



ITERO SCANNER SOFTWARE LICENSE AGREEMENT

IMPORTANT NOTICE: PLEASE READ CAREFULLY BEFORE DOWNLOADING, INSTALLING OR USING THE SOFTWARE:

This license agreement ("License" or "Agreement") is a legal agreement between you, a person to whom Align has allocated an iTero Doctor's Customer ID ("you") and Align Technology, Inc. of 2820 Orchard Parkway, San Jose, California 95134, United States of America, and its subsidiaries and affiliates (collectively referred to as "Align", "us" or "we") for:

(a) iTero Scanner (as defined below) software, including any versions, updates and new releases as may be released by us from time to time (the "Software") in connection with your purchase of the iTero Element scanner, the iTero Element 2 scanner or the iTero Element Flex scanner, as applicable ("iTero Scanner") for use exclusively with the iTero Scanner; and

(b) the Assembly Guide, User Guide, Operation Manual and related documentation and marketing information provided to Customer by Align relating to the Product or located on the Website relating to the Products as may be updated by Align from time to time or additional supporting or training documents otherwise provided by Align to you in connection with the iTero Scanner (the "Documentation"). Updated Documentation, from time to time, may be viewed by you on Align's websites at www.MyAligntech.com or www.MyiTero.com (collectively referred to as "iTero Doctor's Site") or at www.itero.com. Translations of this License for some countries will be made available on the iTero Doctor's Site.

The Software is used with the iTero Scanner to (i) scan 3D images for various purposes, including without limitation, orthodontic treatment, restorative treatment, diagnostics, record keeping, and treatment progress tracking, (ii) view and adjust the images in real time, (iii) process the images and data provided by a doctor, (iv) upload the 3D images and data to Align's cloud based storage system ("Align Storage System"), and (v) use in accordance with the permitted uses as set forth in the Documentation. Access to and use of the Software and Documentation requires a valid iTero Doctor's account login ("Customer ID") to the iTero Doctor's Site as allocated to approved dentists and orthodontic practitioners by Align.

IMPORTANT NOTICE:

1. By downloading, installing or using the Software and/or Documentation or by clicking an "accept" button where such is applicable or available, you agree to the terms and conditions of this License.
2. If you do not agree to the terms and conditions of this License, do not download, install or use the Software or Documentation.
3. To the extent permitted by applicable law, we may amend this License at any time. We will notify you of changes to this License by publishing the amended version of this License. You may review the current version of this License located on the iTero Doctor's Site. Where required by applicable laws, we will send you a copy of the amended version of this License from time to time, however, where applicable laws permit, your continued use of the Software constitutes your acceptance of the amended License. Any amendments will take effect 10 Business Days after publication. If we amend this License, we will update the "last modified" date of the License as published on the iTero Doctor's Site.

1. Grant and scope of software license
 - 1.1 In consideration of the mutual promises and covenants herein and subject to you complying with this License and the purchase agreement, including the terms and conditions of the purchase agreement or purchase order applicable to the iTero Scanner or terms and conditions applicable to the purchase of the iTero Scanner (“Purchase Agreement”), we grant to you for so long as you own the iTero Scanner and only for your use, a limited, personal, non-transferable, nonexclusive license to use the Software only in machine readable form and only as part of the normal use and maintenance of the iTero Scanner with which it is provided and solely for your business purposes in accordance with the permitted uses set forth herein and in the Documentation.
 - 1.2 For the purposes of condition 1.1, "use" shall mean that you may:
 - (a) install and use the Software and Documentation on the applicable Device for your internal business purposes within your practice in order to scan 3D images, to view and adjust the images in real time, and use the Software in accordance with the permitted uses set forth in the Documentation; and
 - (b) permit employees working with you within your practice in the treatment of patients under your care ("Permitted Employees") to use the Software on the applicable Device for the purpose of scanning 3D images, to view and adjust the images in real time, and to use the Software in accordance with the permitted uses set forth herein and in the Documentation.

For purposes of this Section 1.2, 'Device' shall be defined as the iTero Element 2, the iTero Element Flex Scanner, and the laptop computer to be purchased for use with the iTero Element Flex Scanner as set forth in the Documentation for use in connection with the iTero Scanner (the "Laptop").

The term "use" specifically excludes any use of the Software and/or Documentation for any purpose other than the purposes specified in Section 1.2(a) and 1.2(b). With respect to the Laptop, including any software, applications or other information stored on the Laptop (collectively, "Laptop Software"), y the license granted to you by the software licensor(s) of the Laptop Software or the Laptop manufacturer shall govern, and you agree that Align shall have no liability for your use or misuse of the Laptop or the Laptop Software, provided, however, that, notwithstanding the foregoing, you shall use the Laptop in accordance with the terms of this License, the Purchase Agreement, and the Documentation.

