

## 1 About this Privacy Policy

- 1.1 This Privacy Policy describes how we, the Esthetic Orthodontic Company of America, LLC, manage the Personal Data (as defined below) we collect and process about any person who accesses and/or uses our website located at <https://www.orthomunchies.com/> (the “Website”); purchases our orthodontic products, devices and educational materials; or otherwise engages with us (collectively, including the Website, the “Services”). The Website offers a variety of dental and orthodontic products and instruments for persons who require or prescribe clear aligner therapy products and educational materials.
- 1.2 By accepting this Privacy Policy, accessing, using, obtaining, or taking part in, our Services, or otherwise manifesting your assent to this Privacy Policy, you agree to be bound by this Privacy Policy. If you do not agree to (or cannot comply with) all the terms and conditions of this Privacy Policy, then you may not access, use, obtain or take any part in, any Services. If you accept or agree to this Privacy Policy on behalf of a company or other legal entity, you represent and warrant that you have the authority to bind that company or other legal entity to the Privacy Policy and, in such event, “you” and “your” will refer and apply to that company or other legal entity.
- 1.3 We are committed to complying with our privacy obligations under applicable Data Protection Laws. For the purposes of this Privacy Policy, “Data Protection Laws” means any applicable legislation protecting the personal data or personal information of natural persons, together with all applicable laws, rules, regulations, regulatory guidance and regulatory requirements, as amended from time to time, in each case as applicable to the Website and the Services, including, but not limited to, the General Data Protection Regulation 2016/679 (“GDPR”). This Privacy Policy is made in accordance with the requirements set out in Article 13 of the GDPR and Australian Privacy Principles 1.4 contained in Schedule 1 to the *Privacy Act 1988* (Cth).
- 1.4 If we decide to change this Privacy Policy, we will post the updated version on this webpage. Our policy is to be open and transparent about our privacy practices. This Privacy Policy is effective as of the last updated date stated at the top of this Privacy Policy. Please be aware that, to the extent permitted by applicable law, our use of the information collected is governed by the version of the Privacy Policy then in effect, at the time we collect the information. Please refer back to this Privacy Policy on a regular basis.

## 2 Who we are and our contact details

- 2.1. We are the Esthetic Orthodontic Company of America, LLC, a company incorporated and located in Florida, United States of America (Registration Number 3011191212). Our office is located at 2860 Scherer Dr Suite 650, St. Petersburg, FL 33716 USA.
- 2.2. Any person who wishes to contact us for any reason regarding our privacy practices or the Personal Data that we hold about them, or make a privacy complaint, may contact us using the following details:

### **Privacy Representative and Data Protection Officer/ General Manager**

Susan Powers

E: [info@orthomunchies.com](mailto:info@orthomunchies.com)

T: +1 (727) 329-6329 (USA and Canada)

A: 2860 Scherer Dr Suite 650, St. Petersburg, FL 33716 USA

- 2.3. We will use our commercially reasonable endeavours to resolve any privacy complaint with the complainant within a reasonable time frame given the circumstances. This may include working with the complainant on a collaborative basis or otherwise resolving the complaint.
- 2.4. Users whose Personal Data is governed by the GDPR also have the right to lodge a complaint with any relevant supervisory authority.
- 2.5. Users whose personal information is governed by the *Privacy Act 1988* (Cth) and wish to make a complaint about a breach of the Australian Privacy Principles, may refer the complaint to the Office of the Australian Information Commissioner who can be contacted using the following details:

### **Office of the Australian Information Commissioner**

Email: [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)

Telephone: 1300 363 992

Address: GPO Box 5218, Sydney NSW 2001

### 3 Our Website and Services

- 3.1 Our Website offers a selection of dental and orthodontic products, devices and educational materials related to clear aligner therapy for the orthodontic, oral medicine and clinical photography industry. Our products assist in the management of temporomandibular joint disorder and aligner therapy for aesthetic orthodontic purposes.
- 3.2 Users of our Website can purchase our orthodontic products, devices and educational materials via the Website. Registered users can (among other things) view their current and previous orders and receive discounts via their account on the Website.

