

## Dental Practice Software License Agreement

The following terms and conditions govern the use of a cloud-based software platform and related software services (the “Software”) provided by itrac LLC (“illumitrac”) to be used by an independent dentist or dental practice (the “Dental Practice”) for its own dental membership club (“the Club”).

To use the Software, the Dental Practice must enter into this binding agreement (the “Agreement”) between the Dental Practice and illumitrac, including acknowledging and agreeing to the following terms and conditions.

By using the Software, the Dental Practice hereby enters into the Agreement under which it agrees to, understands, and acknowledges the following:

1. illumitrac is not a discount medical or dental program and does not market directly to consumers or solicit patients for dental services.
2. illumitrac provides the Software to the Dental Practice with the goal of simplifying for the Dental Practice the setup, and operation, and administration by the Dental Practice of its management of the Dental Practice’s Club.
3. illumitrac does not administer or operate the Club. Instead, the Dental Practice, not illumitrac, operates and administers its Club and determines all details regarding the Club. The Dental Practice is free and has the sole responsibility to establish its own subscription membership fees, terms of agreement, loyalty discounts, and administrative rules.
4. All Club agreements, for the provision of dental treatment and services, are established directly with the Dental Practice, not illumitrac.
5. To enroll in a Club and use the Software, any patient of a Dental Practice must enter into a **Dental Membership Club Agreement**, which Dental Practice acknowledges and agrees governs the relationship between the patient and the Dental Practice, including the patient’s Club membership fees, term, cancellations, and refunds, as applicable, and a **Patient Software License Agreement**, which the Dental Practice acknowledges and agrees governs the relationship between such patient and illumitrac.
6. The Dental Practice is under no obligation to continue to use the Software with illumitrac and may cancel service at any time with written notice. Fees for services paid prior to receipt of such notice are not refundable.
7. illumitrac is compensated solely by the Dental Practice via three methods: (1) a one-time initial activation fee paid to set up a Dental Practice’s online payment gateway; (2) a per-member transaction royalty charged monthly to the Dental Practice for each member managed using the Software, (3) and a maintenance fee for transactions paid by the Dental Practice for ongoing billing services, software maintenance, regular updates, merchant card fees, and miscellaneous administrative expenses associated with the use of the Software. [View current fees table.](#)
8. Dues for membership in a Club paid directly by patients to the Dental Practice via the Software are the sole property of the Dental Practice, not illumitrac. All proceeds, less royalties and maintenance fees, are distributed promptly to the Dental Practice.

9. illumitrac does not offer or provide any dental services, and does not warrant or guarantee standards of care for any Dental Practice. The Dental Practice must independently satisfy all regulatory and licensing requirements, including those imposed by state and federal regulatory authorities.
10. Illumitrac does not warrant and shall be held harmless by the Dental Practice and its Club member patients for any errors, malfunctions, misuse, acts of terror, theft, or any damages, real or perceived, that may be caused by or related to use of the Software.
11. The Dental Practice must use the Software in accordance with all applicable federal and state laws, including statutes and policies established by governing insurance and professional regulatory authorities, and must hold illumitrac harmless in the event of a violation of those laws or a breach of this Agreement by the Dental Practice.
12. The Dental Practice and its Club member patients are specifically prohibited from reverse engineering, copying, or duplicating any programming, software, language, or tools provided by illumitrac.
13. The Dental Practice agrees to indemnify and hold harmless illumitrac from and against any and all claims, obligations, suits, actions, demands, expenses, damages, or any other form of liabilities, arising from or in any way related the Dental Practice's use of the Software.
14. THE DENTAL PRACTICE AGREES THAT ILLUMITRAC HAS NOT AND DOES NOT MAKE ANY REPRESENTATIONS, WARRANTIES, OR PROMISES TO THE DENTAL PRACTICE ABOUT THE SOFTWARE. FOR EXAMPLE, THE DENTAL PRACTICE AGREES THAT ILLUMITRAC HAS NOT AND DOES NOT MAKE ANY COMMITMENTS ABOUT THE QUALITY OF THE SOFTWARE, ITS RELIABILITY, AVAILABILITY, OR ABILITY TO MEET THE DENTAL PRACTICE'S NEEDS. THE DENTAL PRACTICE ALSO AGREES THAT ILLUMITRAC HAS NOT AND DOES NOT MAKE ANY WARRANTIES OR COMMITMENT RELATING TO NON-INFRINGEMENT, FREEDOM FROM VIRUSES, OR OTHER HARMFUL CODE, OR ERROR-FREE OR UNINTERRUPTED OPERATIONS IN THE SOFTWARE.

