

Terms and Conditions

Thank you for using DigitalTCO.

Please read these terms and conditions (the "**Terms**") carefully. By accessing and using the Services (as hereinafter defined) or signing up for an account, you are agreeing to these Terms, which will result in a legal agreement between you and DigitalTCO Ltd (the "**Agreement**"). DigitalTCO Ltd is a company registered in Scotland (Company registration number SC798423) having its registered office at 0/2 350 Meadowside Quay Walk, Glasgow, Scotland, G11 6DL ("**DigitalTCO**").

1 Definitions and interpretation

1.1 In these Terms, the following words and expressions have the following meanings:

"Account" means a User Account or a Customer Account;

"Agreement" means the contract for the Services entered into between DigitalTCO and the Customer comprising these Terms;

"Authorised User" means an employee, officer, clinician, agent, consultant, subcontractor or other worker of the Customer who has the Services purchased on their behalf by the Customer;

"Business" means the running of a dental practice and/or providing dental services and all matters directly related to such services;

"Business Hours" means from 09:00am to 05:00pm in Scotland from Monday to Friday excluding any public, bank or national holidays in Scotland

"Commencement Date" means the date on which the Customer's subscription to the Services will commence as specified in the Subscription Confirmation;

"Company's Confidential Information" means all information (whether in oral, written or electronic form) relating to DigitalTCO's business which may reasonably be considered to be confidential in nature including information relating to DigitalTCO's technology, know-how, Intellectual Property Rights, assets, finances, strategy, products and customers;

"Customer^[KM1]" means the individual identified as the Customer in the Subscription Confirmation;

"Customer Account" means the Customer's account in connection with the Services;

"Customer Data" means all data (in any form) that is provided by the Customer or Authorised User and hosted on any part of the Platform or uploaded onto the Platform using the Services by the Customer or by any Authorised User;

"Data Protection Laws" means any laws applicable to the processing, privacy and/or use of personal data, including the following laws to the extent applicable in the circumstances:

- (a) the EU General Data Protection Regulation (EU) 2016/679 as applicable in the United Kingdom as the UK GDPR;
- (b) the Data Protection Act 2018;
- (c) any laws which implement or supplement any such laws; and
- (d) any laws that replace, extend, re-enact, consolidate or amend any of the foregoing;

"Force Majeure" means an event or sequence of events beyond a party's reasonable control preventing or delaying it from performing its obligations under the Agreement (provided that an inability to pay is not Force Majeure), including any matters relating to transfer of data over public communications networks and any delays or problems associated with any such networks or with the internet;

"Free Trial" means a free trial to the Platform and Services;

"Intellectual Property Rights" means any and all copyright, rights in inventions, patents, know-how, trade secrets, trade marks and trade names, service marks, design rights, rights in get-up, database rights and rights in data, domain names and all similar rights and, in each case:

- (a) whether registered or not;
- (b) including any applications to protect or register such rights;
- (c) including all renewals and extensions of such rights or applications;
- (d) whether vested, contingent or future; and
- (e) wherever existing;

"Non-Authorised User" means a person who is not an employee, officer, clinician, agent, consultant, subcontractor or other worker of the Customer;

"Permitted Downtime" means:

- (a) scheduled maintenance which DigitalTCO shall use reasonable endeavours to undertake outside of the hours of 09:00am to 05:00pm (UK time);
- (b) emergency maintenance; or
- (c) downtime caused in whole or part by Force Majeure.

"Platform" has the meaning given in clause 2.2;

"Portal" means DigitalTCO's web-based access point to the Platform made available <https://digitaltco.co.uk>

"Privacy Policy" means DigitalTCO's privacy policy in relation to the Services accessed at <https://digitaltco.co.uk/legal/privacypolicy>, as amended or updated from time to time;

"Services" means the services available on the Platform to which the Customer can subscribe;

"Standard Support" means communication from DigitalTCO to the Customer to remedy any interruption or issue that is preventing the Customer from carrying on their Business or any feature or aspect of the Platform that is not behaving or responding in the manner it is designed to

"Subscription Confirmation" means confirmation of the Customer's subscription by DigitalTCO whether through the Website or via email to the Customer or Authorised User;

"Subscription Fee(s)" means the monthly fee payable by the Customer for the subscription(s) to the Services;

"Subscription Period" means the period from the Commencement Date until terminated in accordance with these Terms;

"Support Services" means the AI-powered assistant support services provided by DigitalTCO to the Customer accessed on the Platform;

"User Account" means an Authorised User's account on the Service; and

"Website" means DigitalTCO's website accessed at <https://digitaltco.co.uk/> and any other website linked or otherwise connected thereto which is owned, operated or controlled by DigitalTCO from time to time.

