SMACKDAB INC. OFFICIAL POLICY

API TERMS OF USE

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SMACKDAB INC. API TERMS OF USE

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1. INTRODUCTION AND ACCEPTANCE

1.1. **Purpose** These API Terms of Use ("**API Terms**") govern your access to and use of the application programming interfaces, including all associated documentation, software, and services (collectively, the "**API**") provided by Smackdab Inc. ("**Smackdab," "we," "us," or "our**"). These API Terms establish the legal framework within which you may access and use our API to develop, implement, and distribute Applications that interact with our Services.

1.2.

Relationship to Other Agreements—API Use Scope Only (Data Protection Excluded) These API Terms incorporate by reference and supplement the Smackdab Terms of Service ("**TOS**") available at https://smackdab.ai/legal/terms-of-service.

In the event of any conflict between these API Terms and the TOS or any other document, these API Terms shall prevail **solely and exclusively with respect to your use, access, and development of applications using the API** (including API credentials, rate limits, deprecation, and API-specific functionality), **EXCEPT that the Data Processing Addendum (DPA) shall prevail for all data protection, privacy, personal data handling, and breach notification matters, regardless of whether such matters relate to API use.** For all other matters not directly related to API use and not involving data protection (e.g., billing disputes, confidentiality obligations not specific to API use, Beta Services, or disputes between other policies), the document hierarchy set forth in TOS Section 15.7 shall apply.

All capitalized terms not defined herein shall have the meanings assigned to them in the TOS.

By way of example, if a dispute arises regarding the retention or deletion of personal data transmitted through the API, the DPA shall control for those data protection matters, while these API Terms control API

authentication, rate limits, and functionality.

1.3. **Acceptance** By accessing or using the API, you expressly acknowledge that you have read, understood, and agree to be bound by these API Terms. If you are accessing or using the API on behalf of a company, organization, or other legal entity (collectively "**Organization**"), you represent and warrant that you have the authority to bind that Organization to these API Terms, in which case "**you**" or "**Developer**" shall refer to such Organization. If you do not have such authority, or if you do not agree with these API Terms, you must not access or use the API.

1.4. **Eligibility** To access and use the API, you must:

- Be at least eighteen (18) years of age or the legal age of majority in your jurisdiction, whichever is higher;
- Complete the registration process and maintain an active Smackdab account in good standing;
- Provide accurate, current, and complete information during registration;
- Accept and comply with these API Terms and all other applicable Smackdab policies; and
- Have not previously been suspended or removed from using our Services.

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2. DEFINITIONS

In addition to terms defined elsewhere in these API Terms, the following definitions apply:

2.1. "API Credentials" means the unique access keys, tokens, passwords, and other security credentials issued to Developer to authenticate and authorize Developer's access to the API.

- **2.2."API Documentation"** means the technical and operational specifications, security requirements, and other documentation for the API that Smackdab makes available at https://docs.smackdab.ai or through other designated channels.

2.3. "Application" means a software application, website, interface, or other offering developed by Developer that uses the API to interact with the Services.

- **2.4."Customer Data"** means all data, content, and information that Developer accesses, collects, processes, or otherwise uses via the API and that relates to or is associated with Smackdab's customers or their end users.

2.5. "Developer Account" means the account associated with Developer through which Developer accesses and uses the API.

2.6. "Developer Data" means all data, content, and information that Developer provides to Smackdab in connection with Developer's access to or use of the API, excluding Customer Data.

2.7. "End User" means an individual or entity that uses or interacts with Developer's Application.

2.8. "Intellectual Property Rights" means all patent rights, copyright rights, mask work rights, moral rights, rights of publicity, trademark, trade dress and service mark rights, goodwill, trade secret rights, and other

intellectual property rights that may exist now or come into existence in the future, and all applications and registrations, renewals, and extensions thereof, under the laws of any state, country, territory, or other jurisdiction.

2.9. "Malicious Code" means viruses, worms, time bombs, Trojan horses, and other harmful or malicious code, files, scripts, agents, or programs.

2.10. "Rate Limits" means the maximum number of API requests that Developer may make through the API in a given time period, as specified in the API Documentation or as otherwise communicated by Smackdab.

2.11. "Services" means the Smackdab software platform, features, and related services that Smackdab makes available through its websites and applications.

2.12. "Usage Data" means data collected by Smackdab about Developer's access to and use of the API, including but not limited to API requests, traffic patterns, and feature usage statistics.

