

TREATMENT PLANNING SERVICES AGREEMENT

THIS AGREEMENT is entered into as of _____

BETWEEN:

- (1) DSD Planning Center S.L., a company organized under the laws of Spain, with principal offices at Calle Chile 10, oficinas 1 y 2, Las Rozas, Madrid, Spain, 28290 (hereinafter referred to as "**TPS**"); and
- (2) _____,
a licensed dentist in _____,
with Invisalign ID nº _____,
working on behalf of clinic _____,
with address at _____
(hereinafter referred to as "**Service Recipient**").

BACKGROUND:

- (A) Align Technology, Inc. ("**Align**") has developed a series of clear polymer, removable devices ("**Aligners**") that either retain teeth or move teeth in small increments from their original state to a more ideal treated state under the Invisalign® brand ("**Invisalign® Treatments**"). Align has developed the ClinCheck® software, a proprietary 3D computer application for depicting and viewing an orthodontic treatment plan, including a virtual representation of the patient's expected tooth movement from the beginning stage to the final position.
- (B) Before the manufacture of the Aligners for a specific patient, a patient treatment plan needs to be created and developed using the ClinCheck® software.
- (C) TPS is an Align authorized treatment planning service provider.
- (D) The Service Recipient wishes to engage TPS to provide treatment planning services in respect of proposed Invisalign® treatments for his/her patients subject to the terms and conditions set out in this agreement.

IT IS AGREED:

1. DEFINITIONS AND INTERPRETATION

1.1 In this Agreement:

- (a) a **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);
- (b) a reference to a party includes its personal representatives, successors or permitted assigns;
- (c) 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;

(d) 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

(e) a reference to **writing** or **written** includes e-mails.

2. SERVICES

2.1 During the Term of this Agreement, TPS, within reasonable time, shall provide the Service Recipient the following ClinCheck® treatment planning and associated services in respect of Invisalign® Full cases and Invisalign® Assist cases:

2.2 TPS shall review the Invisalign® patient information provided by the Service Recipient in accordance with the most current and applicable Invisalign® case selection criteria to evaluate suitability for a particular Invisalign® treatment;

2.3 TPS shall assist Service Recipient in developing a ClinCheck® treatment plan for the patient for Invisalign Full and Assist cases;

2.4 TPS create the ClinCheck® treatment plan with the Service Recipient and shall communicate with Align on any requested modifications and offer an unlimited number of reviews until the Service Recipient is satisfied with the ClinCheck® treatment plan. Service Recipient is the only party who can approve the ClinCheck® treatment plan and Service Recipient takes full responsibility for the treatment.

2.5 TPS shall provide reasonable post ClinCheck® treatment plan acceptance support on clinical issues that a Service Recipient may encounter on each accepted case for the term of this agreement; and

2.6 TPS shall handle any inquiries concerning the advice, comments and/or recommendations and/or the review report raised by Service Recipient and respond directly to the relevant Service Recipient; (all together the "**Services**").

In providing the Services, TPS shall perform the Services with the best care, skill and diligence and in accordance with generally recognized 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.

2.7 In providing the Services, TPS shall:

(a) co-operate with the Service Recipient in all matters relating to the Services, and comply with all instructions of the Service Recipient 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

(b) perform the Services with the best care, skill and diligence and in accordance with generally recognized 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.

2.8 TPS warrants to only use people trained in providing the Services to Service Recipients who are suitably skilled and experienced to perform the tasks assigned to them and who have successfully attended any training required by Align which may include, without limitation, training on the review of treatment plans and use of ClinCheck® treatment planning software, and in sufficient number to ensure that TPS's obligations are fulfilled in accordance with this Agreement.

- 2.9 TPS shall store any Review Report for at least five (5) years from the relevant patient's last treatment or such other period as TPS is statutorily required to keep records of dental treatment, whichever is longer.

3. CONSIDERATION

- 3.1 Any fees payable for the provision of the Services are agreed upon and shall be paid by Service Recipient directly or its clinics to TPS on a service hiring type basis.

4. DATA PROTECTION

- 4.1 For the purposes of this Section 4:

"Data Privacy Legislation" means the applicable laws protecting personal data, and all other similar or equivalent and applicable laws relating to the processing of personal data in the Territory, together with all applicable laws and regulations relating to the processing of personal data and privacy in the relevant country.

"Patient" means an individual who is receiving an Invisalign® Treatment from the Service Recipient.

"Patient Data" means patient records, impressions and intra-oral scans, study models and treatment plan 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).