- 1.3 **Demo Mode.** iTero Scanners support a demo mode with registration. Demo mode offers limited features, allowing you time to familiarize yourself with the Software, with features such as practice scanning, viewing sample orders, viewing sample cases, viewing samples of patient records and messaging subject to the terms of this Agreement (“Demo Mode”). Demo Mode will not allow you to submit an actual case. You are responsible for using the Demo Mode in accordance with this Agreement and any other Documentation related to the Software and or the iTero Scanner. You must complete the required training for the iTero Scanner prior to its use. You assume all responsibility for any use of the iTero Scanner, by you or any of your Permitted Employees, in Demo Mode including without limitation any damages or injury that may result from use or misuse of the iTero Scanner that are not a result of wilful misconduct or gross negligence of Align. Any scans completed in Demo Mode cannot be transferred or used for any purpose other than as set forth in this Section 1.3.

- 1.4 Notwithstanding any other term to the contrary, you agree that the Software is not fault-tolerant and is not designed, manufactured or intended for use or resale as on-line control equipment in hazardous environments requiring fail-safe performance, such as in the operation of nuclear facilities, aircraft navigation or communication systems, air traffic control, direct life support machines, or weapons systems, in which the failure of the Software could lead directly to death, personal injury, or severe physical or environmental damage ("High Risk Activities"). You agree that neither Align nor its suppliers will be liable for any claims or damages arising from the use of the Software in High Risk Activities.
2. Your Content
 - 2.1 You grant Align a perpetual, irrevocable, worldwide, non-exclusive, royalty-free, sub-licensable, transferable right where permissible by applicable law to copy, translate, modify and use all digital images, photos, data and other content that you upload to Align Storage System ("Your Content") so that Align may provide Invisalign or other products, orthodontic products, restorative products, accessories and services to you and your patients and use Your Content for research and development, internal data analytics, business administration purposes, and improvement and provision of Align products, services, and as further set out in the License. The license granted by you to Align under this condition will survive termination of this License and will continue if your patient transfers to another doctor, (see condition 13.17 of this License). You agree that:
 - (a) you will only upload Your Content to Align Storage System where you have the right to do so and where you have the right to grant Align the license in condition 2.1 of this License;
 - (b) you have obtained all necessary consents and permissions from your patients in relation to the use of Your Content by you and/or Align in accordance with this License. For the avoidance of doubt, the consents in this clause are subject to clause 13.5 of this License,
 - 2.2 You will indemnify Align and keep Align indemnified against all claims, legal proceedings, losses, costs (including legal costs), penalties and fines that Align suffers or incurs as a result of any claim by any third party that Align's use of Your Content in accordance with this License infringes the intellectual property, data privacy or image rights of any person.
 - 2.3 Nothing herein shall derogate from Align's ownership rights to Your Content as set forth in the Purchase Agreement to the extent permitted by applicable law.
3. Restrictions
 - 3.1 You undertake:
 - (a) not to copy the Software or Documentation except where such copying is incidental to normal use of the Software or Documentation in accordance with condition 1.2 above;
 - (b) not to rent, lease, lend, sub-license or in any way distribute or transfer any rights granted to you under this License, or the Software or Documentation in any form, in whole or in part, to any person;
 - (c) not to modify, adapt translate or create derivative works of the Software or Documentation, (except and only to the extent that the foregoing restriction is prohibited by applicable law, and then only in accordance with applicable law);
 - (d) that, unless this limitation is prohibited by applicable law, you will not and will not attempt to, or allow any third party to (or make the Software available to any third party so that

such party is able to), reverse engineer, decompile, defeat license encryption mechanisms, or disassemble the Software or otherwise derive source code of the Software ("Reverse Engineer" the Software). If applicable law grants you the right to Reverse Engineer the Software notwithstanding this limitation and to the extent that the following is permitted by applicable law, you must provide Align with:

- (i) written notice of your intention to Reverse Engineer, and
- (ii) information sufficient regarding your intended method of Reverse Engineering, its purpose and the legal authority for such activity,

and you must afford Align a reasonable period of time before initiating such activity in order for Align to evaluate the activity and take steps to obviate the need for you to Reverse Engineer the Software in accordance with applicable law or challenge the Reverse Engineering activity with the appropriate legal authorities. Steps that Align might take to obviate the need for you to Reverse Engineer the Software could include, at Align's option, providing you with information essential to achieve inter-operability of the Software with another software program ("Interoperability Information") for a reasonable fee (which in any event will not exceed the actual costs incurred by such reverse engineering activities) and on reasonable terms. You must refrain from such Reverse Engineering activity until such time as any legal challenge is resolved in your favor. If we provide you with Interoperability Information:

