# Auxpanel Terms of Use

## Auxpanel Terms of Use

***Last updated October 1, 2019***

These terms of use (the "Agreement") govern your access and use of Auxpanel, a suite of products and services (collectively "Auxpanel" or the "Services"), which includes the content hosted at auxpanel.com and any of its subdomains (the "Website"). Auxpanel have been created by Auxpanel, Inc. ("Auxpanel Incorporated").

By accessing or otherwise using Auxpanel, you are agreeing to this Agreement.

Auxpanel Incorporated may change this Agreement from time to time. If we make any changes to this Agreement, we will change the "last updated" date above. You agree that your continued use of our services after such changes have been published to our services will constitute your acceptance of such revised policy.

Please contact us with any questions about this agreement at support@auxpanel.com.

### Privacy Policy

Our privacy policy, found at https://www.auxpanel.com/privacy, is hereby incorporated by reference into this Agreement, and explains the policy applicable to the information that is collected through our Services or received directly from you.

### Intellectual Property

All data and intellectual property that you upload to Auxpanel remains the property of its owner. You represent and warrant that you own or control all rights necessary to submit the data you upload through Auxpanel.

As a dental health provider or staff member contracted or employed by a practice using Auxpanel, you grant the practice an irrevocable worldwide license to use, own use, transmit, copy, reproduce, distribute, and to prepare derivative works on all data related to the patients you serve through that practice.

As an owner or manager of a dental practice using Auxpanel, you agree to allow your dental health providers to independently maintain profiles that aggregate data related to their own production and efficiency, so long as those profiles do not contain any personally identifiable information from you, other staff, or your patients.

Auxpanel may produce aggregate or de-identified data that does not include personally identifiable information from either you, your staff, or your patients ("Non-Confidential Contributions"). Where

applicable, you agree to allow Non-Confidential Contributions to become Auxpanel Incorporated property to the fullest extent permissible under applicable law, or otherwise grant us any of our affiliated companies and sublicensees a perpetual, royalty-free, irrevocable worldwide license to use, transmit, copy, reproduce, distribute, publicly display or perform, and to prepare derivative works.

### Warranties, Disclaimers, the Liability of Our Services, and Indemnification

We provide our Services using a commercially reasonable level of skill and care and we hope that you will enjoy using Auxpanel. But there are certain things that we don't promise about our Services.

OTHER THAN AS EXPRESSLY SET OUT IN THIS AGREEMENT OR ADDITIONAL TERMS, NEITHER AUXPANEL INCORPORATED NOR ITS AFFILIATES MAKE ANY SPECIFIC PROMISES ABOUT OUR SERVICES. FOR EXAMPLE, WE DON'T MAKE ANY COMMITMENTS ABOUT THE CONTENT WITHIN OUR SERVICES, THE SPECIFIC FUNCTIONS OF OUR SERVICES, OR THEIR RELIABILITY, AVAILABILITY, OR ABILITY TO MEET YOUR NEEDS. WE PROVIDE OUR SERVICES "AS IS".

SOME JURISDICTIONS PROVIDE FOR CERTAIN WARRANTIES, LIKE THE IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. TO THE EXTENT PERMITTED BY LAW, WE EXCLUDE ALL WARRANTIES.

WHEN PERMITTED BY LAW, AUXPANEL INCORPORATED, AND ITS AFFILIATES, WILL NOT BE RESPONSIBLE FOR LOST PROFITS, REVENUES, OR DATA, FINANCIAL LOSSES OR INDIRECT, SPECIAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES.

TO THE EXTENT PERMITTED BY LAW, THE TOTAL LIABILITY OF AUXPANEL INCORPORATED, AND ITS AFFILIATES, FOR ANY CLAIMS UNDER THIS AGREEMENT, INCLUDING FOR ANY IMPLIED WARRANTIES, IS LIMITED TO THE AMOUNT YOU PAID US TO USE OUR SERVICES (OR, IF WE CHOOSE, TO SUPPLYING YOU OUR SERVICES AGAIN).

IN ALL CASES, AUXPANEL INCORPORATED, AND ITS AFFILIATES, WILL NOT BE LIABLE FOR ANY LOSS OR DAMAGE THAT IS NOT REASONABLY FORESEEABLE.

UNDER NO CIRCUMSTANCES WILL AUXPANEL INCORPORATED BE LIABLE FOR ANY LOSS OR DAMAGE CAUSED BY YOUR RELIANCE ON INFORMATION OBTAINED THROUGH OUR SERVICES. IT IS YOUR RESPONSIBILITY TO EVALUATE THE ACCURACY, COMPLETENESS, OR USEFULNESS OF OUR SERVICES. IN NO EVENT SHALL ANY OF AUXPANEL INCORPORATED BE LIABLE FOR ANY DIRECT, INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATING TO OUR SERVICES OR THIS AGREEMENT, WHETHER BASED ON WARRANTY, CONTRACT, TORT, OR ANY OTHER LEGAL THEORY. BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR NEGLIGENCE, CONSEQUENTIAL, INCIDENTAL OR OTHER DAMAGES, IN SUCH JURISDICTIONS AUXPANEL INCORPORATED'S LIABILITY IS LIMITED TO THE GREATEST EXTENT PERMITTED BY LAW. YOUR SOLE REMEDY FOR DISSATISFACTION WITH OUR SERVICES IS TO STOP USING THEM.

Upon a request by us, you agree to defend, indemnify, and hold harmless us, and our respective

employees, contractors, officers, directors, and agents from all liabilities, claims, and expenses, including attorney's fees that arise from your use of our Services, including violation or these terms or any allegation that your use infringes or otherwise violates the copyright, trade secret, trademark or other intellectual property rights of a third party.

## Governing Law and Disputes

This Agreement and all matters relating to your access to, or use of our Services shall be governed by and construed in accordance with the laws of the State of New York, USA, without giving effect to conflict of law principles. We make no representation that the content of our Services is appropriate, legal or available for use in other locations. Those who choose to access our Services from other locations do so at their own initiative and are responsible for compliance with applicable local laws.

Any legal action or proceeding relating to this Agreement or your access to or use of our Services shall be instituted in a state or federal court in the State of New York. You agree to submit to the jurisdiction of, and agree that venue is proper in these courts. You agree to make Auxpanel Incorporated and its affiliates whole for any and all claims, losses, liabilities, and expenses (including attorneys' fees) arising from your use of our Services or any violation of this Agreement.

## Miscellaneous

In the event that any portion of this Agreement is held to be invalid or unenforceable, then such portion shall be construed in accordance with the applicable law as nearly as possible to reflect the original intentions of the parties, and the remainder of this Agreement shall remain in full force and effect.

The sections of this Agreement entitled "Warranties, Disclaimers, the Liability of Our Services, and Indemnification", "Governing Law and Disputes", and "Miscellaneous" shall survive the termination of this Agreement.

The section headings herein are provided only for reference and shall have no effect on the construction or interpretation of this Agreement.

We reserve the right to change, suspend, or discontinue all or any part of our Services or its content at any time without prior notice or liability.

You may not assign this Agreement. No waiver shall be effective unless in writing.

This Agreement contains the entire agreement of the parties concerning your use of our Services and supersedes all existing agreements and all other oral, written or other communication between the parties concerning its subject matter.

## Termination

You agree that if you violate this Agreement, your permission to use our Services automatically terminates and you must immediately destroy any copies you have made of any portion of the content obtained through our Services. You also agree that we may, in our sole discretion, terminate your access to our Services or any portion thereof, or discontinue providing our Services or any portion thereof.