

Alyne Terms and Conditions

(Superseded 3 September 2018)

These Terms of Service constitute a contract between You and Alyne (as defined in chapter 1). The Terms of Service (“Terms”) shall govern the acquisition and use of the Alyne Service (as defined in chapter 2) both during the free trial period and paid service.

Please note that these Terms have been updated on 6. September 2016 effective 6. October 2016. Contracts with any paying customers prior to this date remain unchanged for the contract duration. All contracts after this date shall be governed by these updated terms. Please refer to our blog for details of the updates.

1. Applicability

1.1 Contract Parties

This contract shall exist between Alyne GmbH (“Alyne”), Hiltenspergerstr. 35, 80798 Munich, Germany, Amtsgericht Munich, HRB: 220987 and You or the entity, company, organisation and its affiliates You are authorised to represent and not a private consumer as defined in Paragraph 13 BGB (in the following referred to as “You” or “Your”).

1.2 Acceptance

By accepting these Terms of Service or using the Alyne Service, You agree to be bound to these Terms. If You do not have such authority to represent an entity, company, organisation or its affiliates or You do not agree with these Terms of Service, You must not accept these Terms and must not use the Alyne Service.

1.3 Start Date

This document was last updated on 30. September 2016. It is effective between You and Alyne as of the time and date You are accepting these Terms.

1.4 Alternative Arrangements

Any alternative or additional arrangements to these Terms of Service must be agreed in writing. Your Terms and Conditions, even if accepted by Alyne, shall not be part of this contract.

2. Scope

2.1 Alyne Service

Alyne shall provide You access to the Alyne Service for the duration of this contract. The Alyne Service shall consist of the usage of the Alyne Software as a Service including Alyne's content libraries, specifically the Alyne Control Statement Library and the Alyne Risk Library. The software shall allow users to view Control Statements and Control Sets, create Assessments based on the Control Statements, visualise Assessment outcomes and identify related risks from the Risk Library. The Alyne Service shall further include reference material, glossary, help texts and website text and blog entries from the alyne.com website.

2.2 Free Trial

2.2.1 Start of Trial Period

Before signing up for a usage tier, You will be registered for the Alyne trial period, providing limited access to the content libraries and Alyne Service functionality.

2.2.2 Deletion of Unused Trial Accounts

After more than 12 months of inactivity following a trial period, Alyne reserves the right to remove Your account and delete all related data. You shall be responsible for extracting any required data before that time.

2.2.3 Limitations during the Trial Period

The usage of the Alyne Service during the trial period shall be excluded from all warranty or support through Alyne.

2.3 Changes in Service

2.3.1 Minor Deviations

All offers made shall be non-binding in nature. Alyne reserves the right of minor deviations to the service after Your acceptance.

2.3.2 Updates

Alyne further reserves the right to update or enhance the service after Your acceptance without impacting the validity of this contract.

2.4 Contract Duration

The contract shall remain in place until (a) You or Alyne terminate the contract in writing or (b) You have been inactive for more than 12 months in the free trial period.

2.5 Survival

Your confidentiality obligations defined in this contract shall survive termination of Your use of the Alyne Service. Upon any termination of Your use of the Alyne Service, You must cease use of Confidential Information and Intellectual Property, and / or Services and destroy all Confidential Information and Intellectual Property of Alyne in Your possession or control.

3. Payment

3.1 Subscription to Alyne Usage Tiers

3.1.1 Purchase

You may purchase access to Alyne Usage Tiers through the Alyne Service or by contacting Alyne Support. You may only purchase access after providing accurate billing details.

3.1.2 Usage Tiers

Alyne provides access to the Alyne service based on defined usage tiers limiting (a) the number of concurrent Business Users, (b) number of concurrent Expert or Admin Users, (c) the number of assessed objects and (d) the number of concurrently active funnels within the defined contract duration.

Should You exceed one or more thresholds defined in your subscribed usage tiers, You shall be prevented from further usage of these types or may subscribe to a higher usage tier.

3.1.3 Refunds

Purchased subscriptions in a usage tier are not refundable. Partial refunds of usage costs for the current month are also not refundable upon termination.

3.1.4 Auto-Renewal, Cancellation and Revert to free trial period

Alyne subscription contracts auto-renew at the end of the contract period for the next 12 months unless cancelled through written notice at least 30 days before end of the

contract period. In this case, the organisation's administrators return to a free trial period. Business and Expert users will not be able to access the Alyne organisation, until a new subscription to a usage tier is signed.

