



TERMS AND CONDITIONS GOVERNING THE OPTIONAL ACCESS TO ONLINE SUPPORT SERVICES BY ALIGNER CONSULTANCY LIMITED T/A THE ALIGNER DENTAL ACADEMY (ADA) TO ADA MEMBERS PROVIDING INVISALIGN

Last Updated: March 2023

- Aligner Consultancy Limited, trading as the Aligner Dental Academy (ADA), a company incorporated in the Republic of Ireland (Company Registration No.: 472722 whose registered office is at 2 Leinster Woods, Carton House, Maynooth, Co. Kildare, Republic of Ireland ("**ADA**") is an authorised service provider of Align Technology B.V ("**Align**") for the provision of certain online support services to Invisalign Go Trained Doctors based in the UK, Germany, Austria, Switzerland and Italy for Invisalign Go

The following terms and conditions ("**Conditions**") shall govern the provision of Online Support Services (as set out below) by ADA to you in respect of proposed Invisalign Treatments to your patients. Upon completing the registration process for the Aligner Dental Academy platform, located at members.alignerdentalacademy.com, a contract between you and ADA regarding the Online Education and Support Services will come into existence on the basis of these Conditions ("**Agreement**")

1. DEFINITIONS and Interpretation

- In this Agreement:
 - a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
 - a reference to a party includes its personal representatives, successors or permitted assigns;
 - a Section, Schedule or Party is a reference to a Clause of or a Schedule or party to this Agreement. The Schedules and Background form part of this Agreement and any reference to this "Agreement" includes the Schedules and the Background;
 - a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation made under that statute or statutory provision, as amended or re-enacted;
 - any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and
 - a reference to **writing** or **written** includes e-mails.

2. Services

- During the Term (as defined in Clause 4.1) ADA shall in a timely manner provide the following online education and support services to You in accordance with the service levels set out in the Schedule 1 to this Agreement:
 - ADA shall provide assistance to you in respect of online case assessments created by the Invisalign Case Assessment Tool, including troubleshooting, answering questions regarding case assessment results and providing treatment monitoring advice via an online portal on the members.alignerdentalacademy.com platform ("**Platform**");



- ADA shall provide you with access to an online education pathway on the platform which is focused on the safe provision of Invisalign Treatments to patients and is written, devised and monitored by a specialist orthodontist with a background in dental education for general dentists;
- In providing the Online Education and Support Services, ADA shall:
 - co-operate with you in all matters relating to the Online Education and Support Services, and comply with all your instructions and any applicable laws and regulatory requirements, guidelines and professional codes, including all applicable anti-bribery and anti-corruption laws and data and privacy laws; and
 - perform the Online Education and Support Services with the best care, skill and diligence and in accordance with generally recognised best clinical practices and standards in the orthodontic industry and in accordance with the service levels set out in the Schedule attached to this Agreement.
- ADA warrants that it will use in the provision of Online Education and Support Services described in Clauses 2.1(a) to (4) only licensed dentists or orthodontists, or certified and registered dental technicians trained and supervised by an orthodontist or dentist, in each case suitably skilled and experienced to perform the tasks assigned to them, who are not subject to any restriction imposed by their professional body on their ability to practise, and each of whom have successfully attended any training required by Align which may include, without limitation, training on case assessments and the choice of treatment options.

3. Data Protection

- For the purposes of this Clause 4:

“Data Privacy Legislation” means the applicable laws protecting personal data, including the Data Protection Directive (95/46/EC); the Data Protection Act 1998; the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice)(Interception of Communications Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive (2002/58/EC), the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2426/2003) and all other similar or equivalent and applicable laws relating to the processing of personal data in the EU, together with all applicable laws and regulations relating to the processing of personal data and privacy in the relevant country, including where applicable the guidance and codes of practice issued by the Information Commissioner or any other supervisory authority, and the equivalent of any of the foregoing in any other relevant jurisdiction.

“Patient” means an individual who is receiving an Invisalign® Treatment from you.

"Patient Data" means patient records, impressions and intra-oral scans, study models and treatment plans containing personal data and Sensitive Personal Data of a Patient.



“Sensitive Personal Data” means personal data relating to an individual's physical or mental health or sex life, ethnic origin, political opinions, religious or philosophical beliefs, trade union memberships, actual or alleged offences, criminal convictions or criminal proceedings.

The terms “processor”, “controller”, “personal data” and “processing” will have the meaning given to them by the Data Protection Directive (95/46/EC).

