Dill has not received payment within 10 days after the due date specified in clause 12.3 above, without prejudice to any other rights and remedies of it, Dill may:

- a. without liability to the Customer, disable the Customer's account and access to all or part of the Dill Services and Dill shall be under



- no obligation to provide any or all of the Dill Services while the invoice(s) concerned remain unpaid; and
- b. interest shall accrue on a daily basis on such due amounts at an annual rate equal to 3% over the then current base lending rate of Barclays from time to time, commencing on the due date and continuing until fully paid, whether before or after judgement.
- 12.5 All Fees are:
- a. non-cancellable and non-refundable;
- b. exclusive of VAT, which shall be added to Dill's invoice(s) at the appropriate rate.
- 12.6 Dill reserves right to increase the Fees for the Dill Software on an annual basis with effect from each anniversary of the Commencement Date in line with the percentage increase in the Retail Prices Index in the preceding 12-month period and the first such increase shall take effect on the first anniversary of the Commencement Date. The Customer hereby acknowledges that Dill cannot provide an assurance or guarantee that all subsequent Goods orders shall be priced at the same rate as the initial goods order. Each order shall be treated on an individual basis, subject to various factors, including but not limited to supplier increases and material shortages, which may impact the pricing of the Goods..
- 12.7 Dill reserves the right to adjust the Fees for the Goods on giving no less than one month's notice to the Customer.
- 12.8 All amounts due under the Contract shall be paid in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 13. Intellectual property rights**
- 13.1 The Customer acknowledges and agrees that Dill own all IPR in the Dill Service and the Dill Software. The Customer shall be entitled to use the IPR provided by Dill strictly for the purpose of exercising its rights under the Contract.
- 13.2 The Customer shall not sub-license, assign or otherwise transfer the rights granted by clause 7.2.
- 13.3 The Customer grants Dill a fully paid-up, non-exclusive, royalty-free non-transferable licence to copy and modify any materials provided by the Customer to Dill for the term of the Contract for the purpose of providing the Dill Service to the Customer.
- 14. Data protection**
- 14.1 The following definitions apply in this clause 14:
- a. **Controller, Processor, Data Subject, Personal Data, Personal Data Breach, processing and appropriate technical and organisational measures:** as defined in the Data Protection Legislation.
- b. **Data Protection Legislation:** all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR, the Data Protection Act 2018 (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (*SI 2003/2426*) and the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority and applicable to a party.
- 14.2 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 14 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.
- 14.3 The parties acknowledge that for the purposes of the Data Protection Legislation, each party may be a Controller of their own Personal Data.
- 14.4 The parties do not contemplate sharing or processing each other's Personal Data under this Contract however in the event that they require to share or process Personal Data under this Contract, each party shall ensure that they have the necessary consent and appropriate technical and organisational measures in place.
- 14.5 The Customer acknowledges that Dill may use aggregated data (being data that is aggregated and anonymised in relation to the Customer's transactions when it uses the Dill Service). Dill may share the data with a third party in order to supply the Dill Service.
- 15. Confidentiality**
- 15.1 Each party undertakes that it shall not at any time during the Contract, and for a period of two years after termination of the Contract, disclose to any person any confidential information concerning the business, assets, affairs, customers, clients or suppliers of the other party or of any member of the group of companies to which the other party belongs, except as permitted by clause 15.2.
- 15.2 Each party may disclose the other party's confidential information:
- a. to its employees, officers, representatives, contractors or subcontractors or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with the Contract. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this clause 15; and
- b. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
- 15.3 No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with the Contract.
- 16. Indemnity**
- 16.1 Dill shall defend the Customer, its officers, directors and employees against any claim that the Customer's use of the Dill Service in accordance with this Contract infringes any third party IPR, provided that:
- a. Dill is given prompt notice of any such claim;
- b. the Customer does not make any admission, or otherwise attempt to compromise or settle the claim and provides reasonable co-operation to Dill in the defence and settlement of such claim, at Dill's expense;
- c. Dill is given sole authority to defend or settle the claim.
- 16.2 In the defence or settlement of any claim, Dill may procure the right for the Customer to continue using the Dill Service, replace or