### 4 The types of personal data we collect and hold about users

- 4.1 "Personal Data" means any information defined as 'personal data,' 'personal information,' 'personally identifiable information,' or 'nonpublic personal information' under any Data Protection Laws.
- 4.2 Article 4(1) of the GDPR defines 'personal data' as any information relating to an identified or identifiable natural person. Under the GDPR we are considered the 'controller' of personal data relating to users of our Website, as we determine the types of personal data to be collected, the purpose for it is collected and the means of processing activities of the personal data.
- 4.3 We collect all categories of Personal Data necessary to provide the functionality of the Website and to provide the Services and otherwise in accordance with this Privacy Policy.
- 4.4 We collect the following types of Personal Data:

- (a) **Registered Users:** We collect Personal Data of any person who has a registered account on our Website. The types of Personal Data that we collect and process may include first and last names, email addresses, delivery addresses, billing information, occupation, telephone number, registration and license number (if the individual is a dentist), healthcare requirements and treating healthcare practitioner contact details (if the individual is a patient), location (only to the extent that Shopify uses geoIP to locate where a registered user is browsing the website), dental corporate group association details, aligner system used by the individual (if any) and credit card details. Credit card details are not held by us, but are held by Shopify Inc, the payment gateway provider that we use.
- (b) **Visitors of our Website:** We may collect names, email addresses, and any other information a visitor provides in messages or other communications made to us on our Website or elsewhere. In order to support and maintain our Website and each part thereof, we collect and process user Personal Data including IP addresses, email addresses, user access logs, usernames, passwords, statistical data collected from a visitor browsing our Website or a registered user accessing their account. Such information includes any Personal Data that visitors to our Website provide and/or is otherwise automatically collected by us, as described in more detail below.
- (c) **Server Log Information:** Our servers keep log files that record data each time a device accesses those servers. The log files contain data about the nature of such access, including the device's IP address, user agent string (e.g., operating system and browser type/version), and the pages you have clicked on while on our Website, and details regarding your activity on the Website such as time spent on the Website and other performance and usage data. We may use these log files for purposes such as assisting in monitoring and troubleshooting errors and incidents, analysing traffic, or optimising the user experience.
- (d) **Cookies:**
- (1) We may collect information using "cookies" and other similar technologies. Cookies are small packets of data that the Website stores on your computer's or mobile device's hard drive (or other storage medium) so that your computer will "remember" information about your use. We use both 1st and 3rd-party session cookies and persistent cookies. Below is a general primer on session and persistent cookies; information collected by cookies depends on its particular purpose. For more information, please see the information regarding analytics providers discussed further below.
- (a) **Session Cookies:** We use session cookies to make it easier for you to navigate our Website. A session ID cookie expires when you close the Website.
- (b) **Persistent Cookies:** A persistent cookie remains on your device for an extended period of time or until you delete them. You can remove persistent cookies by following directions provided in your web browser's "help" file. To the extent we provide a log-in portal or related feature on our Website, persistent cookies can be used to store your passwords so that you don't have to enter

it more than once. Persistent cookies also enable us to track and target the interests of our visitors to personalise the experience on our Website.

- (2) If you do not want us to place a cookie on your device, you may be able to turn that feature off on your device. Please consult your browser's documentation for information on how to do this and how to delete persistent cookies. However, if you decide not to accept cookies from us, certain aspects of the Website may not function properly or as intended.

(e) **Analytics data**

- (1) We also collect, and use third parties to collect, information about users through their use of the Website, known as analytics data. Such analytics data includes information about devices accessing the Website, the amount of time a user spends on the Website and in which parts of it, and the path navigated through it. We use analytics data for the following purposes:

- (a) to help us review, enhance and improve the Services (for statistical or research purposes);
- (b) to develop case studies and marketing material without identifying any individual; and
- (c) to develop medical research and articles for the purposes of improving clear aligner therapy products and educational materials.

- (2) By accessing and/or using the Website, you consent to the processing of Personal Data about you by these analytics providers in the manner and for the purposes set out in this Privacy Policy. For more information on these third parties, including how to opt out from certain data collection, please visit the sites below. Please be advised that if you opt out of any service, you may not be able to use the full functionality of the Website.

- (a) For Shopify, please visit: <https://www.shopify.com/legal/cookies>

- (f) **Aggregate data:** In an ongoing effort to better understand our Services and its users, we might analyse your Personal Data in aggregate form to operate, maintain, manage, and improve the Services. This aggregate information does not identify you personally. We may share this aggregate data with service providers, and our affiliates, agents, and business partners. We may also disclose aggregated user statistics to describe the Services to current and prospective business partners and to other third parties for other lawful purposes.