- Both parties agree to adhere to the principles of medical confidentiality in relation to each Patient and Patient Data, and shall comply with all Data Privacy Legislation to which they are subject.
 - Under the applicable Data Privacy Legislation you are the controller of your Patient's Patient Data and will determine the purpose for which and the manner in which such Patient Data is, or is to be processed.
 - ADA must not disclose Patient Data to any third party (including Align, its affiliates or representatives working on their behalf) without prior written consent of the Patient involved or in accordance with your prior written instruction, except in connection with legal proceedings or to regulatory bodies, where allowed or required by law.
 - ADA will only use Patient Data in accordance with your instructions as controller, and you permit ADA to:
 - store a Patient's Patient Data for no longer than is necessary for the purpose for which the data is processed, unless instructed otherwise by you (having regard that a different period is necessary for the purpose that the Patient's Patient Data is or is to be used); and
 - provide the Patient Data to regulatory authorities upon their written and lawful request.
 - ADA shall implement and maintain throughout the Term appropriate technical and organisational measures to protect Patient Data against unauthorised or unlawful processing, access or use and against accidental loss, destruction, damage, alteration or disclosure ("**Data Breach**"). These measures shall as a minimum comply with Data Privacy Legislation and be appropriate to the harm which might result from unauthorised or unlawful processing or accidental loss, destruction or damage to Patient Data and its nature. ADA shall notify you within twelve (12) hours of any Data Breach which is likely to or actually affects the Patient Data of one of his/her Patients or their security.
 - You hereby consent to ADA notifying Align in respect of any Data Breach which is likely to or actually affects the Patient Data of one of your Patients or their security within the same time frame as set out in Clause 3.6.
 - You undertake to obtain the Patient's written consent that ADA may process his/her Patient Data for the purpose of providing the Online Support Services.
4. Term and Termination
- This Agreement will commence on the date that you have accepted these Conditions and shall continue thereafter unless terminated early by either party in accordance with the terms of this Agreement (the "**Term**").
 - Either party may terminate this Agreement with immediate effect by giving written notice to the other party during the Term, if:
 - the other party commits a material breach of any term of this Agreement which breach is irremediable or (if such breach is remediable) fails to



remedy that breach within a period of twenty-eight (28) days after being notified in writing to do so;

- at any time if any one or more of the following events occurs:
 - the other party makes any voluntary arrangement with its creditors or becomes bankrupt or insolvent or enters administration or goes into liquidation (otherwise than for the purposes of solvent amalgamation or reconstruction); or
 - a security holder takes possession, or a receiver or administrative receiver is appointed, over all or any material part of the property or assets of the other party; or
 - any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in Clause 4.2(b)(i) to Clause 4.2(b)(ii).
- You may terminate this Agreement by written notice having immediate effect if ADA is materially failing to meet the Service Levels and ADA is materially failing to meet the Service Levels, if it has failed to comply with the Service Levels on more than:
 - two (2) occasions within any thirty (30) day period; or
 - five (5) occasions in total,
 - during the Term.
- ADA may terminate this Agreement with immediate effect on written notice to you in the event that ADA is no longer an authorised service provider of Align.
- Termination or expiry of this Agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of this Agreement which existed at or before the date of termination or expiry.

5. Confidentiality

- "**Confidential Information**" means all confidential information (however recorded or preserved) disclosed by a party or its employees, officers, representatives or advisers (together its "**Representatives**") to the other party and that party's Representatives after the date of this Agreement, concerning:
 - the terms of this Agreement;
 - any information that would be regarded as confidential by a reasonable business person relating to:
 - the business, affairs, customers, clients, suppliers, plans of the disclosing party (or of any affiliate of the disclosing party); and
 - the operations, processes, product information, know-how, designs, trade secrets or software of the disclosing party (or of any affiliate of the disclosing party);
 - any information developed by the parties in the course of carrying out this Agreement.
- The provisions of this Clause shall not apply to any Confidential Information that:



- is or becomes generally available to the public (other than as a result of its disclosure by the receiving party or its Representatives in breach of this Section);
- was available to the receiving party on a non-confidential basis before disclosure by the disclosing party;
- was, is or becomes available to the receiving party on a non-confidential basis from a person who, to the receiving party's knowledge, is not bound by a confidentiality agreement with the disclosing party or otherwise prohibited from disclosing the information to the receiving party;
- the parties agree in writing is not confidential or may be disclosed; or
- is developed by or for the receiving party independently of the information disclosed by the disclosing party, as demonstrated by written records.
- Each party shall keep the other party's Confidential Information confidential and shall not:
 - use such Confidential Information except for the purpose of exercising or performing its rights and obligations under this Agreement ("**Permitted Purpose**"); or
 - disclose such Confidential Information in whole or in part to any third party, except as expressly permitted by this Section.
- Each party may disclose the Confidential Information to those of its Representatives who need to know such Confidential Information for the Permitted Purpose, provided that:
 - it informs such Representatives of the confidential nature of the Confidential Information before disclosure; and
 - it procures that its Representatives shall, in relation to any Confidential Information disclosed to them, comply with the obligations set out in this Clause as if they were a party to this Agreement,

and at all times, it is liable for the failure of any Representatives to comply with the obligations set out in this Section.

- A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible and, where notice of disclosure is not prohibited and is given in accordance with this Section, it takes into account the reasonable requests of the other party in relation to the content of such disclosure.
- The provisions of this Clause shall continue to apply after the expiry or earlier termination of this Agreement.