- (iii) you must use (and procure that your Permitted Employees use) that Interoperability Information only for the purpose of achieving inter-operability of the Software with another software program;
 - (iv) you must not (and you must procure that your Permitted Employees do not) disclose or communicate that Interoperability Information without our prior written consent to any third party to whom it is not necessary to disclose or communicate it for the purpose of achieving interoperability; and
 - (v) you must not use that Interoperability Information to create any software which is substantially similar to the Software.
- (e) not to modify, adapt, translate, or create derivative works of the Software (except and only to the extent that the foregoing restriction is prohibited by applicable law, and then only in accordance with applicable law).
 - (f) not to use the Software for any unlawful purpose or in any way that interrupts, damages or impairs the Software, nor to transmit or upload to Align Storage System any material that is infringing, obscene, defamatory, threatening or unlawful or that may harm Align or any other person and not to use the Software maliciously or for any malicious purpose, for example, by hacking into or inserting malicious code, including viruses, or harmful data, into the Software or any operating system or platform.
 - (g) to ensure that Permitted Employees use the Software strictly in accordance with this Agreement and the Documentation; and
 - (h) not to remove our copyright, patent or other proprietary notices from the Software and/or Documentation;

- (i) only to use the Software in connection with the the iTero Scanner, and with respect to the iTero Element Flex scanner, the hardware, including the Laptop, meeting at least the specifications provided in Section 6.
- 3.2 Any use of the Software or Documentation which is in breach of condition 3.1 shall be a breach of this License and also a breach of Align's rights, including without limitation database rights and copyright, in the Software (or Documentation, as applicable).
- 4. No assurances
- 4.1 TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, YOU ACKNOWLEDGE THAT THE SOFTWARE AND DOCUMENTATION HAVE NOT BEEN PREPARED TO MEET YOUR INDIVIDUAL REQUIREMENTS, AND ARE SUBJECT TO THE WARRANTIES AS SET FORTH IN THE PURCHASE AGREEMENT. ANY IMPLIED WARRANTY WHICH CANNOT BY APPLICABLE LAW BE EXCLUDED WILL COME TO AN END PURSUANT TO THE TERMS AND CONDITIONS OF THE PURCHASE AGREEMENT.
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- 4.6 WITH RESPECT TO THE ITERO ELEMENT FLEX SCANNER, ALIGN SPECIFICALLY EXCLUDES ANY EXPRESS OR IMPLIED WARRANTY WITH RESPECT TO THE LAPTOP OR THE LAPTOP SOFTWARE OR LAPTOP DOCUMENTATION.

5. Limitation of Liability
 - 5.1 Nothing in this License shall exclude or limit in any way Align's or its suppliers' or licensors' liability for: death or personal injury caused by any of their negligence, fraud or fraudulent misrepresentation, any breach of obligations implied by applicable law and in respect of which obligations the law prohibits Align or its suppliers or licensors from so limiting or excluding its liability for those losses or any other matter for which it would be illegal or unlawful for Align or its suppliers or licensors to so limit or exclude or attempt to so limit or exclude their liability.
 - 5.2 SUBJECT TO CONDITION 5.1 OF THIS LICENSE AND TO THE EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL ALIGN OR ITS SUPPLIERS OR LICENSORS BE LIABLE TO YOU IN CONNECTION WITH THIS LICENSE AND/OR THE SOFTWARE AND/OR DOCUMENTATION FOR THE FOLLOWING LOSSES, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE AND GROSS NEGLIGENCE), BREACH OF STATUTORY DUTY OR OTHERWISE: INDIRECT LOSSES, CONSEQUENTIAL LOSSES, SPECIAL LOSS OR DAMAGE, LOSS OF INCOME OR REVENUE, LOSS OF PROFIT, THIRD PARTY CLAIMS, LOSS OF BUSINESS, LOSS OF BUSINESS OPPORTUNITY, GOODWILL OR REPUTATION, BUSINESS INTERRUPTION, LOSS OF DATA (INCLUDING PATIENT DATA – ALIGN EXPECTS THAT YOU WILL HAVE BACK-UP COPIES OR ORIGINALS OF ANY PATIENT DATA), LOSS OF ANTICIPATED SAVINGS, OR LOSS OF ANY OPPORTUNITY, AND IN EACH CASE THE LOSSES HAVING THE CLOSEST EQUIVALENT MEANING IN LOCAL APPLICABLE LAW OF THESE ENGLISH LANGUAGE LAW TERMS.
 - 5.3 NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN OR IN ANY DOCUMENTATION, ALIGN IS NOT RESPONSIBLE FOR ANY LIABILITY ARISING OUT OF CONTENT PROVIDED BY YOU OR A THIRD PARTY ON YOUR BEHALF THAT IS ACCESSED THROUGH THE SOFTWARE (INCLUDING, WITHOUT LIMITATION, CONTENT IN ALIGN STORAGE SYSTEM) AND/OR ANY MATERIAL LINKED THROUGH SUCH CONTENT OR THE USE OF THE SOFTWARE IN RELIANCE ON SUCH CONTENT. FURTHERMORE, ALIGN IS NOT LIABLE FOR ANY DAMAGES INCURRED THROUGH YOUR (OR ANY THIRD PARTY ON YOUR BEHALF) UNAUTHORIZED USE OR MODIFICATION OF THE SOFTWARE OR COMBINATION OF THE SOFTWARE WITH ANY PRODUCT (INCLUDING OTHER SOFTWARE OR HARDWARE) EXCEPT AS AUTHORIZED BY ALIGN IN WRITING. THE FOREGOING LIMITATIONS WILL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY HEREIN.
 - 5.4 SUBJECT TO CONDITION 5.1 OF THIS LICENSE AND APPLICABLE LAW, THE TOTAL AND AGGREGATE LIABILITY OF ALIGN AND ITS SUPPLIERS AND LICENSORS TO YOU IN CONNECTION WITH THIS LICENSE AND/OR THE SOFTWARE AND/OR DOCUMENTATION WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY OR OTHERWISE SHALL NOT EXCEED FIFTY UNITED STATES DOLLARS.
 - 5.5 SOME JURISDICTIONS DO NOT ALLOW THE FOREGOING LIMITATIONS OR EXCLUSIONS OF LIABILITY, SO THE FOREGOING LIMITATIONS OR EXCLUSIONS MAY NOT APPLY TO YOU.
 - 5.6 You acknowledge that the Software and Documentation are provided to you free of charge and that the exclusions and limitations of liability in this License reflect this. Some jurisdictions do not allow the foregoing limitations or exclusions of liability, so the foregoing limitations or exclusions may not apply to you.