1.2 In these Terms:

1.2.1 a reference to these Terms includes its schedules, appendices and annexes (if any);

1.2.2 a reference to a "party" includes that party's successors and permitted assigns;

1.2.3 the clause, paragraph, schedule or other headings in this Agreement are included for convenience only and shall have no effect on interpretation;

1.2.4 words in the singular include the plural and vice-versa;

1.2.5 any words that follow "include", "includes", "including", "in particular" or any similar words and expressions shall be construed as illustrative only and shall not limit the sense of any word, phrase, term, definition or description preceding those words;

1.2.6 a reference to "writing" or "written" includes any method of reproducing words in a legible and non-transitory form;

1.2.7 a reference to one gender includes each other gender;

1.2.8 a reference to a piece of legislation includes that legislation as amended, extended, re-enacted or consolidated from time to time;

1.2.9 a reference to legislation includes all subordinate legislation made from time to time under that legislation; and

1.2.10 a reference to any Scottish action, remedy, method of judicial proceeding, court, official, legal document, legal status, legal doctrine, legal concept or thing shall, in respect of any jurisdiction other than Scotland, be deemed to include a reference to that which most nearly approximates to the Scotland equivalent in that jurisdiction.

1.3 Later versions of these Terms shall prevail over earlier ones if there is any conflict or inconsistency between them.

2 The Services and Platform

2.1 DigitalTCO shall, with effect from the Commencement Date, provide the Services to the Customer on a non-exclusive basis for the duration of the Subscription Period in accordance with the terms and conditions of this Agreement.

2.2 The platform is an online digital management system that assists in creating dental patient documentation (the "**Platform**"). The Platform is made available through the Portal and is available for use on a recognised internet web browser. The Services offered by DigitalTCO are delivered through the Platform.

3 Subscription Period

The Services will be provided by DigitalTCO during the Subscription Period which shall continue indefinitely in monthly cycles unless otherwise terminated in accordance with clause 14 of this Agreement.

4 Free Trial

4.1 The Customer may sign up for one Free Trial to use the Platform and Services. If the Customer requests a Free Trial, full access to the Platform and Services will be granted on an "as-is" basis. These Terms will apply to the Customer during a Free Trial, with the exception that Standard Support will not be provided and all terms relating to these will be excluded.

4.2 The Free Trial will continue for 28 days unless terminated earlier in accordance with these Terms or extended. Any extension to the duration of the Free Trial is agreed to by the DigitalTCO at its discretion.

4.3 On expiration or termination of the Free Trial, the Customer's access to the Platform and the Services shall be automatically withdrawn and all Customer Data will be removed from the Platform and Services immediately without liability to the Customer or any third party, unless the Customer has purchased a subscription to the Services prior to such expiration or termination.

5 Subscription Fees and Payment

5.1 The Subscription Fees due for the Services are as set out in the Customer's application to open a Customer Account.

5.2 The first payment of the Subscription Fee must be made on or before the Commencement Date. Any delay in paying the Subscription Fee will not entitle the Customer to an extension of the Subscription Period unless otherwise agreed to in writing by DigitalTCO nor will it prevent DigitalTCO from removing any retained Customer Data following expiry of the Free Trial without any liability to the Customer (if applicable).

5.3 The Services automatically renew for successive periods on a monthly basis and the Subscription Fee will be charged at DigitalTCO's then-current rate for the Subscription Fee as published on the Website.

5.4 The Customer shall pay to DigitalTCO all Subscription Fees due at the point of receipt of an invoice from DigitalTCO for the same.

5.5 In the event that the Customer does not pay the Subscription Fees due within 7 days of the date of the invoice specified in clause 5.4 above, DigitalTCO may suspend the Customer's use of the Services corresponding with such invoice by whatever means it deems appropriate.