6. Insurance and Indemnity

- ADA shall at all times during the Term maintain in force, with a reputable insurance company, professional indemnity insurance for all its activities in providing the Online Support Services to a minimum amount of €1,000,000 per event.
- Indemnity – By accepting the terms and conditions as stated above I hereby agree to indemnify both the Aligner Consultancy Limited (ADA) and Align Inc



from any and all responsibility for the advice given –either via the forum or private email message. I understand that the opinions and advice posted on the site by the consultants working for the Aligner Dental Academy represents their opinion only and nothing more. I am fully and wholly responsible for any and all clinical treatment / decisions that I make regarding the treatment of my patients. I warrant that I have an indemnity policy with a suitable provider that is compliant with the guidelines as set out by the dental governing body of my country for registered dental surgeons in my country of operation. I also warrant to keep this indemnity up to date and without limitation during the entire time I am a member of the Aligner Dental Academy. The provisions of this Clause 6 shall survive termination or expiry of this Agreement, however arising.

7. Notices

- Any notice (the "**Notice**") required to be given for the purposes of this Agreement shall be given by sending the same by courier of international repute or email to, or by delivering the same by hand at, the relevant address or email address shown in this Agreement or such other address or email address as shall have been notified (in accordance with this Section) by the party hereto concerned as being its address or email address for the purposes of this Section. Any Notice so sent by courier shall be deemed to have been served three (3) days after receipt by the courier and in proving this service it shall be sufficient proof that the Notice was properly addressed and received by the courier. Any Notice sent by email shall be deemed to have been served on the next business day following the date of despatch thereof.

Initial email addresses for the purpose of this Clause are:

ADA: igo@alignerdentalacademy.com

You: the email address as notified by you to ADA as contact address

8. Waiver

- No failure or delay by a party to exercise any right or remedy provided under this Agreement or by law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

9. Entire Agreement

- This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- Each party agrees that no representation has been made (whether innocently or negligently) by or on behalf of any other party or relied on by it in relation to the subject matter of this Agreement.
- Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statements in this Agreement.



- Nothing in this Clause 9, however, shall limit or reduce any liability of any person for fraud, including fraudulent misrepresentation.

10. Variation

- No variation of this Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).

11. Severability

- If the whole or any part of this Agreement is or becomes or is declared illegal, invalid or unenforceable in any jurisdiction for any reason (including both by reason of the provisions of any legislation and also by reason of any court or competent authority which either has jurisdiction over this Agreement or has jurisdiction over any of the parties):
 - in the case of the illegality, invalidity or un-enforceability of the whole of this Agreement it shall terminate only in relation to the jurisdiction in question; or
 - in the case of the illegality, invalidity or un-enforceability of part of this Agreement that part shall be severed from this Agreement in the jurisdiction in question and that illegality, invalidity or unenforceability shall not in any way whatsoever prejudice or affect the remaining parts of this Agreement which shall continue in full force and effect.

12. Force Majeure

- Neither party shall be in breach of this Agreement nor liable for a delay in performing, or failure to perform, any of its obligations under this Agreement if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for more than twenty (20) days, the party not affected may terminate this Agreement by giving five (5) days' written notice to the affected party.

13. Assignment

- No party shall without the prior written consent of the other party, assign the benefit and/or burden of this Agreement nor sub-contract any of its obligations hereunder unless otherwise permitted by the terms hereof.

14. No Partnership or Agency

- Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.

15. Governing Law and Jurisdiction

- This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of England.
- Each party hereby irrevocably agrees that the courts of England shall have non-exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

Service Levels



ADA shall provide the Online Education and Support Services to you at all times meeting the following requirements:

1. The Forum shall be of high quality and shall be available 99.5% of the time. This means that, excluding any planned downtime which shall be communicated to You with reasonable advance notice, (i) the Forum is available to be accessed and used by all members in the Territory via the internet; (ii) the Forum is free of any error, problem, or defect resulting in an incorrect functioning of the Forum (iii) the Forum has adequate cyber security functionality in view of the sensitive nature of the data submitted or disclosed on the Forum, including password protected areas that are only accessible to Invisalign Trained Doctors;
2. ADA shall review patient records and information provided by you for completeness and for possible errors or inaccuracies and in order to assist with the provision of online consulting services within twenty-four (48) hours (not including public holidays or weekends) of receiving the required patient information from you;
3. Any query submitted by a member via the Forum shall be answered within forty-eight (48) hours (not including public holidays or weekends) following receipt. The advice can take the form of:
 - o (a) a reply posted on the online forum; or
 - o (b) a private email to you
 - o depending on your preferred method of communication
4. You can contact ADA in respect of the Online Education and Support Services by email;
5. ADA will comply with Align clinical standards and requirements as set out on the Invisalign® doctor site (invisalign.com), Align Technology Institute (ATI) and the education Clause at learn.invisalign.com.