6. Hardware

- 6.1 The proper functioning of the Software may be affected by the hardware on which it is used. You are responsible for ensuring that the hardware is suitable for running the Software and that in particular it meets the requirements set out in this condition 6. Without derogating from the foregoing with respect to the iTero Element Flex scanner, the Software shall only be used with the Laptop as recommended in the Documentation.
- 6.2 You are responsible for ensuring that you have suitable equipment and services to allow the proper downloading and use of the Software, including (without limitation and as applicable) the Laptop, additional compatible devices as set forth in the Documentation, suitable internet access, and certain software as specified in this License (fees may apply), as well as periodic updates to such software.
- 6.3 The specific hardware requirements for Software or Software update, as may be necessary, shall be provided to you in a description form prior to download. If you fail to have suitable equipment and services, including and as applicable the Laptop or the Laptop Software, the Software might not operate as intended and any results obtained may not be correct.
- 6.4 You acknowledge that if you download the Software through a data connection you may incur significant charges because of the size of the Software, depending on your contract with your internet service provider.

7. Updates

- 7.1 We may from time to time (but shall not be required to) make available a new version, updates, patches, fixes, upgrades, modifications, extensions, functional improvements, error corrections, enhancements, revisions or changes to the Software (the "Updates") in order to ensure its continued operation.
- 7.2 Most Updates or new software releases may be automatically downloaded and installed to your Device (and you hereby authorize us to implement such automatic download).
- 7.3 You agree that Align may perform periodically any type of reasonable actions determined by Align in its discretion in order to update and to maintain the Software on your system or the equipment, including the Device, on which the Software resides or to provide support, if any, as required by Align in its discretion, under the terms of a support services agreement with you or any other similar documentation. Such actions may include, among other actions, automatically assessing the version of the Software in use by you and providing updates of the Software or any parts thereof to you, collection of anonymous statistics such as sequence of features used to analyze patterns or user trends to support efforts to improve the Software, pulling instrumentation data from such equipment, including the Device, containing information such as usage of tools, logs of error messages, sequence of events that may be causing issues or other similar items. You grant Licensor permission to access the Software on your system as set forth herein, including without limitation, to allow log files of the statistics, of a relatively small and reasonable size, to be stored on Align's computer for a reasonable length of time and to remotely ascertain the version and configuration of the Software, web browser and operating system in use on your computer system or the Device.
- 7.4 With respect to the iTero Element Flex scanner, Align has no liability for or any obligation to provide updates, upgrades, patches, fixes, or any other services or support for any Laptop Software which shall be your sole responsibility. In the event that Align notifies you that an update or upgrade or other fix to your Laptop Software is required in order for the Software to function properly, you

agree to promptly obtain such update, upgrade or other fix, and your failure to do so shall relieve Align of any obligations hereunder and shall be considered a material breach of this Agreement.

8. Intellectual Property Rights

8.1 You acknowledge that all intellectual property rights in the Software and Documentation throughout the world belong to us, that rights in the Software and Documentation are licensed (not sold) to you, and that you have no rights in, or to, the Software or Documentation other than the right to use them in accordance with this License.

8.2 You acknowledge that you have no right to have access to the Software in source code form or in unlocked coding or with comments except to the extent required by applicable law.

8.3 Nothing in this License grants you any right in connection with trademarks or service marks of Align.

8.4 You agree that you will not sell re-sell the Software or use the Software for any illegal purpose or in any unlawful manner and will use it only for the uses set forth in Section 1.2.

9. Confidentiality

9.1 You acknowledge that the Software comprises valuable confidential proprietary information and trade secrets belonging or licensed to us ("Confidential Information"), the disclosure of which could have damaging effects on our business.