3.1.5 Bonus and Discounts

We may, at our sole discretion, choose to offer discounted usage tiers for Alyne. Discounts have no monetary or cash value and shall only be used by You to offset cost of Alyne subscription purchases. Bonus codes and discount codes may only be used by You and may not be transferred or sold. Additional terms and limitations may be defined for each bonus or discount code including, but not limited to, expiry dates or specific usages.

3.1.6 Future Functionality

You agree that Your subscription purchases are based solely on Alyne Service functionality available at the time of purchase and not contingent on the delivery of future functionality or features mentioned orally or in written form by Alyne.

3.1.7 Price Changes

Alyne reserves the right to change the price of usage tiers at our sole discretion. Pricing changes shall not affect purchased subscriptions in any way or the validity of this contract.

3.2 Invoicing

Subscription duration are twelve (12) months and payment is due upon contract start. Alyne shall provide an invoice to You after each subscription purchase reflecting the amount confirmed by You in the Alyne Service and potentially applicable discounts applied.

3.3 Taxation

All prices displayed in the Alyne Service are excluding applicable taxes, levies, duties or similar governmental assessments. These will be raised on the invoice as legally required.

3.4 Payment

You will provide Alyne with a valid billing address, a valid purchase order, valid credit card details or an alternative document reasonably acceptable to Alyne. In case You have selected credit card payments, You hereby authorise Alyne or Alyne's payment processor, to deduct such charges You incur through purchases of credit packages. If You have selected any other payment type, Alyne will send You an invoice immediately following your purchase. Invoice charges are due upon receipt of the invoice with payment no later than thirty (30) days after the invoice date.

3.5 Late Payment

Alyne will notify You of late payments. Alyne reserves the right to accrue and charge interest or late fees on the outstanding balance as permitted by law.

3.6 Suspension of Service and Termination

Either party may elect to terminate Your account for the Alyne Service. You may request termination by submitting a support request to support@alyne.com or in written form to Alyne's Business Address at least thirty (30) days prior to contract end.

Alyne reserves the right, without limiting Alyne's other rights and remedies, to suspend Your access to the Alyne Service (revert Administrative Users to a Free Trial Period, suspend access to the Alyne Service for Expert and Business Users) if (a) any amount You owe to Alyne is more than thirty (30) days overdue, or (b) if we believe You, and / or Your End Users have violated these Terms. Any fraudulent, abusive or illegal activity by You, and / or Your End Users may be referred to appropriate government authorities at Alyne's sole discretion.

4. Confidentiality

Each party will protect each other's Confidential Information from unauthorised use, access or disclosure in the same manner as each protects its own Confidential Information, but with no less than reasonable care. Except as otherwise expressly permitted in these Terms, each party may use each other's Confidential Information solely to exercise our respective rights and perform our respective obligations under these Terms and shall disclose such Confidential Information (a) solely to those of our respective employees, representatives and subcontractors who have a need to know such Confidential Information for such purposes and who are bound to maintain the confidentiality of, and not misuse, such Confidential Information; (b) as necessary to comply with an order or subpoena of any administrative agency or court of competent jurisdiction; or (c) as reasonably necessary to comply with any applicable law or regulation. The provisions of this Section 4 shall supersede any non-disclosure agreement by and between the parties that would purport to address the confidentiality and security of data stored using the Alyne Service and such agreement shall have no further force or effect with respect to data stored using the Alyne Service.

5. Responsibilities

5.1 Alyne Responsibilities

5.1.1 Availability

Alyne will take commercially reasonable efforts to make the Alyne Service available to You 24 hours a day, 7 days a week, except for (a) planned downtime for maintenance of which we will aim to inform You electronically at least 8 hours before the downtime and (b) any downtime caused by circumstances beyond our control, including, but not limited to, natural disasters, acts of governments, civil unrest, acts of terror, strike, cyber security incidents or service provider failures.

5.1.2 Support

Alyne will provide basic support to You at no additional cost. Support requests may be raised through the Alyne Service and Alyne will take commercially reasonable efforts to respond within two (2) business days. Alyne reserves the right to define additional commercial arrangements for the resolution of complex support requests.

5.1.3 Privacy

You understand and agree that Alyne collects, uses, stores and otherwise processes Your personal information, utilisation data and any data created, stored or uploaded through You, and / or Your End Users using the Alyne Service and may share such data with third party service providers for the purposes of improving or providing the Alyne Service.

Processed data includes Your name, email address, postal address including this data from Your End Users. If You have provided credit card details, our PCI-DSS compliant payment processor will store and use this data for purposes of performing authorised payment transactions.

All personal data will be treated confidentially and in compliance with the Federal German Data Protection Act (Bundesdatenschutzgesetz) and other applicable legislation.