- 4.2 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.
- 4.3 Under the applicable Data Privacy Legislation the Service Recipient is the controller of his/her 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.
- 4.4 TPS 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 the Service Recipient's prior written instruction, except in connection with legal proceedings or to regulatory bodies, where allowed or required by law.
- 4.5 TPS will only use Patient Data in accordance with the Service Recipient's instructions as controller, and the Service Recipient permits TPS to:
- (a) 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 the Service Recipient (having regard that a different period is necessary for the purpose that the Patient's Patient Data is or is to be used); and
 - (b) provide the Patient Data to regulatory authorities upon their written and lawful request.
- 4.6 TPS shall implement and maintain throughout the Term appropriate technical and organizational measures to protect Patient Data against unauthorized 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 applicable law and be appropriate to the harm which might result from unauthorized or unlawful processing or accidental loss, destruction or damage to Patient Data and its nature. TPS shall notify the Service Recipient 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.
- 4.7 The Service Recipient hereby consents to TPS notifying Align in respect of any Data Breach which is likely to or actually affects the Patient Data of one of the Service Recipient's Patients or their security within the same time frame as set out in Section 4.6.

- 4.8 The Service Recipient undertakes to obtain the Patient's written consent that TPS may process his/her Patient Data for the purpose of providing the Services.

5. TERM AND TERMINATION

- 5.1 This Agreement will commence on the date of its signature and shall continue thereafter for a period 1 year, unless terminated early by either party in accordance with the terms of this Agreement (the "**Term**"). This Agreement will be automatically renewed for successive periods of 1 year, unless expressly notified by either party with 30 days prior written notice.
- 5.2 Either party may terminate this Agreement with immediate effect by giving written notice to the other party during the Term, if:
- (a) At any time either party decides to no longer continue, by giving the other party a 15 (fifteen) days written notice;
 - (b) 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;
 - (c) at any time if any one or more of the following events occurs:
 - (i) 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
 - (ii) 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
 - (iii) 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 Section 5.2(b)(i) to Section 5.2(b)(ii).
- 5.3 TPS may further terminate this Agreement with immediate effect on written notice to the Service Recipient in the event that TPS is no longer an authorized ClinCheck® treatment planning service provider of Align.
- 5.4 On termination of this Agreement, TPS will at its own expense, provide to the Service Recipient any books, documents, papers, materials, computer discs and software, and any copies thereof (whether in human readable or machine readable form) and other property of the Service Recipient which may then be in its possession or under its control.
- 5.5 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.

6. CONFIDENTIALITY

- 6.1 "**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:
- (a) the terms of this Agreement;
 - (b) any information that would be regarded as confidential by a reasonable businessperson relating to:

- (i) the business, affairs, customers, clients, suppliers, plans of the disclosing party (or of any affiliate of the disclosing party); and
- (ii) the operations, processes, product information, know-how, designs, trade secrets or software of the disclosing party (or of any affiliate of the disclosing party);
- (c) any information developed by the parties in the course of carrying out this Agreement.

6.2 The provisions of this Section shall not apply to any Confidential Information that:

- (a) 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);
- (b) was available to the receiving party on a non-confidential basis before disclosure by the disclosing party;
- (c) 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;
- (d) the parties agree in writing is not confidential or may be disclosed; or
- (e) is developed by or for the receiving party independently of the information disclosed by the disclosing party, as demonstrated by written records.

6.3 Each party shall keep the other party's Confidential Information confidential and shall not:

- (a) use such Confidential Information except for the purpose of exercising or performing its rights and obligations under this Agreement ("**Permitted Purpose**"); or
- (b) disclose such Confidential Information in whole or in part to any third party, except as expressly permitted by this Section.

6.4 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:

- (a) it informs such Representatives of the confidential nature of the Confidential Information before disclosure; and
- (b) it procures that its Representatives shall, in relation to any Confidential Information disclosed to them, comply with the obligations set out in this Section 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.

6.5 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.