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3. LICENSE GRANT AND RESTRICTIONS

3.1. **License Grant** Subject to and conditioned upon Developer's compliance with these API Terms, Smackdab grants Developer a limited, non-exclusive, non-transferable, non-sublicensable, revocable license during the Term to:

- Access and use the API solely for the purpose of developing, implementing, and maintaining the Application;
- Make calls to the API in accordance with the Rate Limits and the API Documentation;
- Copy and use the API Documentation solely for the purpose of developing, implementing, and maintaining the Application; and
- Display the Smackdab Data made available through the API to End Users of the Application in accordance with these API Terms.

3.2.

License Restrictions Except as expressly permitted in these API Terms, Developer shall not, and shall not permit any third party to:

- Use the API in a manner that exceeds Rate Limits or other usage limitations;
- Use the API in any manner or for any purpose that violates any applicable law or regulation;
- Use the API to create, train, or improve any artificial intelligence, machine learning algorithm, or similar technologies without Smackdab's express written consent;
- Use the API to develop an application that substantially replicates or competes with the Services;

- Reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code, object code, or underlying structure, ideas, or algorithms of the API, except to the extent applicable laws specifically prohibit such restriction;
- Modify, translate, or create derivative works based on the API;
- Access the API for purposes of monitoring its availability, performance, or functionality, or for any other benchmarking or competitive purposes;
- Interfere with or disrupt the integrity or performance of the API or third-party data contained therein;
- Attempt to gain unauthorized access to the API or related systems or networks;
- Remove or obscure any proprietary notices or labels displayed on or in the API or API Documentation;
- Access the API through any technology or means other than those provided or expressly authorized by Smackdab;
- Market, distribute, offer to sell, or sell access to the API separate from the Application; or
- Use the API to develop or enhance any product other than the Application.

3.3. **Compliance with Documentation** Developer shall comply with all requirements, restrictions, and documentation standards specified in the API Documentation, which is incorporated herein by reference. Smackdab may update the API Documentation from time to time, and Developer is responsible for ensuring continued compliance with the most current version.

3.4. **Open Source Components** The API may include certain open source software components, which are subject to their respective open source licenses. Nothing in these API Terms limits Developer's rights under, or grants Developer rights that supersede, the terms and conditions of any applicable open source license to such open source components.

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4. API CREDENTIALS AND SECURITY

4.1. **API Credentials** Smackdab will issue API Credentials to Developer following approval of Developer's application for API access.Developer acknowledges that API Credentials are Confidential Information and shall:

- Keep all API Credentials strictly confidential;
- Not share API Credentials with any third party;
- Implement appropriate technical, physical, and organizational measures to protect API Credentials;
- Immediately notify Smackdab of any unauthorized use or suspected breach of API Credentials; and

- Not embed API Credentials directly in client-side code (e.g., JavaScript) or otherwise expose them to End Users.

4.2. **Security Requirements** Developer shall:

- Implement and maintain appropriate administrative, technical, and physical safeguards to protect the security, confidentiality, and integrity of Customer Data, in accordance with industry standards and best practices, but in no case less than reasonable care;
- Implement appropriate access controls, including ensuring that API Credentials are accessible only to authorized personnel on a need-to-know basis;
- Maintain a comprehensive information security program that includes policies, procedures, and controls designed to protect against security threats;
- Secure all communications with the API using TLS 1.2 or higher (or successor protocols) with high-grade encryption technologies;
- Promptly implement security patches and updates for any software used to interact with the API;
- Regularly test and monitor the effectiveness of security controls, procedures, and practices; and
- Comply with security requirements specified in the API Documentation or otherwise communicated by Smackdab.

4.3. **Security Breaches** In the event of a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, API Credentials or any Customer Data (a "Security Breach"), Developer shall:

- Notify Smackdab immediately, but in no event later than 24 hours after discovery of the Security Breach;
- Provide Smackdab with all information necessary to investigate and respond to the Security Breach;
- Take all reasonable steps to promptly mitigate the effects of the Security Breach and minimize further unauthorized access or disclosure; and
- Cooperate with Smackdab's investigation of the Security Breach and any resulting remediation efforts.

4.4. **Security Assessments** Smackdab reserves the right to conduct security assessments or request that Developer undergo third-party security assessments at Smackdab's discretion\[cite: 109\]. \[cite_start\]Developer agrees to cooperate with such assessments, address any identified vulnerabilities promptly, and provide documentation of remediation efforts.