5.6 If a Customer does not pay the Subscription Fee by the due date stated on the invoice, DigitalTCO reserves the right:

5.6.1 to charge interest on overdue sums at a rate of 4% above the base rate of the Royal Bank of Scotland plc from time to time, accruing daily from the date on which such sums go overdue until the time of actual payment in full, whether before or after judgement; and/or

5.6.2 suspend the Customer's access to the Platform and Services until such time as the overdue sums and any applicable interest are paid in full.

5.7 DigitalTCO reserves the right to vary the Subscription Fees from time to time as it may deem appropriate. The Customer shall receive 30 days' written notice of any such variation. Such variations shall take effect upon expiry of such notice, subject to the Customer's right to terminate this Agreement in accordance with clause 14.

6 Provision of Services

6.1 Subject to payment of the Subscription Fee, with effect from the Commencement Date, DigitalTCO shall grant to the Customer a non-exclusive, non-transferable licence to access the Platform and make use of the Service.

6.2 The Customer acknowledges and accepts use of the Platform and Services is strictly subject at all time to these Terms.

6.3 The Customer acknowledges and accepts that subscription to the Services do not include:

6.3.1 any services, systems, or equipment required to access the internet and/or Platform and/or Services (and that the Customer is solely responsible for procuring access to the internet and for all costs and expenses in connection with internet access, communications, data transmission and wireless or mobile charges incurred by it in connection with use of the Platform and/or Services); or

6.3.2 dedicated data back up or disaster recovery facilities (and the Customer should ensure it at all times maintains backups of all Customer Data); or

6.3.3 any medical, clinical or pharmaceutical services of any kind.

6.4 DigitalTCO shall use all reasonable endeavours to ensure that the Platform and Services are provided with all reasonable care and skill but may be subject to delays, interruptions, errors or other problems resulting from the use of the internet or public electronic communications networks used by the parties or third parties. The Customer acknowledges that such risks are inherent in the Platform and Services and that DigitalTCO shall have no liability for any such delays, interruptions, errors or other problems resulting from limitations inherent the same.

6.5 Other than as expressly provided for in these Terms, to the maximum extent permitted by law, all warranties, conditions and undertakings in relation to the Platform or Services are excluded. This includes but is not limited to any express or implied warranties regarding fitness for the Customer's particular purposes.

6.6 DigitalTCO shall not be liable to the Customer or any Authorised User for errors and defects in the Platform and/or Services to the extent the same arises as a result of:

6.6.1 incorrect operation or use of the Platform or Services by the Customer or any Authorised User;

6.6.2 use of the Platform and/or Services other than for the purposes for which it is intended;

6.6.3 use of the Platform and/or Services with other software or services with which they are incompatible;

6.6.4 any act by any third party (including hacking or the introduction of malicious software or code);

6.6.5 any breach of this Agreement by the Customer.

6.7 DigitalTCO shall use reasonable endeavours to ensure that any scheduled maintenance of the Platform and/or Services is implemented in such a way as to minimise disruption to the Customer but shall not be liable to the Customer or any Authorised User for any Permitted Downtime.

6.8 DigitalTCO shall be entitled to update the Platform and/or Services without the Customer's prior consent to:

6.8.1 rectify any defect, bug or error;

6.8.2 remedy a suspected or known security vulnerability;

6.8.3 comply with Applicable Laws; or

6.8.4 add new features, services or functionality to the Platform and/or Services.

6.9 DigitalTCO may suspend or terminate an Account and access to the Platform and Services (or any part of them) if:

6.9.1 there has been an actual or suspected misuse of the Platform;

6.9.2 the Customer or any Authorised User is in breach of the Agreement;

6.9.3 the Customer fails to pay any sums due to DigitalTCO by the due date for payment;
or

6.9.4 required by law, by court or governmental or regulatory order.

6.10 In relation to suspensions under clause 6.9.3, access to the Platform and Services will be restored promptly after DigitalTCO receives payment in full and cleared funds.

7 Application and Application Infrastructure Terms of Use

7.1 The Customer shall ensure that they and (if applicable) all Authorised Users make use of the Platform and Services and that such use is at all times in accordance with these Terms.

7.2 To register an Account for the Platform and Services, the Customer must:

7.2.1 provide an email address to be linked to the Customer Account; and

7.2.2 verify the email address provided.

7.3 The Customer shall be permitted one Customer Account. If a Customer wishes to add any number of persons above this amount, it may do so by purchasing additional subscriptions to the Platform for each additional Authorised User by contacting DigitalTCO to purchase such additional User Accounts.