9.2 You undertake to keep confidential all Confidential Information received from us (or disclosed to you by another person on our behalf) in connection with this License and shall not divulge the same to any person without our prior written consent except where such Confidential Information:

- (a) is in the public domain at the date of this License otherwise than as a result of a breach of a confidentiality obligation by any person;
- (b) subsequently comes into the public domain, otherwise than as a result of a breach of this License or other breach of a confidentiality obligation by any person, but only after it has come into the public domain;
- (c) was already in your possession at the time of disclosure to you by or on behalf of us and you are able to demonstrate this by documentary evidence and you do not owe a separate obligation of confidentiality to us in relation to that Confidential Information; or
- (d) is independently developed by your employees who had no access to the Confidential Information as demonstrated by documentary evidence.

9.3 You shall be entitled to disclose Confidential Information where required to do so by law, regulation or order of a court of competent jurisdiction, but only to the extent necessary to comply with such law, regulation or order. Where a disclosure is necessary under this condition, you must promptly notify us except where you are prohibited by law, regulation or order of a court of competent jurisdiction to do so.

10. Termination

10.1 Either party may terminate this License at any time on thirty (30) days written notice to the other party.

- 10.2 Align may terminate this License at any time and without notice if you or any Permitted Employee materially breach this License.
- 10.3 This License will terminate automatically upon termination or revocation of your Customer ID for any reason.
- 10.4 Upon termination for any reason:
 - (a) all rights granted to you under this License shall cease;
 - (b) you must cease to use the Software and Documentation and all other activities authorized by this License and return or destroy any and all copies of the Software within your possession or control, including any copies, whether installed for back-up purposes or otherwise; and
 - (c) you must immediately delete or remove the Software and Documentation from all computer equipment in your possession and if applicable from the Laptop and immediately destroy all copies of the Software, Documentation, Interoperability Information and any Confidential Information and Patient Data as defined in Section 13 below then in your possession, custody or control (including electronic copies) and certify to us that you have done so, including, without derogating from the generality of the foregoing and as applicable, Software and Documentation and Patient Data located on your Laptop.
11. U.S. Government End-Users
 - 11.1 If you are a U.S. Government end-user: The Software is a “commercial item” as that term is defined at FAR 2.101, consisting of “commercial computer software” and “commercial computer software documentation” as such terms are defined in FAR 12.212, and is provided to the U.S. Government only as a commercial end item. Government end users acquire the rights set out in this EULA for the Software consistent with: (i) for acquisition by or on behalf of civilian agencies, the terms set forth in FAR. 12.212; or (ii) for acquisition by or on behalf of units of the Department of Defense, the terms set forth in DFARS 227.7202. Use, duplication or disclosure by the U.S. Government is subject to restrictions as set forth in FAR 12.212 and DFARS 227.7202 and is further restricted in accordance with this EULA. The contractor/manufacturer is Align Technology, Inc., 2820 Orchard Parkway, San Jose, CA 95134.
12. Export Prohibition
 - 12.1 You agree not to export or re-export, or authorize the export or re-export of either the Software or Documentation or any copy or direct product thereof in violation of any applicable export laws, restrictions or regulations, including without limitation those of the U.S. Department of Commerce and the U.S. Department of Treasury. Without limiting the foregoing, you must not export the Software or Documentation to Cuba, Iran, Iraq, Libya, North Korea, Rwanda or to any Group D:1 or E:2 country (or any national of such country) specified in the then-current Supplement No. 1 to Part 740 or in the Commerce Control List in the then-current Supplement No. 1 to Part 738, or in violation of the embargo provisions in Part 746 of the U.S. Export Administration Regulations (or any successor regulations or supplement).
13. Data Collection and Privacy
 - 13.1 Align reserves the right to collect anonymous statistics, such as the sequence of features used, to analyze use patterns and/or user trends to support its efforts to improve the Software. By using the Software, you agree to such data collection and further agree to allow log files of the statistics,

of a relatively small and reasonable size, to be stored on your computer as a sequence of numbers, for a reasonable length of time. No cookies will be placed on your computer.