6.6 The provisions of this Section shall continue to apply after the expiry or earlier termination of this Agreement.

7. INSURANCE AND INDEMNITY

- 7.1 TPS 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 Services to a minimum amount of \$1 million per claim arising from the performance of the Consulting Services.
- 7.2 TPS shall indemnify and hold the Service Recipient harmless from all claims and all direct, indirect or consequential liabilities (including loss of profits, loss of business, depletion of goodwill and similar losses), costs, proceedings, damages and expenses (including legal and other professional fees and expenses) awarded against, or incurred or paid by, the Service Recipient as a result of or in connection with any claim made against the Service Recipient in respect of any liability, loss, damage, injury, cost or expense sustained by any third party to the extent that such liability, loss, damage, injury, cost or expense was caused by, relates to or arises from the provision of the Services or any ClinCheck® treatment plan created by TPS as a consequence of a breach or negligent performance or failure or delay in performance of this Agreement by TPS.
- 7.3 Service Recipient shall indemnify and hold TPS harmless from all claims and all direct, indirect or consequential liabilities including loss of profits, loss of business, depletion of goodwill and similar losses), costs, proceedings, damages and expenses (including legal and other professional fees and expenses) awarded against, or incurred or paid by, TPS as a result of or in connection with any claim made against TPS in respect of any liability, loss, damage, injury, cost or expense sustained by any third party to the extent that such liability, loss, damage, injury, cost or expense was caused by, relates to or arises from the dental treatments performed by the Service Provider.
- 7.4 The provisions of this Section 7 shall survive termination or expiry of this Agreement, however arising.

8. NOTICES

- 8.1 Any and all notices required or permitted under this Agreement shall be in writing and shall be personally delivered, sent by international courier, or sent by other means which affords the sender evidence of delivery or rejected delivery, but which shall not include electronic communication, such as e-mail, to the respective parties at the addresses shown in the opening paragraph of this Agreement, unless and until a different address has been designated by written notice to the other party.

9. WAIVER

- 9.1 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.

10. ENTIRE AGREEMENT

- 10.1 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.
- 10.2 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.
- 10.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statements in this Agreement.
- 10.4 Nothing in this Section 10, however, shall limit or reduce any liability of any person for fraud, including fraudulent misrepresentation.

11. VARIATION

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

12. SEVERABILITY

- 12.1 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):

- (a) 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
- (b) 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.

13. FORCE MAJEURE

- 13.1 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.

14. ASSIGNMENT

- 14.1 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.

15. NO PARTNERSHIP OR AGENCY

- 15.1 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 authorize any party to make or enter into any commitments for or on behalf of any other party.

16. GOVERNING LAW AND JURISDICTION

- 16.1 The validity, interpretation, enforceability, and performance of this Agreement shall be governed by and construed in accordance with the laws of Spain. Venue for all disputes hereunder shall be in the courts of Madrid, Spain. Consultant agrees to comply with all Spanish and foreign export control laws and/or regulations. The parties specifically disclaim the applicability of the United Nations Convention on Contracts for the International Sale of Goods to this Agreement.

17. COUNTERPARTS

- 17.1 This Agreement may be executed in counterparts, each of which so executed shall be deemed to be an original and such counterparts together will constitute one and the same instrument. In addition, the parties agree that documents executed and transmitted by facsimile, transmitted electronically with electronic or digital signature, or transmitted by email with a scanned copy shall be deemed to be an original signature for purposes of this Agreement. The parties have caused this Agreement to be signed by their duly authorized representatives.

This Agreement has been signed on behalf of each of the parties by a duly authorized signatory on the date stated at the beginning of this document.

SIGNED for and on behalf of TPS

A handwritten signature in dark ink, appearing to read "Francis Gray", written over a light gray rectangular background.

Francis Gray Coachman
DSD Planning Center Director

SIGNED for and on behalf of Service Recipient

Signature

Schedule**Service Levels**

TPS shall provide the Services to the Service Recipient at all times meeting the following requirements:

- TPS shall review and evaluate the diagnostic patient information provided in accordance with the most current and applicable Invisalign® case selection criteria to evaluate its suitability for an Invisalign® Treatment and provide a clear written confirmation of applicability to the Service Recipient within a reasonable period of receiving the required patient information. "Working hours" for the purpose of this Schedule 3 shall mean the time period from 9am to 6pm on each working day in the country where the Service Recipient is resident;
- The Service Recipient can contact TPS in respect of the Services by email;
- TPS shall respond to emails from the Service Recipient within a reasonable time
- Upon request of the Service Recipient, TPS shall offer an appointment for a phone call, video conference, VoIP, Skype support within a reasonable time of such demand or request. Any appointments shall be scheduled at a mutually acceptable time for both, the Service Recipient and TPS and using a mutually acceptable method of communication;
- Comply with Align clinical standards and requirements as set out on the Invisalign® doctor site (vip.invisalign.com), Align Technology Institute (ATI) and the education section at learn.invisalign.com.