**5 How we collect and hold Personal Data**

5.1 Our policy is to not collect personal information by means that are unfair or unreasonably intrusive in the circumstances. When a user purchases our products or services, we will collect Personal Data about them in the following ways:

- (a) when they create an account on the Website;
- (b) when they enter Personal Data into the Website during the ordering process; and
- (c) when it is voluntarily disclosed to us (such as via telephone, e-mail and online forms).

**6 Purpose for processing Personal Data and our legal basis for doing so**

6.1 The table below sets out the legal basis under which we use and process Personal Data collected via our Services pursuant to Article 6(1) of the GDPR.

Category	How we use and process Personal Data	Our reason for collecting Personal Data
<b>Users of our Services (including visitors of our Website and registered users)</b>	<ul style="list-style-type: none"> <li>• To deliver orthodontic products, devices and educational materials to registered users of our Website who have ordered them via their account on our Website.</li> <li>• To provide the functionality of the Website.</li> <li>• In order to store user data in databases and systems in our</li> </ul>	<ul style="list-style-type: none"> <li>• Required to identify persons who purchase and use our orthodontic products, devices and educational materials and to identify persons who request technical support or wish to exercise their rights under privacy law to access, correct their personal data or personal data or to exercise their other rights with respect to their personal data.</li> <li>• Necessary for our legitimate interests (in order to operate and grow our business, in</li> </ul>

	<p>hosting environments at third party data centres.</p> <ul style="list-style-type: none"> <li>• To provide technical support services and other delivery support services to registered users of our Website.</li> <li>• Backing up and restoring data that includes user personal data.</li> <li>• When conducting research and development of the Website and its functionality.</li> <li>• To send newsletters and other communications concerning our orthodontic products, devices and educational materials and for events and seminars.</li> <li>• To issue bills and invoices to registered users and to enforce the obligations of registered users to pay our fees.</li> <li>• To carry out security audits, investigate security incidents and implement security processes and procedures that require access to registered user personal data.</li> <li>• To communicate with registered users and visitors of our website about the use of our orthodontic products, devices and educational materials (including about any updates to them) and to market new services and products to them.</li> <li>• To send out samples of our orthodontic products, devices and educational materials.</li> <li>• To handle complaints.</li> </ul>	<p>order to administer and allow our users to use the Services, and to enable us to operate our IT systems and networks, manage our hosting environments.</p> <ul style="list-style-type: none"> <li>• In order for us to know where to deliver our Products to.</li> <li>• Necessary for billing purposes; so that we can issue bills and invoices and receive payments from registered users for their ordered goods and services.</li> <li>• To comply with our legal and statutory obligations.</li> <li>• Required in order to determine which privacy law applies to the individual.</li> </ul>
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## 7 Who will receive Personal Data that we collect

7.1. We only disclose Personal Data of users that we collect via the Services to third parties as follows:

- (a) in order to host databases that are integrated into the Website, we engage reputable hosting providers who host those databases on our behalf;
- (b) we may outsource certain obligations to third party contractors in accordance with our contractual rights. Professional services carried out by them may require access to an individual's personal data. We ensure that all staff and contractors are aware of their information security responsibilities, are appropriately trained to meet those responsibilities and have entered into agreements which require them to comply with privacy and confidentiality obligations that apply to personal data that we provide to them;
- (c) when carrying out direct marketing calls and emails by our staff or those engaged on our behalf, for the purpose of upgrading or otherwise discussing their experience of the Website. All individuals will be given the opportunity to 'opt out' of any direct marketing calls or emails;
- (d) to our third-party shipping providers, (currently *Shippo*) who will manage registered users' orders and deliveries;
- (e) we provide Personal Data to our associated research and development company David Penn Consulting Pty Ltd, located in Australia for customer service, statistical analysis and marketing purposes;