7.4 If a Customer adds Authorised Users it shall:

7.4.1 be liable for the acts and omissions of its Authorised Users as if they were its own;

7.4.2 only provide Authorised Users with access to the Services via the Platform and shall not provide access to (or permit access by) anyone other than an Authorised User; and

7.4.3 procure that each Authorised User is aware of, and complies with, the obligations and restrictions imposed on the Customer under the Agreement.

7.5 The Customer warrants and represents that they/it, and all Authorised Users (if applicable) and all others acting on its or their behalf (including systems administrators) shall keep confidential and not share with any third party their password or access details for any Account.

7.6 The Customer shall comply (and if applicable shall ensure all Authorised Users comply) with all applicable laws, rules, and regulations that apply to the Service, the Customer Data (or any part), and shall not export or re-export, directly or indirectly, separately or as a part of a system, the Platform or Services or the Customer Data (or any

part) to, or access or use the Platform or Services or the Customer Data (or any part) in any country or territory for which an export licence or other approval is required under the laws of the United Kingdom, without first obtaining such licence or other approval. The Customer shall be solely responsible for ensuring the Customer's access, importation and use of the Services or the Customer Data complies with all export and other laws.

7.7 If the Customer or any Authorised User suspects that there has been unauthorised access to or use of an Account, the Customer must notify the DigitalTCO immediately giving sufficient detail of the suspected unauthorised use as DigitalTCO may require in order to identify and attempt to resolve the issue.

7.8 If an Authorised User leaves the Customer's Business and no longer requires access to a User Account, the Customer is responsible for ensuring that the relevant User Account is terminated.

8 Customer and Authorised User conduct

8.1 DigitalTCO does not permit the promotion of harm towards others or the posting of discriminatory, hateful, or harassing content on the Website or through the Platform or Services. DigitalTCO reserves the right to suspend any Account where DigitalTCO finds, acting reasonably, that the Customer or any Authorised User has publicly made statements principles that could be reasonably perceive to advocate for, encourage, sponsor or promote discrimination, hatred or violence.

8.2 The Customer agrees and if applicable shall ensure its Authorised Users do not:

8.2.1 attempt to circumvent, disable or otherwise interfere with security related features of the Platform and/or Services;

8.2.2 make any use of the Platform and/or Services for purposes not authorised under the Agreement or create Accounts under false pretences;

8.2.3 interfere with, disrupt, or create an undue burden on the Platform and/or Services or on the networks or services connected to the Platform and/or Services;

8.2.4 attempt to impersonate another organisation or person using the Services;

8.2.5 use the Platform and/or Services to compete with DigitalTCO or otherwise use the Platform and/or Services for any revenue generating endeavour or commercial enterprise without DigitalTCO's prior written consent;

8.2.6 decipher, decompile, disassemble or reverse engineer any of the software comprising in or in any way making up part of the Platform and/or Services;

8.2.7 upload or transmit or attempt to upload or transmit viruses, Trojan horses or other harmful software or code that interferes with any party's use or enjoyment of the Platform and/or Services or which modifies, impairs, disrupts, alters or interferes with the use, features and functions of the Platform and/or Services;

8.2.8 disparage, tarnish or otherwise harm the reputation of DigitalTCO and/or the Platform and/or Services; or

8.2.9 use the Platform and/or Services in a manner inconsistent with any applicable laws or regulations.

8.3 If the Customer or an Authorised User breaches these Terms or the Agreement, DigitalTCO may suspend or terminate the relevant Account and may take appropriate legal action.

8.4 Customer and Authorised User access to the Platform shall be controlled by means of a username and password. Usernames are created by the Customer or Authorised User; Passwords are set upon initial login and must meet the password complexity rules set in DigitalTCO's Website and/or Platform.

8.5 Use by Non-Authorised Users is not permitted under these Terms in the absence of express written consent from DigitalTCO, such consent not to be unreasonably withheld. DigitalTCO may require such details as the reason that access to the Platform is required by the Non-Authorised User, details of the Non-Authorised User and other information which may be specified from time to time.

8.6 DigitalTCO may monitor the Customer's use of the Platform from time to time to ensure compliance with these Terms and to assess if usage is unreasonable. In the event that the Customer's use of the Service exceeds levels deemed reasonable by DigitalTCO they reserve the right to negotiate an increase in Subscription Fees or provide notice of termination.