You agree that Alyne may access, preserve and disclose Your personal information and / or Data created, stored or uploaded to the Alyne Service if required to do so by law or to comply with a legal process.

You further agree to inform Alyne if you are using the Alyne Service to process sensitive personally identifiable information as defined in the Federal German Data Protection Act Paragraph 3 Section 9.

5.1.4 Subcontractors

Alyne shall use domestic and international service providers to support the provision of the Alyne Service. Alyne will apply the Terms as defined in chapters 5.1.3 and 6 to the contracts with these subcontractors. A subcontractor outside of the European Economic Area will only be selected by Alyne, if an adequate level of data privacy and protection is provided.

5.2 Customer Responsibilities

5.2.1 Authorised Users

You may only permit the users and type of user accounts you have purchased within your usage tier to access the Alyne Service. A Business User, Expert User or Admin User is bound to the specific invited user and is not transferrable.

Your Users shall include all End Users You provide with access to the Alyne Service, including End Users within Your organisation and such End Users that are external to Your organisation.

5.2.2 Account Credentials

You, and / or Your End Users must keep their account credentials (login ID and password) confidential and may not disclose or share among multiple individuals. Account credentials must be sufficiently protected and only stored in sufficiently encrypted form. Passwords must be regularly changed.

5.2.3 Connectivity

You are responsible for procuring and maintaining sufficient infrastructure to access the Alyne Service. This includes, but is not limited to, (a) a high speed internet connection, (b) network connections connecting You, and / or Your End Users to the internet, (c) access to current browser software installed on devices using the Alyne Service and (d) current devices with sufficient capability to process current browser based software. Alyne will assume no responsibility for the reliability, security, availability or performance of any of these components not operated by Alyne.

5.2.4 Copyright and Content Usage

You are granted a limited term license to the Alyne Service via an internet connection to the Alyne Content (including, but not limited to, Alyne Control Statement Library, Alyne Risk Library, Support Texts, Homepage Texts, Alyne Reports) and the Alyne Service for the duration of this contract.

All Alyne Software, Alyne Content and related documentation is the copyrighted work of Alyne. Unauthorised copying, distribution, modification, public display, or public

performance of copyrighted works is an infringement of the copyright holder's rights. As used herein, "Intellectual Property Rights" includes, but is not limited to, design rights, content libraries, algorithms, processes, invention rights, copyrights, trademarks, service marks, trade secret or confidentiality rights, and any other intangible property rights including applications for any of the foregoing, in any country, arising under statutory or common law or by contract and whether or not perfected, now existing or hereafter filed, issued, or acquired.

Selecting a value for a variable in an Alyne Control Statement, adding a custom value to an Alyne Control Statement, creating Custom Control Sets or Funnel or Assessments or generating an Alyne Report does not affect Alyne's Intellectual Property Rights or provide You usage rights beyond the duration of this contract.

Upon termination or suspension of this contract, all access rights covered in section 5.2.4 are terminated and You are no longer authorised to use Alyne's Intellectual Property.

5.2.5 Misuse of the Service

You agree not to (a) modify, adapt or otherwise hack the Alyne Service apart from the intended customisation options, (b) falsely imply membership or affiliation with Alyne, (c) reverse engineer or otherwise access Alyne's source code, (d) use the service to violate a third party's intellectual property rights, (e) use the service in any way that disrupts performance or integrity of the service, (f) use the Alyne Service in an unlawful manner, (g) upload and use unlawful, discriminatory, racist, sexist, violent or otherwise inappropriate content with the Alyne Service, (h) use the service to introduce, run or spread malicious software including, but not limited to viruses, trojan horses or worms or (i) use the Alyne Service in violation of existing laws such as, but not limited to, unsolicited contacting of individuals or misuse for mass marketing.

5.2.6 Your Data

You shall be the sole data owner and controller and responsible for maintaining sufficient accuracy of Your data uploaded or created using the Alyne Service, including (a) personal information of You and / or Your End Users, (b) comments, (c) object descriptions, (d) file attachments, (e) images / graphics and (f) fully custom created control statements and / or risks. Before terminating this contract, You are responsible for extracting this data, if required.

You hereby grant Alyne a worldwide, limited term license to host, copy, transmit and display Your Data as necessary for us to provide the Alyne Service as defined in these Terms. You further permit Alyne to monitor limited aspects of user activity for the purpose of securing and improving the Alyne Service. Alyne acquires no right, title or interest to Your Data.

5.2.7 Informing Users

All users You provide the Alyne Service to must be aware of the Terms of this contract before using the service.