- (f) when providing information to our legal, accounting or financial advisors/representatives or insurers, or to our debt collectors for debt collection purposes or when we need to obtain their advice, or where we require their representation in relation to a legal dispute;
- (g) where a person provides written consent to the disclosure of their Personal Data;
- (h) where it is brought to our attention that specific Personal Data needs to be disclosed to protect the safety or vital interests of any person;
- (i) if we are contacted by any person who represents to us that they are making enquiries about the delivery of their orthodontic products, devices and educational materials, for security purposes, we will only discuss the Personal Data that we hold about them with them if they identify themselves accurately and truthfully;
- (j) to avoid prejudice to the maintenance of the law by any public sector agency, including the prevention, detection, investigation, prosecution, and punishment of offences;
- (k) for the enforcement of a law imposing a pecuniary penalty;
- (l) for the conduct of proceedings before any court or tribunal (being proceedings that have been commenced or are reasonably in contemplation);
- (m) in the event of a merger, dissolution, reorganisation or similar corporate event, or the sale of all or substantially all of our assets, we expect that the information that we have collected, including Personal Data, would be transferred to the surviving entity in a merger or the acquiring entity, and in such case all such transfers shall be subject to our commitments with respect to the privacy and confidentiality of such Personal Data as set forth in this Privacy Policy;
- (n) when required to disclose Personal Data in response to lawful requests by public authorities, including for the purpose of meeting national security or law enforcement requirements, or to other third parties when compelled to do so by government authorities or required by law or regulation including, but not limited to, in response to court orders and subpoenas; or
- (o) where otherwise required by applicable law.

## **8 Important notice to all non-US and non-Australian residents on international transfers**

- 8.1. Our servers are located in the United States and Australia. Please be aware that your Personal Data may be transferred to, disclosed to, processed, maintained, and/or used on computers, servers, and systems located outside of your state, province, country, or other governmental jurisdiction where the privacy laws may not be as protective as those in your country of origin. We may also transfer your Personal Data to our contractors and service providers who assist us with the operation of our Services and its functionality (including delivery of our products to registered users), and to assist us with the operation of our business generally, where we consider it necessary for them to provide that assistance. If you are located outside the United States or Australia and choose to use the Services, you do so at your own risk.
- 8.2. Provided that we comply with applicable law, at present we transfer your Personal Data to our interstate and offshore contractors and service providers who may be located in Australia, the United States, the European Union or the European Economic Area. A list of our processors is available on request.
- 8.3. We only transfer user Personal Data governed by the GDPR internationally as set out in paragraph 8.1 above in compliance with the GDPR. We will only engage new third parties to process Personal Data governed by the GDPR, that you instruct us to process as a processor on your behalf if you have authorised us to do so pursuant to a specific or general written authorisation and otherwise in compliance with the requirements of the GDPR. We have legally binding agreements in place that govern the receipt and processing of Personal Data transferred offshore. Information about other appropriate or suitable safeguards is available from us for users whose Personal Data is governed by the GDPR, on request. For the purposes of Personal Data governed by the GDPR, we will not transfer Personal Data that originates in the EEA outside of the EEA.

## **9 How to access and correct Personal Data held by us**

- 9.1. Users who wish to access and correct the Personal Data held by us about them should contact us.
- 9.2. It is our policy to retain Personal Data in a form which permits identification of any person only as long as is necessary for the purposes for which the Personal Data was collected; and for any other related, directly related or compatible purposes if and where permitted by applicable law. We will only process Personal Data that you

provide to us for the minimum length of time permitted by applicable law and only thereafter for the purposes of deleting or returning that Personal Data to you (except where we also need to retain the data in order to comply with our legal obligations, or to retain the data to protect your or any other person's vital interests).

- 9.3. As an alternative to deleting Personal Data, we may elect to de-identify it where permissible by law. We will de-identify certain types of Personal Data for the purpose of improving the Website and its functionality and for provision to third parties for research purposes.
- 9.4. Where you require Personal Data to be returned, it will be returned to you at that time, and we will thereafter delete all then remaining existing copies of that Personal Data in our possession or control as soon as reasonably practicable thereafter, unless applicable law requires us to retain the Personal Data in which case we will notify you of that requirement and only use such retained data for the purposes of complying with those applicable laws.
- 9.5. We will handle all requests for access to Personal Data in accordance with our statutory obligations. We will not charge you for the making of any such request and for our compliance with your request. We will endeavour to provide a response to any request for access to Personal Data within 72 hours from the time a request is made.