- 13.2 You understand and agree that by using the Software, that you may be electronically transferring information of a confidential nature.
- 13.3 Definitions: In this condition 13, the following terms will have the following meanings: (a) "Binding Corporate Rules" ("BCRs") mean our Binding Corporate Rules Processor Policy, available at <http://investor.aligntech.com/documents.cfm>; (b) "Data Protection Law" means applicable data protection or privacy laws or regulations in the country in which you practise dentistry with respect to patients, including the General Data Protection Regulation 2016/679 and any applicable supplemental or implementing legislation and any applicable national implementations and the Privacy and Electronic Communications Directive (2002/58/EC) (each as amended), and including The Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and regulations made thereunder, including the Standards for Privacy of Individually Identifiable Health Information and Security Standards for the Protection of Electronic Protected Health Information at 45 C.F.R. Parts 160 and 164; the security and privacy provisions of the American Recovery and Reinvestment Act of 2009; (c) "Personal Data", "Sensitive Personal Data", "Process/Processing", "Controller" (which shall be read in these Terms as "Operator" where local Data Protection Law uses instead the term "Operator"), "Processor", will each have the meaning given to them under Data Protection Law; and (d) "Patient Data" means Personal Data (including Sensitive Personal Data) about a patient collected by means of iTero Scanner and "Protected Health Information" as defined by HIPAA, including their patient records, impressions and intra-oral scans, study models and treatment plans.
- 13.4 Controller / Processor: You are the Controller of any Patient Data (i.e. Sensitive Personal Data of your Patients) and you are responsible for compliance with Data Protection Law with respect to Patient Data. To the extent that Align processes any such Patient Data, Align will do so as a Processor on your behalf and in accordance with your instructions (as set out in this License and our Binding Corporate Rules). Align, as Processor, will not apply or use the data for purposes other than those established in this License, and will not disclose the data to third parties unless authorized by you. You warrant that you have obtained valid consent and are entitled to disclose the Personal Information to the Align so as to allow Align to lawfully process through the collection and transfer of the Personal Information in accordance with this Agreement on behalf of you.
- 13.5 Transparency and fairness: You must inform your patients in line with any requirements of and/or prescribed by applicable Data Protection Law, including the purpose for which the Patient Data is being collected, intended recipients of the Patient Data, name and address of the person collecting and storing Patient Data (including of any Subprocessors as defined below), and their data protection rights, and obtain any necessary consents in the format required by the locally applicable Data Protection Law from them for the processing of their Patient Data in accordance with this License, including that Align may appoint subcontractors and process Patient Data in non-EU countries per our BCRs. You agree to indemnify and keep indemnified Align and its directors, employees, agents, subcontractors, and affiliates from and against any claims, damages, liabilities, expenses or penalties Align may incur due to your disclosure of Patient Data to Align, or any of its agents, subcontractors or affiliates pursuant to this Agreement.
- 13.6 Access to Binding Corporate Rules: You should inform your patients about the existence of our Binding Corporate Rules.
- 13.7 Patient Data disclosures: You will only disclose to us Patient Data that is necessary to fulfil the purposes described in this License and in accordance with the patient's consent form and any other consent(s) as required by applicable law signed by the patient (a template consent is available on the Invisalign Doctor Site and the iTero Doctor's Site).

- 13.8 Confidentiality and security: You and Align agree to adhere to the principles of medical confidentiality in relation to Patient Data and any confidentiality and security requirements prescribed by applicable law. Align shall ensure that any person it authorizes to process Patient Data has committed themselves to keep such Patient Data confidential. You must use the security features (including any key, PIN, password, token or smartcard) that Align issues to you individually to keep Patient Data secure and keep such security features confidential without lending, sharing, transferring or otherwise misusing them. You acknowledge that Align may change its security features from time to time. Further, Align and you shall each implement appropriate technical and organizational measures to protect Patient Data against accidental loss, alteration, unauthorized disclosure or access (a "Data Breach"). Align ensures that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality.
- 13.9 Notwithstanding anything to the contrary as set forth in this Section 13, to the maximum extent permitted by applicable law, you acknowledge that you are solely responsible for the security of the Patient Data located on your Device, and any Data Breach of the Patient Data located on your Device shall be your sole responsibility. With respect to the iTero Element Flex scanner, in the event that you sell, transfer, or dispose of your Laptop or any other personal equipment on which the Patient Data is stored, you shall delete all files relating to such Patient Data and reset the Laptop or any other personal equipment to "Factory Reset" before transferring, selling or disposing of your Laptop or any other of such personal equipment.
- 13.10 Data Breaches: Except in the case of Section 13.9, where an incident or breach gives rise to a risk of unauthorised disclosure, loss, destruction or alteration of the Personal Information held in manual or electronic form by or on behalf of the Align (as Processor), Align will notify you of such incident or without undue delay. Align will take all reasonable steps to mitigate or negate the effects of any such Data Breach. In the event of a Data Breach under Section 13.9, you will notify Align you as soon as possible if you become aware of a verified Data Breach and keep us informed of any related developments. In addition, Align shall provide you with all co-operation and assistance as may be reasonably required in order to report the breach to appropriate Data Protection Authorities and Data Subjects as required under Data Protection Laws and to mitigate or negate the effects of any such Data Breach. Align will maintain records of any known or suspected Align breaches in accordance with commercially accepted industry practices and will make such records reasonably available to you upon request, subject to restrictions that may be placed on Align by contractual obligations of confidentiality to third parties, Regulatory Authorities, or Applicable Law. Except as may be strictly required by Applicable Law, no public notice issued by Align regarding the incident or breach will disclose the name of, or refer to, you without your prior written consent.
- 13.11 Align has made modifications to the Software, by implementing a third party security and back-up software solution as a managed service ("Security Software") that is being provided to you under the terms of this Agreement. Align hereby grants to you a non-exclusive, non-transferable, limited right and license to access and use the Security Software within the territory where you operate, other than Japan. You acknowledge that Align cannot guarantee that the Software will completely and accurately detect or clean applications and files that are malicious or that you do not use or want. You acknowledge, accept and represent that you accept the risk that the Software may cause welcome as well as unwelcome files, email or URLs or other web content to be screened and blocked and that rejected files may not be recoverable.
- 13.12 Subprocessing: You agree that Align may subcontract its processing of Patient Data to third parties ("Subprocessors") provided that: (i) Align has in place a written agreement in accordance with applicable Data Protection Law with the Subprocessor that requires it to process Patient Data only in accordance with this License and Align's Binding Corporate Rules, (ii) any consents required

by applicable Data Protection Law have been obtained and (iii) we remain liable to you for ensuring that our Subprocessors process Patient Data in accordance with this condition 13.