5.2.8 License to use Your Feedback and Reference

You hereby grant Alyne a worldwide, perpetual, irrevocable, royalty-free license to use and incorporate any suggestion, enhancement request, recommendation, correction or other feedback provided by You or Your End Users into the Alyne Service.

You furthermore grant Alyne the worldwide, perpetual, royalty-free license to reference your organisation's usage of the Alyne Service towards other clients, without disclosing any further detail of Your usage of the Alyne Service or any other commercial arrangements.

6. Commissioned Data Processing

6.1 Data covered by Commissioned Data Processing

If You are operating in the European Union and intending on processing personally identifiable information with the Alyne Service as defined in the Federal German Data Protection Act, the requirements from Paragraph 11 of the Federal German Data Protection Act (Auftragsdatenverarbeitung) apply to this contract.

6.2 Data Ownership

Alyne will not assume data ownership or control of Your Data as defined in 5.2.6 of this contract and will only process this data on your behalf and upon Your request.

6.3 Responsibilities for Data Processing

You will be responsible for implementing the requirements defined in the Federal German Data Protection Act as the data controller, while Alyne will be responsible to technical and organisational protection measures for Your Data.

6.4 Contractual Addendum

A contractual addendum meeting the legal requirements for commissioned data processing must be confirmed between You and Alyne if the requirements stated in 6.1 of these Terms are met.

Disclaimers, Liability and other Terms

7.1 Liability

To the extent allowable by applicable law, Alyne and its officers, employees, partners and licensors shall not be liable to any User of the Alyne Service for any direct, indirect, incidental, punitive, consequential or exemplary damages, including, but not limited to, damages for loss of profit, revenue, goodwill, use, data, or other intangible losses (even

if Alyne has been advised of the possibility of such damages), however caused, whether in contract, tort, or otherwise resulting from the inability to access the Alyne Service, advice derived from Alyne Content, Alyne Software of any kind, the cost of procuring substitute services, unauthorised modification of or access to Your Data or any matter relating to the Alyne Service.

Notwithstanding anything to the contrary herein, these limitations do not apply in the case of malicious intent or gross negligence by Alyne or negligence by Alyne resulting in personal injury.

Alyne Content (Control Statements, Control Sets, Reports, Assessments, Funnels) are advisory in nature and do not constitute assurance or audit results. Consequently, no opinions or conclusions intended to convey assurance are expressed through the Alyne Service. Due to the nature of the Alyne Assessment approach, it is possible that errors, unidentified risks or other irregularities may occur and remain undetected. Alyne cannot guarantee completeness of our content libraries or Your usage of the Alyne Service. Relying solely on the results produced through the Alyne Service does not alleviate Management's responsibility to implement and maintain adequate controls over Your entire operation, detect and prevent fraud and other violations of regulatory or legal responsibilities.

7.2 Indemnity

You agree to indemnify Alyne, its officers, employees, partners and licensors and hold Alyne harmless from any claim or demand made by any third party alleging your usage of the Alyne Service infringes or misappropriates a third party's valid patent, copyright, trademark or trade secret.

7.3 Warranty

To the extent allowable by law, the Alyne Service is provided "as is", without any warranties of any kind. Alyne disclaims any and all kind of warranties, expressed or implied including, but not limited to, merchantability, fitness for a specific purpose, and non-infringement. Alyne does not warrant that the Alyne Service is uninterrupted, secure, timely, error-free or free from malicious software.

7.4 Jurisdiction

These terms shall be governed by German law excluding conditions defined by the UN convention on Contracts for the International Sale of Goods.

7.5 Severability

If any of these provisions in these Terms is held by a court of law to be unenforceable, such provisions shall be modified by the court so as to best meet the intent of the original provision to the fullest extent permitted by law. The remaining provisions of these Terms shall remain effective.

7.6 Trademark

Alyne is a registered trademark of the Alyne GmbH and You are prohibited now or in the future, to claim any rights on the trademark, degrade the distinctiveness of the trademark, or use the trademark to disparage or misrepresent Alyne, the Alyne Service or other Alyne products.

7.7 Export Controls

You agree that Your use of the Alyne Service will be in compliance with U.S. and EU export control laws and executive orders. It is Your obligation to verify and comply with all applicable laws and regulations limiting the use of “controlled” information as defined by U.S. law. The Alyne Service may not be accessed or used by any national of certain countries or groups against which the United States and / or European Union have instituted sanctions, Specially Designated Nationals, and other proscribed persons who are listed on the Denied Parties list.

7.8 Changes to the Terms of Service

Should Alyne plan any changes to these Terms, we will inform you more than thirty (30) days prior of the planned changes. Any changes or additions to these Terms must be agreed in writing.