8.7 The Customer is exclusively responsible for use of the Services, including if applicable the conduct of Authorised Users (to include any authorised Non-Customer Users) and must ensure that all use is in accordance with these Terms. The Customer shall notify DigitalTCO immediately of any breaches of this Agreement by any Authorised Users or Non-Authorised Users.

8.8 The Customer's use of the Platform may, from time to time, be governed by statutory or regulatory rules and requirements external to the terms and conditions of this Agreement. It shall be the Customer's exclusive responsibility to ensure that use of the Service is in compliance with any such laws.

9 **Demo and Support Services**

9.1 The Customer may request a demo from DigitalTCO at a time agreed between the two parties (a "**Demo**").

9.2 The Demo will consist of an interactive session to explain the features and assist the Customer with use of the Platform and will be provided via video conference software of DigitalTCO's choosing.

9.3 DigitalTCO shall make available the Support Services to the Customer which can be accessed at any time (subject to the provisions within these Terms) via the Platform. If the Customer still requires support after proper investigation and use of the Support Services,

DigitalTCO will also provide Standard Support via telephone and email support during Business Hours.

9.4 When seeking support the Customer shall use best and reasonable endeavours to provide the fullest information possible to aid DigitalTCO in diagnosing any faults on the Platform.

9.5 DigitalTCO shall aim to resolve all support problems under clause 9.3, within 6 Business Hours or as soon as possible thereafter where resolution in that time is not possible.

9.6 Whenever possible, DigitalTCO shall provide a workaround solution to the Customer to enable the Customer's continued use of the Services or to enable use that is as close to normal as is possible under the prevailing circumstances.

9.7 For the avoidance of doubt the Support Services and Standard Support only extend to the Customer's use of the Platform and/or Services and do not include any medical, clinical or pharmaceutical services of any kind.

10 Confidentiality and security of Customer Data

10.1 The Customer and Authorised Users will be able to store or transmit Customer Data using the Services. The Customer hereby grants a royalty-free, non-transferable, non-exclusive licence for DigitalTCO to use, copy and otherwise utilise the Customer Data to the extent necessary to perform or provide the Platform or to exercise or perform the DigitalTCO's rights, remedies and obligations under the Agreement.

10.2 DigitalTCO shall maintain the confidentiality of the Customer Data and shall not without the prior written consent of the Customer or in accordance with the Agreement, disclose or copy the Customer Data other than as necessary for the performance of its express rights and obligations under the Agreement.

10.3 DigitalTCO undertakes to disclose the Customer Data only to those of its officers, employees, agents, contractors and direct and indirect sub-contractors to whom, and to the extent to which, such disclosure is necessary for the purposes contemplated under the Agreement or as otherwise reasonably necessary for the provision or receipt of the Platform.

11 Data Protection

11.1 For the purpose of this clause 11, the following terms shall have the meaning given to them in Data Protection Laws: "**controller**", "**personal data**", "**process**", "**processor**".

11.2 It is acknowledged and agreed that DigitalTCO is the processor of personal data provided by the Customer and if applicable its Authorised Users using the Platform and/or Services and that the Customer is the controller of personal data.

11.3 The Customer and Authorised Users are able to upload and download Customer Data, including the non-anonymised personal data and records of Customer patients. The Customer is responsible for ensuring that all Authorised Users are aware of their obligations

under any applicable Data Protection Laws in regards to such Customer Data and that such personal data is used in accordance with applicable Data Protection Laws.

11.4 The Customer is responsible for ensuring they have collected the relevant consents from Customer patients required under applicable Data Protection Laws in regard to making available and using their personal data through the Platform and/or Services.

11.5 If the Customer is subject to Data Protection Laws applicable in the United Kingdom or the European Economic Area, the Customer agrees, represents and warrants that the Customer:

11.5.1 has in place and will maintain a clear, publicly accessible privacy notice detailing the Customer's collection and use of personal data that satisfies requirements under the applicable Data Protection Laws, describe the Customer's use of the Platform and Services and includes a link to DigitalTCO's Privacy Policy;

11.5.2 will obtain all necessary permissions and valid consents required to lawfully make available and transfer personal data using the Platform and Services and to enable such personal data to be collected, processed and shared by DigitalTCO in accordance with the Agreement; and

11.5.3 will provide and maintain all necessary notices and obtain all necessary consents required by applicable Data Protection Laws to enable DigitalTCO to use cookies and similar tracking devices to collect personal data using the Platform and Services.