- 13.13 Supervision: Where required by applicable law, you agree that you will supervise Align in relation to data processing and comply with any disclosure requirements. Align agrees that Align will supervise Subprocessors and comply with any disclosure requirements in relation to the same.
- 13.14 Data transfers: You acknowledge that Align may transfer Patient Data for processing to one or more of its affiliates or third party subprocessors in the course of providing the Services, which include countries outside of your country of residence and/or the European Economic Area ("EEA"). Align shall only transfer Patient Data outside the EEA where it has taken such measures as are necessary to ensure the transfer is in compliance with applicable Data Protection Law. You agree that, subject to provision of the information from Align, you will obtain any necessary consent for data transfer and/or notify the subjects of such Patient Data in accordance with applicable Data Protection Law and you agree and acknowledge that Align shall not be liable for any failure on your part to do so.
- 13.15 Data retention: Align will store each patient's Patient Data in your relevant patient account for no less than the minimum period, if any, prescribed by the applicable laws and no longer than as necessary to fulfil the purpose for which the Patient Data is processed. In any event, the Patient Data will be stored for no more than seven (7) years, consistent with health care data retention requirements globally in relation to the particular patient. You will be able to access and to download copies of your patients' Patient Data from the iTero Doctor's Site at any time, unless and until such Patient Data is no longer retained pursuant to this clause or your authority as Controller of that patients' Patient Data has ended pursuant to condition 13.17.
- 13.16 Patient Notice: Where required by applicable law, you agree that you will notify Patients of the period of use and retention of their Patient Data prior to obtaining consent.
- 13.17 Patient transfer: If a Patient notifies you or Align directly that they wish to change doctors, or if for any reason you are no longer able to treat a patient, you authorise Align to effect and manage the patient transfer procedure on your behalf without further notice to you, provided that Align has obtained a signed patient transfer form from the patient that confirms the appointment of a new doctor (who shall become the Controller of the patient's Patient Data). Once the transfer is completed, you will cease to be the Controller of that patient's Patient Data, and your access to that Patient's Patient Data will cease.
- 13.18 Deletion or return of data: Upon termination of this Licence, Align shall (at Customer's election) destroy or return to Customer all Patient Data in its possession. This requirement shall not apply to the extent that Align is required by applicable law to retain some or all of such Patient Data, or to Patient Data that Align has archived on back-up systems.
- 13.19 Patient referrals: If you refer a patient to another doctor, you shall do so in compliance with Data Protection Laws and applicable professional rules or laws.
- 13.20 Individuals' rights: If a patient requests for us access to, or wishes to correct, update or erase its Patient Data, or otherwise asserts any of the patient's rights, we will promptly inform you of such request and provide you with such reasonable assistance as you may require in connection with such request and may provide access to the patient or their representative to their Patient Data. You agree that if applicable Data Protection Law specifies a timeframe and/or procedures that must be complied with in relation to any right asserted in relation to Patient Data you will be solely responsible for compliance with the relevant timeframe and/or procedures.