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5. USAGE LIMITATIONS AND RATE LIMITS

5.1. **Rate Limits** To ensure optimal system performance and availability for all users, Smackdab imposes Rate Limits on the use of the API.Current Rate Limits are specified in the API Documentation or

communicated through the Developer Account interface.Smackdab may modify Rate Limits at any time, with or without notice, to address system capacity, service availability, security concerns, or other factors.

5.2. **Monitoring and Enforcement** Smackdab monitors API usage for compliance with Rate Limits and other usage restrictions.If Developer exceeds applicable Rate Limits, Smackdab may, in its sole discretion:

- Temporarily throttle Developer's API access;
- Temporarily suspend Developer's API access;
- Reduce Developer's Rate Limits; or
- Terminate Developer's API access for repeated violations.

5.3. **Usage Tiers** Smackdab may offer different usage tiers with varying Rate Limits and capabilities. Developer's access to and use of the API is subject to the specific tier and associated limitations outlined in Developer's subscription plan or Order Form.

5.4. **Fair Use** Even within specified Rate Limits, Developer shall use the API in a fair and reasonable manner that does not adversely impact the functionality, performance, or availability of the API or the Services. Smackdab reserves the right to limit or suspend access to the API if it determines, in its sole discretion, that Developer's usage pattern is imposing an unreasonable load on the API or otherwise negatively impacting system performance, regardless of whether such usage falls within nominal Rate Limits.

5.5. **Usage Monitoring and Analytics** Smackdab collects and analyzes Usage Data to optimize API performance, enforce Rate Limits, improve the Services, and ensure compliance with these API Terms. Developer acknowledges and consents to such monitoring and data collection. Smackdab may share anonymized, aggregated Usage Data with third parties for analytics, industry benchmarking, and similar purposes.

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6. API MODIFICATIONS AND VERSIONING

6.1. **API Modifications** Smackdab continually improves its products and services and may modify the API at any time. Modifications may include adding, removing, or changing API features or functionality. Material changes to these API Terms follow TOS §15.16(a): at least thirty (30) days’ advance notice. Minor modifications or improvements that do not materially impact Developer’s use of the API do not require notice.

6.2. **Versioning Policy**

6.2.1. Smackdab employs API versioning to help manage changes. \[cite_start\]Each version of the API will be designated by a version number. Developer must specify the API version when making API calls, as detailed in the API Documentation.

6.2.2. Smackdab categorizes API changes as follows:

- **Breaking Changes:** Changes that may cause existing Applications to stop working (e.g., removing endpoints, renaming fields, or changing return formats).
- **Non-Breaking Changes:** Changes that should not affect existing Applications (e.g., adding new endpoints or optional fields).

6.2.3. For Breaking Changes, Smackdab will:

- Release a new API version;
- Maintain the previous version(s) for the deprecation period specified in Section 6.3; and
- Provide migration guides and other documentation to assist Developer in transitioning to the new version.

6.3. **Deprecation Policy** 6.3.1.When Smackdab decides to deprecate an API version, feature, or endpoint, Smackdab will:

- Announce the deprecation through the Developer Portal, email notifications, and/or other appropriate channels;
- Specify the end-of-life date for the deprecated API version, feature, or endpoint; and
- Maintain the deprecated API version, feature, or endpoint until its end-of-life date.

6.3.2. Standard deprecation periods are as follows:

- For stable API versions: Minimum of six (6) months from deprecation announcement to end-of-life.
- For beta or preview API features: No guaranteed support period.

6.3.3.Developer is responsible for migrating to supported API versions before end-of-life dates. After an API version reaches its end-of-life date, Smackdab may disable it without further notice, which may cause Applications using the unsupported version to malfunction or fail.

6.4. **Emergency Changes** Despite the policies in Sections 6.2 and 6.3, Smackdab may make changes to the API, including Breaking Changes, with reduced or no notice if required to:

- Address security vulnerabilities;
- Respond to an emergency situation;
- Comply with legal requirements; or
- Prevent substantial harm to Smackdab, the Services, or users.

Smackdab will use commercially reasonable efforts to provide Developer with prompt notice of any such emergency changes.

7. DEVELOPER OBLIGATIONS

7.1. **Compliance with API Terms** Developer shall comply with these API Terms, the TOS, and all other applicable Smackdab policies when accessing and using the API. Developer shall also ensure that its employees, contractors, agents, and End Users comply with these terms to the extent they access or use the API or Application, and Developer shall be responsible for their acts and omissions.

7.2.