11.6 By using the Platform and/or Services, the Customer acknowledges and agrees that it explicitly consents to and authorises DigitalTCO to respond to any data subject access request for any personal data for which DigitalTCO is acting as the controller. In the event such request relates to personal data for which DigitalTCO is acting as a processor on the Customer's behalf, such requests shall be directed to the Customer for response.

11.7 The Customer shall indemnify DigitalTCO against any losses, claims, actions and expenses incurred by DigitalTCO in connection with the Customer's failure to comply with this clause 11.

12 Intellectual Property

12.1 Subject to clause 12.2 all Intellectual Property Rights subsisting in the Platform, including any supporting software and documentation are the property of DigitalTCO. For the purposes of this Clause 12, the Platform along with any supporting software and documentation are taken to include the manner in which all such material is compiled and presented.

12.2 Where expressly indicated, the Intellectual Property Rights subsisting in certain features including any supporting software and documentation may be the property of named third parties under licence to DigitalTCO.

12.3 The Customer shall not either during the term or after the expiry of this Agreement permit or cause to occur any infringement of any Intellectual Property Rights covered by this

Clause 12. Use by the Customer and Authorised Users of the Services shall be only within the terms of this Agreement.

12.4 The Customer shall not, in the absence of DigitalTCO's written consent, reproduce, adapt, translate, reverse-engineer, or make available to any third party any of the Platform, any part or any other material associated with these Terms where such activity goes beyond the scope of actions permitted by these Terms.

12.5 Where the Customer either suspects or is aware of any breach of Intellectual Property Rights covered by this Clause 12 it shall be under a duty to inform DigitalTCO of such breach immediately.

12.6 Subject to clause 12.7 all Intellectual Property Rights subsisting in Customer Data are and shall remain the property of the Customer.

12.7 Certain Customer Data may belong to third parties. In such cases, the Customer warrants that all such Customer Data is used with the consent of relevant third parties.

13 Company's Confidential Information

13.1 The Customer shall maintain the confidentiality of Company's Confidential Information and shall not without the prior written consent of DigitalTCO, disclose, copy or modify Company's Confidential Information (or permit others to do so) other than as necessary for the performance of the Customer's express rights and obligations under the Agreement.

13.2 The Customer undertakes to:

13.2.1 disclose Company's Confidential Information only to those of its officers, employees, agents and contractors to whom, and to the extent to which, such disclosure is necessary for the purposes contemplated under the Agreement;

13.2.2 procure that such persons are made aware of and agree in writing to observe the obligations in this clause 13; and

13.2.3 be responsible for the acts and omissions of those third parties referred to in this clause 13.2 as if they were the Customer's own acts or omissions.

13.3 The Customer shall give notice to DigitalTCO of any unauthorised use, disclosure, theft or loss of Company's Confidential Information immediately upon becoming aware of the same.

13.4 The provisions of this clause 13 shall not apply to information which:

13.4.1 is or comes into the public domain through no fault of the Customer or any officers, employees, agents or contractors;

13.4.2 is lawfully received by the Customer from a third party free of any obligation of confidence at the time of its disclosure;

13.4.3 is independently developed by the Customer, without access to or use of Company's Confidential Information; or

13.4.4 is required by law, by court or governmental or regulatory order to be disclosed provided that the Customer, where possible, notifies DigitalTCO at the earliest opportunity before making any disclosure.

13.5 This clause 13 shall survive the termination or expiry of the Agreement for a period of ten years.

14 Termination

14.1 The Customer may terminate the subscription to the Services with effect from the end of the current Subscription Period at any time by giving at least 30 days' notice in writing to DigitalTCO. In the event of termination under this clause 14.1, the Customer shall (subject to payment of the Subscription Fee) continue to have access to the Services until the expiry of their current Subscription Period and no refund of the Subscription Fee shall be provided by DigitalTCO.

14.2 DigitalTCO reserves the right to terminate the Services and/or that the Services may be suspended if the Customer fails to pay Subscription Fees due under clause 5 of these Terms.

14.3 If the Agreement is terminated for any reason, DigitalTCO reserves the right to delete or remove all data related to the Customer and any Accounts from the Platform and Services, which includes any Customer Data and any associated User Accounts connected with the Customer's Account. DigitalTCO shall not be liable to the Customer for any deletion of data related to the Customer's Account in the event of the removal of any such data following termination.