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE SOFTWARE IS PROVIDED "AS-IS" WITHOUT ANY WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE OR ARISING AS A RESULT OF CUSTOM OR USAGE IN THE TRADE OR BY COURSE OF DEALING. WITHOUT LIMITING THE FOREGOING, ILLUMITRAC AND ITS LICENSORS DO NOT WARRANT OR REPRESENT THAT USE OF THE SOFTWARE WILL RESULT IN COMPLIANCE, FULFILLMENT, OR CONFORMITY WITH THE LAWS, RULES, REGULATIONS, REQUIREMENTS OR GUIDELINES OF ANY GOVERNMENTAL AGENCY OR THAT THE SOFTWARE WILL OPERATE ERROR-FREE OR WITHOUT INTERRUPTION.

15. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL ILLUMITRAC BE LIABLE TO THE DENTAL PRACTICE FOR ANY DIRECT DAMAGES, OR ANY SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE, CONSEQUENTIAL, OR OTHER INDIRECT DAMAGES OF ANY KIND, RELATING TO THE SOFTWARE, REGARDLESS OF THE LEGAL OR EQUITABLE THEORY

(INCLUDING, WITHOUT LIMITATION, CONTRACT, TORT, STRICT LIABILITY, OR OTHERWISE), AND EVEN IF A REMEDY FAILS OF ITS ESSENTIAL PURPOSE. THE DENTAL PRACTICE, AND ITS AFFILIATES, AND ITS AND THEIR SUCCESSORS AND ASSIGNS, AND ITS AND THEIR OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS, HEREBY FOREVER IRREVOCABLY RELEASE, DISCHARGE, AND HOLD HARMLESS ILLUMITRAC, ITS AFFILIATES, AND ITS AND THEIR SUCCESSORS AND ASSIGNS, AND ITS AND THEIR OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS (EACH AN "ILLUMITRAC RELEASED PARTY") FROM, AND AGREE NOT TO SUE ANY ILLUMITRAC RELEASED PARTY FOR, ANY LIABILITIES, CLAIMS, OBLIGATIONS, SUITS, ACTIONS, DEMANDS, EXPENSES, AND DAMAGES WHATSOEVER (COLLECTIVELY, "LIABILITIES") THAT THE DENTAL PRACTICE MAY HAVE AGAINST ANY ILLUMITRAC RELEASED PARTY WHETHER EXISTING NOW OR IN THE FUTURE, WHETHER KNOWN OR UNKNOWN, ARISING OUT OF OR IN CONNECTION WITH THE DENTAL PRACTICE'S OR ILLUMITRAC'S CONDUCT RELATED TO USE OF THE SOFTWARE. THE DENTAL PRACTICE UNDERSTANDS AND ACKNOWLEDGES THAT THE FOREGOING SENTENCE RELEASES AND DISCHARGES ALL ILLUMITRAC LIABILITIES, WHETHER OR NOT THEY ARE CURRENTLY KNOWN TO THE DENTAL PRACTICE.

16. illumitrac may revoke the Dental Practice's access to the Software at any time for any or no reason, and may terminate this Agreement with the Dental Practice at any time for any or no reason with 15-day written notice.
17. This Agreement and its terms and conditions will be governed by and construed under Delaware law without giving effort to any choice or conflict of law provision that would cause the application of laws of any jurisdiction other than those of the State of Delaware.
18. The Dental Practice agrees that any and all Disputes (as defined below) involving the Dental Practice and illumitrac will be resolved through individual arbitration. This section (the "Arbitration Provision") will be broadly interpreted.
  - a. As used in this Arbitration Provision, the term "Dispute" means any claim or controversy between the Dental Practice and illumitrac related to this Agreement or the Software, including but not limited to any and all: (1) claims for relief and theories of liability, whether based in contract, tort, fraud, negligence, statute, regulation, ordinance, or otherwise; (2) claims that arose before this Agreement or any prior agreement; (3) claims that arise after the expiration or termination of this Agreement; and (4) claims that are currently the subject of purported class action litigation in which the Dental Practice is not a member of a certified class.
  - b. Initiation of Arbitration Proceeding/Selection of Arbitrator. The Dental Practice or illumitrac may initiate the arbitration proceeding and open a case with JAMS, formerly Judicial Arbitration and Mediation Services, Inc., ("JAMS") by visiting its website ([www.jamsadr.com](http://www.jamsadr.com) ) or calling its toll-free number (1-800-352-5267). The Dental Practice may deliver any required or desired notice to illumitrac by mail to: 4062 Peachtree Rd, #A-457, Brookhaven, GA 30319.
  - c. Arbitration Procedures. This Arbitration Provision will be governed by the Federal Arbitration Act. Arbitrations will be administered by JAMS pursuant to its Streamlined Arbitration Rules and Procedures (the "JAMS Rules") as modified by the version of this Arbitration Provision that is in effect when the Dental Practice notifies illumitrac about