## **10 Automated decision making and further processing activities by us**

- 10.1. The Services do not use any form of automated decision making.

## **11 How we secure Personal Data**

- 11.1. We take our privacy obligations very seriously. Accordingly, we only process Personal Data in a manner that ensures appropriate security of the Personal Data, including by protecting the Personal Data against unauthorised or unlawful processing and against accidental loss, destruction or damage using appropriate technical or organisational measures.
- 11.2. The technical and organisational measures that we have implemented are as follows:
  - (a) we maintain physical security measures in our buildings and offices such as door and window locks and visitor access management, cabinet locks, surveillance systems and alarms;
  - (b) we have data backup processes in place;
  - (c) we have anti-virus and security controls for email and other applicable computer software and systems in place;
  - (d) we maintain electronic (e-security) measures for its servers and emails for the purposes of securing personal information, such as passwords and anti-virus management;
  - (e) we implement https (SSL) encryption protocols, passwords and access control procedures into our computer systems; and
  - (f) we and/or our hosting providers have processes in place to ensure integrity and resilience of systems, servers and personal data.

## **12 Opt-out for direct marketing**

- 12.1. You may opt out at any time from the use of your Personal Data for direct marketing purposes by emailing the instructions to [info@orthomunchies.com](mailto:info@orthomunchies.com) or by clicking on the "Unsubscribe" link located on the bottom of any Munchies® marketing email. Please allow us a reasonable time to process your request. You cannot opt out of receiving transactional e-mails related to the Services.

## **13 Rights under the GDPR**

- 13.1. Under the GDPR, users whose Personal Data is governed by the GDPR, have a number of rights, including:
  - The right to be informed
  - The right of access
  - The right to rectification
  - The right to erasure
  - The right to restrict processing
  - The right to data portability
  - The right to object to processing

## **14 Children**

- 14.1. We do not knowingly collect Personal Data from children under the age of 13 through the Services. If you are under 13, please do not give us any Personal Data. We encourage parents and legal guardians to monitor their children's Internet usage and to help enforce our Privacy Policy by instructing their children to never provide Personal Data without their permission. If you have any reason to believe that a child under the age of 13 has provided Personal Data to us, please contact us at [info@orthomunchies.com](mailto:info@orthomunchies.com), and we will endeavor to delete that information from our databases.

## **15 Rights of California residents**

- 15.1. Pursuant to Section 1798.83 of the California Civil Code, residents of California have the right to obtain certain information about the types of Personal Data that companies with whom they have an established business relationship (and that are not otherwise exempt) have shared with third parties for direct marketing purposes during the preceding calendar year, including the names and addresses of those third parties, and examples of the types of services or products marketed by those third parties. If you wish to submit a request pursuant to Section 1798.83, please contact us via email at [info@orthomunchies.com](mailto:info@orthomunchies.com).

## **16 Rights of Nevada residents**

- 16.1. If you are a resident of Nevada, you have the right to opt-out of the sale of certain Personal Data to third parties who intend to license or sell that personal information. You can exercise this right by contacting us at [info@orthomunchies.com](mailto:info@orthomunchies.com) with the subject line "Nevada Do Not Sell Request" and providing us with your name and the email address associated with your account. Please note that we do not currently sell your Personal Data as sales are defined in Nevada Revised Statutes Chapter 603A.

## **17 Do Not Track**

- 17.1. We do not respond to "Do Not Track" settings or other related mechanisms at this time.

## **18 Links to External Websites**

- 18.1. The Website may contain links to third-party websites ("**External Sites**"). We have no control over the privacy practices or the content of any such External Sites. As such, we are not responsible for the content or the privacy policies of such External Sites. You should check the applicable privacy policy and terms of service when visiting any such External Sites.

## **19 Interacting with us without disclosing Personal Data**

- 19.1. If a person does not provide us with their Personal Data, they can only have limited interaction with us. For example, a person can browse our Website without providing us with personal data such as the pages that generally describe the products that we sell. However, when a person submits an order on our Website to purchase our products and services, or an organisation enters into a contract with us, or a person registers an account, we need to collect personal data for identification purposes, so that we can provide our products and services, and for the other purposes described in this Privacy Policy.
- 19.2. Any person has the option of not identifying themselves or using a pseudonym when contacting us to enquire about our products and services.