14.4 Termination of an Account or the Agreement shall be without prejudice any accrued rights or liabilities of the parties up until the time of termination.

15 Limitation of liability

15.1 To the maximum extent permitted by law, the extent of DigitalTCO's liability under or in connection with these Terms, the Agreement, the Platform or the Services shall be as set out in this clause 15.

15.2 Subject to clause 15.6, DigitalTCO's aggregate liability of the Customer arising out of or in connection with the Agreement, the Platform or the Services, whether arising in contract, delict (including negligence), breach of statutory duty or otherwise will not exceed the Subscription Fee paid to DigitalTCO in the 3months preceding the date of the event giving rise to the liability.

15.3 Subject to clause 15.6, DigitalTCO shall not be liable to the Customer for any consequential, indirect or special losses, howsoever incurred.

15.4 Subject to clause 15.6, DigitalTCO shall not be liable to the Customer for any of the following (whether directly or indirectly incurred):

- 15.4.1 loss of profit;
- 15.4.2 destruction, loss of use or corruption of data;
- 15.4.3 loss or corruption of software or systems;
- 15.4.4 loss or damage to equipment;
- 15.4.5 loss of use;
- 15.4.6 loss of production;
- 15.4.7 loss of contract;
- 15.4.8 loss of commercial opportunity;
- 15.4.9 loss of savings, discount or rebate (whether actual or anticipated); and/or
- 15.4.10 harm to reputation or loss of goodwill; and/or
- 15.4.11 wasted expenditure.

15.5 Notwithstanding any other provision of the Agreement, neither party's liability shall be limited in any way in respect of the following:

- 15.5.1 death or personal injury caused by negligence;
- 15.5.2 fraud or fraudulent misrepresentation; or
- 15.5.3 any other losses which cannot be excluded or limited by applicable law.

15.6 This clause 15 shall survive the termination or expiry of the Agreement.

16 **Indemnity**

16.1 The Customer agrees to indemnify and hold harmless DigitalTCO for and against any losses, claims, expenses (including legal fees and expenses), actions and proceedings arising out of or in connection with:

16.1.1 the Customer's or any Authorised User's use of the Platform and/or Services which is not in accordance with the Agreement;

16.1.2 DigitalTCO's access to and use of Customer Data in accordance with the Agreement;

16.1.3 third party claims arising from any actions taken on an Account by the Customer or any Authorised User;

16.2 This clause 16 shall survive the termination or expiry of the Agreement.

17 **Force Majeure**

Neither party shall have any liability for any failure or delay in performance of these Terms to the extent the same results from Force Majeure. The party affected by such Force Majeure shall promptly notify the other party in writing when such Force Majeure causes a delay or failure in performance and when it ceases to do so. If such Force Majeure continues for a continuous period of more than 3 months, the party not affected may terminate this Agreement by written notice to the other party.

18 Waiver

18.1 Any failure or delay by DigitalTCO to exercise any power, right or remedy it may have under the Agreement shall not constitute a waiver of the same and shall not preclude or restrict any future exercise of the same or any other right, power or remedy.

18.2 No waiver of any power, right or remedy of DigitalTCO under the Agreement shall be effective unless it is in writing and signed by or on behalf of DigitalTCO.

19 Variation

No variation to these Terms or the Statement of Services will be valid or effective unless it is in writing and signed by or on behalf of each party.

20 Entire Agreement

20.1 The parties agree that these Terms constitute the entire agreement between them and supersedes all previous agreements, understandings and arrangements between them, whether in writing or oral in respect of its subject matter.

20.2 Each party acknowledges that it has not entered into this Agreement in reliance on and shall have no remedies in respect of any representation or warranty that is not expressly set out in the Agreement. No party shall have any claim for innocent or negligent misrepresentation on the basis of any statement in the Agreement.

21 Severability

If any provision of this Agreement (or part of any provision) is or becomes illegal, invalid or unenforceable, the legality, validity and enforceability of any other provision of this Agreement shall not be affected.

22 Law and jurisdiction

These Terms and the Agreement shall be governed by and construed in accordance with the laws of Scotland. Any action, claim, dispute or proceeding arising out of or in connection with these Terms, the Agreement, the Platform or the Services shall be subject to the exclusive jurisdiction of the courts of Scotland.