- 13.21 Anonymised data: You agree that Align may use Patient Data for promotional, educational and/or research purposes, publication in professional journals or use in professional collateral materials, provided that such Patient Data has first been anonymised in a way that neither you nor any patient are identifiable. Where applicable law requires consent for such use of Patient Data, you agree that you will obtain such consent.
- 13.22 Audit: From time to time, Align will submit its data processing facilities, data files and documentation needed for processing Patient Data for audit to ascertain compliance with Align's BCRs. From time to time, Align will also take measures to verify the compliance of its Subprocessors with the requirements of this condition 13.
- 13.23 Data protection impact assessment: if Align believes or becomes aware that its processing of Patient Data is likely to result in a high risk to the data protection rights and freedoms of data subjects, Align shall inform you and provide you with reasonable cooperation in connection with any data protection impact assessment that may be required under applicable Data Protection Law.
- 13.24 Customer Personal Data: You agree and consent to Align processing your name, contact details and any other Personal Data that you provide to Align in each case in accordance with Align's privacy policy which may be found at https://www.invisalign.com/SiteCollectionImages/Align_BCR_Controller_Policy.pdf including for the purpose of selling, handling orders or responding to enquiries about products or services or engaging in training with Align. You understand that you are free to refuse consent to the use of your Personal Data as set forth above or withdraw your consent at any time, but you understand also that Align might not then be able to supply products or services to you. Transfers of your Personal Data might occur to and from Align entities in different countries of the world, always subject to Align's Binding Corporate Rules. In countries in which Align is legally obliged to grant this right, you have the right to access your Personal Data held by Align and to request its correction or erasure. For this purpose, you may contact Align at privacy@aligntech.com.
- 13.25 You agree that you shall not engage any third party, including any laboratory or other service provider, that has not upgraded or updated its software used in connection with the iTero Scanner in accordance with Align's written notification to such third party, and you shall be solely responsible to confirm such upgrade or update in writing with such third party prior to transmitting to such third party any Patient Data or other information subject to applicable data privacy laws. Align shall have no obligation to verify that you have requested or been provided such written confirmation, and you shall be solely liable for any subsequent breach of applicable data privacy laws in the event that you provided Patient Data or such other information which is subject to applicable data privacy laws to a third party that has failed to confirm to you in writing that it has implemented such upgrade or update prior to your transfer of any Patient Data or other information subject to applicable data privacy laws.
14. General
- 14.1 If any provision of this License is declared by any competent court or body to be illegal, invalid or unenforceable under the law of any jurisdiction, the remaining conditions will remain in full force and effect.
- 14.2 The failure to exercise or delay in exercising a right or remedy provided to a party under this License shall not constitute a waiver of that right or remedy, and no waiver by a party of any breach of this License shall constitute a waiver of any subsequent breach of the same or any other provision.
- 14.3 A person who is not a party to this License has no right to enforce or to enjoy the benefit of any term of this License.

- 14.4 You shall not assign all or any part of your rights and/or obligations under this License without our prior written consent. We may assign any or all of our rights and obligations under this License at any time; however this will not affect your rights or obligations under this License.
- 14.5 The fees for the Software (if any) shall be as set forth in a separate agreement between you and Align.
- 14.6 The controlling language of this Agreement is English. If you have received a translation into another language, it has been provided for your convenience only.
- 14.7 Any terms that by their nature should survive the termination or expiration of this Agreement shall be deemed to have survived the termination or expiration hereof.
- 14.8 Neither party shall be in default or be liable for any delay, failure in performance (excepting the obligation to pay) or interruption of service resulting directly or indirectly from any cause beyond its reasonable control.
- 14.9 Support services to be provided, if any, by Align or on its behalf shall be based on the terms and conditions of a support services or similar agreement to be entered into between you and Align and additional fees may apply. The parties acknowledge that such support or similar services are provided independently of the Software licensed hereunder, and that provision of such support or similar services is not essential to the functionality of such Software.
15. Law and Forum
- 15.1 Save as otherwise provided in condition 15.3, You and Align agree that if you are practicing dentistry in the countries or continents as listed below, this licence and any dispute or claim arising out of or in connection with this licence or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws as set forth in condition 15.2.1. This Agreement shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods.
- 15.2 Save as otherwise provided in condition 15.4, You and Align agree that if you are practicing dentistry in the countries or continents listed below, this licence and any dispute or claim arising out of or in connection with this licence or its subject matter or formation (including non-contractual disputes or claims) shall be subject to the exclusive jurisdiction of the courts of the country as set forth in condition 15.2.2, save that in either case and if local law permits, Align shall have the right to seize the jurisdiction of the country or any of the countries in which you or your practice resides, practices dentistry and/ or does business to protect its rights and/ or property.
- 15.2.1 Applicable Law. This License will be governed by and construed in accordance with the substantive laws in force in
- (a) England, if you are practicing dentistry in the continents of Europe, the Middle East or Africa, or in Russia; or
 - (b) Singapore, if you are practicing dentistry in Asia or Oceania (excluding Thailand, Malaysia and China); or
 - (c) California, USA, if you are practicing dentistry in North or South America (excluding Brazil); or
 - (d) The Peoples' Republic of China, if you are practicing dentistry in the Peoples' Republic of China; or

- (e) Brazil, if you are practicing dentistry in Brazil; or
 - (f) Malaysia, if you are practicing dentistry in Malaysia.
- 15.2.2 Exclusive Jurisdiction. The respective courts of England when laws of England applies, Singapore, when Singaporean law applies, California when California law applies, and the People's Republic of China in the place where Align Technology (Shanghai) Trading Co., Ltd. is registered when the laws of the People's Republic of China applies, Brazil when Brazilian law applies, and Malaysia when Malaysian law applies.
- 15.3 Customer and Align agree that if you are practicing dentistry in Thailand, all contracts between the parties, and any dispute or claim arising out of or in connection with any such contract or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the laws of Thailand.
- 15.4 Customer and Align agree that if you are practicing dentistry in Thailand, any dispute arising out of or in connection with this agreement, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration administered by the Singapore International Arbitration Centre ("SIAC") in accordance with the Arbitration Rules of the Singapore International Arbitration Centre ("SIAC Rules") for the time being in force, which rules are deemed to be incorporated by reference in this clause. The seat of the arbitration shall be Singapore. The Tribunal shall consist of one (1) arbitrator. The language of the arbitration shall be English.