Application Requirements Developer's Applications must:

- Comply with these API Terms and all applicable laws and regulations;
- Be compatible with the most current version of the API or a supported legacy version;
- Include a privacy policy that complies with all applicable laws and adequately discloses the collection, use, storage, and sharing of any personal data;
- Include appropriate terms of service that protect Smackdab and are consistent with these API Terms;
- Obtain all necessary rights, permissions, and consents to operate the Application and to collect, use, and share data obtained through the API;
- Implement reasonable security measures to protect data processed through the Application;
- Function properly with the API and not interfere with the proper operation of the API or Services;
- Not mislead users about its relationship with Smackdab or suggest that Smackdab develops, endorses, or supports the Application beyond the actual integration of the API;
- Not use the API in a manner that encourages or enables the violation of these API Terms or Smackdab's TOS; and
- Comply with any additional requirements that Smackdab may specify in the API Documentation or through other communications.

7.3. **End User Support** Developer is solely responsible for providing support and technical assistance to End Users regarding the Application, including addressing any issues related to the integration of the API with the Application. Developer shall not direct End Users to Smackdab's support channels for issues specific to the Application.

7.4. **Application Monitoring and Testing** Developer shall regularly monitor and test the Application to ensure it is functioning properly with the API. This includes:

- Conducting thorough testing before each release of the Application;
- Implementing monitoring systems to detect issues in production;

- Promptly addressing bugs, errors, or other issues that affect functionality;
- Testing for compatibility with updated versions of the API; and
- Maintaining records of testing activities and results.

7.5. **Compliance with Brand Guidelines** If Developer references Smackdab or uses Smackdab's trademarks, logos, or other brand assets in the Application or related marketing materials, Developer shall comply with Smackdab's Brand Guidelines.

7.6. **Quality Standards** Developer shall ensure that the Application meets high quality standards, including:

- Reliability, stability, and performance;
- User experience and interface design;
- Accuracy of information and functionality;
- Accessibility for users with disabilities; and
- Responsiveness to user feedback and issues.

Smackdab reserves the right to require improvements to Applications that do not meet these quality standards or to suspend access to the API for Applications that consistently fail to meet these standards.

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8. PRIVACY AND DATA PROTECTION

8.1. **Data Processing Roles** 8.1.1.For purposes of data protection laws, when Developer accesses Customer Data through the API:

- Smackdab acts as a processor or service provider to its customers;
- Developer acts as a subprocessor or service provider to Smackdab; and
- Developer must process Customer Data only as permitted by these API Terms, the TOS, and any applicable Data Processing Addendum.

8.1.2. For Developer Data and Usage Data, Smackdab acts as a controller or business, as defined under applicable data protection laws.

8.2. **Privacy Compliance**

8.2.1. Developer shall:

- Comply with all applicable data protection and privacy laws, including but not limited to the General Data Protection Regulation (GDPR), the California Consumer Privacy Act (CCPA), and other U.S. state privacy laws;
- Implement appropriate technical and organizational measures to ensure a level of security appropriate to the risk of the data processing;

- Process Customer Data only for the purposes explicitly authorized by these API Terms and the applicable Smackdab customer;
- Not disclose Customer Data to third parties unless expressly authorized by these API Terms or with Smackdab's prior written consent;
- Assist Smackdab in fulfilling its obligations to respond to requests from data subjects exercising their rights under applicable data protection laws; and
- Notify Smackdab promptly if Developer receives any request directly from a data subject regarding Customer Data.

8.2.2. Developer shall maintain a privacy policy for the Application that:

- Clearly and accurately describes the data collected through the Application, including via the API;
- Discloses how such data is used, stored, secured, and shared;
- Discloses the relationship between the Application and Smackdab;
- Complies with all applicable data protection and privacy laws; and
- Is prominently displayed to End Users before they use the Application.

8.3. **Data Processing Restrictions**

8.3.1. Developer shall not:

- Use Customer Data for any purpose other than providing and improving the Application as authorized by these API Terms;
- Sell, rent, or otherwise disclose Customer Data to third parties;
- Use Customer Data for advertising or marketing purposes, unless expressly authorized by Smackdab and the relevant Smackdab customer;
- Use Customer Data to develop or enhance any product other than the Application;
- Attempt to re-identify anonymized or de-identified data; or
- Process sensitive personal information accessible through the API, except as expressly authorized by Smackdab and in compliance with all applicable laws.

8.3.2. Developer shall implement reasonable technical and operational measures to ensure these restrictions are enforced.