the Dental Practice's Dispute. The Dental Practice can obtain the JAMS Rules from the JAMS by visiting its website (www.jamsadr.com) or calling its toll-free number (1-800-352-5267). If there is a conflict between this Arbitration Provision and the rest of this Agreement, this Arbitration Provision will govern. If there is a conflict between this Arbitration Provision and the JAMS rules, this Arbitration Provision will govern. If JAMS will not administer a proceeding under this Arbitration Provision as written, the parties must agree on a substitute arbitration organization. If the parties cannot agree, the parties must mutually petition a court of appropriate jurisdiction to appoint an arbitration organization that will administer a proceeding under this Arbitration Provision as written applying the JAMS Rules. A single arbitrator will resolve the Dispute. Unless the Dental Practice and illumitrac agree otherwise, any arbitration hearing will take place in Atlanta, Georgia. The arbitrator will honor claims of privilege recognized by law and will take reasonable steps to protect customer account information and other confidential or proprietary information. The arbitrator will issue a reasoned written decision that explains the arbitrator's essential findings and conclusions. The arbitrator's award may be entered in any court having jurisdiction over the parties only if necessary for purposes of enforcing the arbitrator's award. An arbitrator's award that has been fully satisfied must not be entered in any court.

- d. Waiver of Class Actions and Collective Relief. There will be no right or authority for any claims to be arbitrated or litigated on a class action, joint or consolidated basis, or on bases involving claims brought in a purported representative capacity on behalf of the general public (such as a private attorney general), other subscribers, or other persons. The arbitrator may award relief regarding the individual party seeking relief and only to the extent necessary to decide whether relief is warranted for that individual party's claim. The arbitrator may not consolidate more than one person's claims, and may not otherwise preside over any form of a representative or class proceeding.
- e. Arbitration Fees and Costs. If the Dental Practice's claim seeks more than \$75,000 in the aggregate, the payment of the JAMS's fees and costs will be governed by the JAMS Rules. The Dental Practice may hire an attorney to represent it in arbitration. The Dental Practice will be responsible for payment of its attorney's fees and costs. The prevailing party will be entitled to recover from the non-prevailing party its attorneys' fees and costs incurred in connection with any action or proceeding that arises under or is related to this Agreement. Notwithstanding anything in this Arbitration Provision to the contrary, illumitrac will pay all fees and costs that it is required by law to pay in Arbitration.
- f. Severability and Waiver of Jury Trial. If any part of this Arbitration Provision is found to be illegal or unenforceable, the entire Arbitration provision will be unenforceable and the Dispute will be decided by a court. **WHETHER IN COURT OR IN ARBITRATION, THE DENTAL PRACTICE AGREES TO WAIVE THE RIGHT TO A TRIAL BY JURY TO THE FULLEST EXTENT PERMITTED BY LAW.** If any other clause in this Arbitration Provision is found to be illegal or unenforceable, that clause will be severed from this Arbitration Provision and the remainder of this Arbitration Provision will be given full force and effect.
- g. Survival. This Arbitration Provision will survive the termination or expiration of this Agreement.
- h. Equitable relief. Notwithstanding the foregoing, either party is entitled to seek equitable relief in a court of competent jurisdiction, include injunctive relief, to enjoin the

infringement or misuse of its intellectual property rights, including copyright, trademark, patent, or trade secret rights.

19. The Dental Practice may not assign any right or obligation under this Agreement without illumitrac's prior written consent.
20. illumitrac reserves the right at any time to update, revise, supplement, or otherwise modify this Agreement and to impose new or additional policies or conditions for the use of the Software. Such updates and revisions shall be considered binding upon implementation. The Dental Practice's continued use of the Software shall constitute acceptance of all such updates and revisions to this Agreement.