- modify the Dill Service so that they become non-infringing or, if such remedies are not reasonably available, terminate this Contract on 2 Business Days' notice to the Customer without any additional liability or obligation to pay liquidated damages or other additional costs to the Customer.
- 16.3 In no event shall Dill, its employees, agents and sub-contractors be liable to the Customer to the extent that the alleged infringement is based on:
- a modification of the Dill Service by anyone other than Dill; or
 - the Customer's use of the Dill Service in a manner contrary to the instructions given to the Customer by Dill; or
 - the Customer's use of the Dill Service after notice of the alleged or actual infringement from Dill or any appropriate authority.
- 16.4 The foregoing states the Customer's sole and exclusive rights and remedies, and Dill's (including Dill's employees', agents' and sub-contractors') entire obligations and liability, for infringement of any patent, copyright, trade mark, database right or right of confidentiality.
- 17. Limitation of liability: THE CUSTOMER'S ATTENTION IS PARTICULARLY DRAWN TO THIS CLAUSE.**
- 17.1 Except as expressly and specifically provided in this Contract:
- the Customer assumes sole responsibility for results obtained from the use of the Dill Service, Dill Labels and the Dill Equipment by the Customer, and for conclusions drawn from such use. Dill shall have no liability for any damage caused by errors or omissions in any information, instructions or scripts provided to Dill by the Customer in connection with the Dill Service, or any actions taken by Dill at the Customer's direction;
 - all warranties, representations, conditions and all other terms of any kind whatsoever implied by statute or common law are, to the fullest extent permitted by applicable law, excluded from this Contract; and
 - the Dill Service, Dill Labels and the Dill Equipment are provided to the Customer on an "as is" basis.
- 17.2 in this Contract excludes the liability of Dill for:
- death or personal injury caused by Dill's negligence; or
 - fraud or fraudulent misrepresentation.
- 17.3 Subject to clause 17.1 and 17.2:
- Dill shall not be liable whether in tort (including for negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise for any loss of profits, loss of business, depletion of goodwill and/or similar losses or loss or corruption of data or information, or pure economic loss, or for any special, indirect or consequential loss, costs, damages, charges or expenses however arising under this Contract; and
 - Dill's total aggregate liability in contract (including in respect of the indemnity at clause 16.2), tort (including negligence or breach of statutory duty), misrepresentation, restitution or otherwise, arising in connection with the performance or contemplated performance of this Contract shall be limited to the total aggregate payments made by the Customer under this Contract during the 12 months immediately preceding the date on which the claim arose.
- 17.4 Nothing in this Contract excludes the liability of the Customer for any breach, infringement or misappropriation of Dill's Intellectual Property Rights.
- 18. Termination and renewal**
- 18.1 The Contract shall commence on the Commencement Date and shall continue for the Initial Subscription Term and, thereafter, this Contract shall be automatically renewed for successive periods of 12 months (each a **Renewal Period**), unless:
- either party notifies the other party of termination, in writing, at least 60 days before the end of the Initial Subscription Term or any Renewal Period, in which case this Contract shall terminate upon the expiry of the applicable Initial Subscription Term or Renewal Period;
 - Dill terminates the Contract with immediate effect by giving 30 days' written notice to the Customer; or
 - otherwise terminated in accordance with clause 18.2 of this Contract.
- 18.2 Without affecting any other right or remedy available to it, Dill may terminate this Contract with immediate effect by giving written notice to the Customer if, the Customer:
- fails to pay any amount due under this Contract on the due date for payment and remains in default not less than 10 days after being notified in writing to make such payment;
 - commits a material breach of any other term of this Contract and (if such breach is remediable) fails to remedy that breach within a period of 15 days after being notified in writing to do so;
 - suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.
- 19. Consequences of termination**
- 19.1 On termination of the Contract:
- all licences granted under this Contract shall immediately terminate and the Customer shall immediately cease all use of the Dill Service;
 - the Customer shall immediately pay to Dill all outstanding unpaid invoices and interest and, in respect of any part of the Dill Services that has been supplied but for which no invoice has been submitted, Dill shall submit an invoice, which shall be payable by the Customer immediately on receipt;
 - the Customer shall return all materials provided by Dill which have not been fully paid for.
- 19.2 Termination of the Contract shall not affect any rights, remedies, obligations and liabilities of the parties that have accrued up to the date of termination, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.
- 20. Force majeure**



Neither party shall be in breach of the Contract or otherwise liable for any failure or delay in the performance of its obligations if such delay or failure results from events, circumstances or causes beyond its reasonable control. The time for performance of such obligations shall be extended accordingly. If the period of delay or non-performance continues for four (4) weeks, the party not affected may terminate the Contract by giving seven (7) days' written notice to the affected party.

21. General

21.1 **Assignment and other dealings.** Dill may at any time assign, mortgage, charge, subcontract, delegate, or deal in any other manner with any or all of its rights and obligations under the Contract. The Customer shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under the Contract without the prior written consent of Dill.

21.2 Notices

a. Any notice given to a party under or in connection with the Contract shall be in writing and shall be:

- (i) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case); or
- (ii) sent by email to the email addresses provided in the Order Form.

b. Any notice shall be deemed to have been received, if:

- (i) delivered by hand, at the time the notice is left at the proper address;
- (ii) sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Business Day after posting; or
- (iii) sent by email, at the time of transmission, or, if this time falls outside Business Hours in the place of receipt, when Business Hours resume.

c. This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

21.3 **Severance.** If any provision or part-provision of the Contract is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of the Contract. If any provision or part provision of the Contract is deemed deleted under this 21.3 the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the commercial result of the original provision.

21.4 **Waiver.** A waiver of any right or remedy by Dill is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy. A delay or failure to exercise, or the single or partial exercise of, any right or remedy that Dill may have shall not waive that or any other right or remedy, nor shall it

prevent or restrict the further exercise of that or any other right or remedy.

21.5 **No partnership or agency.** Nothing in the Contract is intended to, or shall be deemed to, establish any partnership or joint venture between the parties, constitute either party the agent of the other, or authorise either party to make or enter into any commitments for or on behalf of the other party.

21.6 **Entire agreement.** The Contract constitutes the entire agreement between the parties. The Customer acknowledges that in entering into the Contract it does not rely on any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Contract. The Customer agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in the Contract.

21.7 **Third party rights.** Unless it expressly states otherwise, the Contract does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.

21.8 **Variation.** Except as set out in this Contract, no variation of the Contract shall be effective unless it is agreed in writing and signed by the parties (or their authorised representatives).

21.9 **Governing law and Jurisdiction.** The Contract and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales. Each party irrevocably agrees that the courts of England and Wales shall have non-exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Contract or its subject matter or formation.