8.4. **Data Retention and Deletion**

8.4.1. Developer shall:

- Retain Customer Data only for as long as necessary to provide the Application or as required by law;

- Implement and maintain a data retention policy that specifies retention periods for different categories of data;
- Securely delete Customer Data when it is no longer needed for authorized purposes; and
- Upon termination of these API Terms or at Smackdab's request, promptly delete all Customer Data in Developer's possession or control, except as required by law.

8.4.2. Upon request, Developer shall provide Smackdab with written certification of deletion of Customer Data.

8.5. **Cross-Border Data Transfers** If Developer transfers Customer Data across international borders, Developer shall ensure such transfers comply with applicable data protection laws, including by implementing appropriate transfer mechanisms (e.g., Standard Contractual Clauses) as required.

8.6. **Data Processing Addendum** For access to certain Customer Data, Smackdab may require Developer to execute a separate Data Processing Addendum. In such cases, the terms of the Data Processing Addendum shall take precedence over these API Terms with respect to the processing of Customer Data.

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9. INTELLECTUAL PROPERTY RIGHTS

9.1. **Ownership of API** Smackdab owns and retains all right, title, and interest in and to the API, API Documentation, and all related technology, software, content, materials, and Intellectual Property Rights. Except for the limited license expressly granted in Section 3.1, Smackdab does not grant Developer any right, title, or interest in or to the API, API Documentation, or any related Intellectual Property Rights.

9.2. **Ownership of Applications** Subject to Smackdab's ownership of the API and Smackdab Data, Developer owns and retains all right, title, and interest in and to the Application and all related technology, software, content, materials, and Intellectual Property Rights.

9.3. **Ownership of Data**

9.3.1. As between Smackdab and Developer:

- Smackdab owns all right, title, and interest in and to the Smackdab Data;
- Developer owns all right, title, and interest in and to the Developer Data; and
- Ownership of Customer Data is governed by the agreements between Smackdab and its customers.

9.3.2. Developer grants Smackdab a non-exclusive, worldwide, royalty-free license to use, copy, store, and process Developer Data to:

- Provide and improve the API and Services;
- Monitor and enforce compliance with these API Terms;
- Analyze API usage and performance; and
- As otherwise permitted by these API Terms or applicable law.

9.4. **Feedback** If Developer provides Smackdab with any suggestions, comments, or other feedback regarding the API or Services ("Feedback"), Developer hereby grants Smackdab a perpetual, irrevocable, worldwide, royalty-free, fully paid-up, non-exclusive, sublicensable, transferable license to use, copy, modify, create derivative works of, distribute, display, perform, and otherwise exploit such Feedback for any purpose and without any obligation, compensation, or restriction.

9.5. **Publicity Rights**

9.5.1. Developer grants Smackdab a non-exclusive, worldwide, royalty-free license to use Developer's name, logo, and trademarks to identify Developer as a user of the API and to describe the integration between the Application and the Services in Smackdab's marketing materials, website, and other communications.

9.5.2. Any use of Smackdab's name, logo, or trademarks by Developer must comply with Smackdab's Brand Guidelines and requires Smackdab's prior written approval, except for nominative references to Smackdab for the sole purpose of identifying that the Application integrates with the Services.

9.6. **Reservation of Rights** All rights not expressly granted herein are reserved. Nothing in these API Terms shall limit Smackdab's right to develop, acquire, license, market, promote, or distribute products or technologies that may compete with Developer or the Application.

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10. REPRESENTATIONS AND WARRANTIES

10.1. **Mutual Representations and Warranties** Each party represents and warrants that:

- It has the full power and authority to enter into and perform these API Terms;
- Its performance under these API Terms does not and will not violate any applicable law, regulation, or agreement; and
- It will comply with all applicable laws, regulations, and industry standards in performing its obligations and exercising its rights under these API Terms.

10.2. **Developer Representations and Warranties** Developer represents and warrants that:

- It has all necessary rights, licenses, and permissions to develop, operate, and distribute the Application;
- The Application, and any content contained therein, does not and will not:
- Infringe or misappropriate any Intellectual Property Rights or other rights of any third party;
- Contain any Malicious Code;
- Contain any material that is defamatory, obscene, or otherwise objectionable; or
- Violate any applicable law or regulation;
- All information provided to Smackdab in connection with its use of the API is and will remain accurate, complete, and current;

- It will maintain throughout the Term all licenses, permits, and other permissions necessary to perform its obligations under these API Terms;
- It will not misrepresent its relationship with Smackdab or the Services; and
- It will disclose in the Application's terms of service and privacy policy all material features, functionality, and data collection practices.

10.3. **API WARRANTY** EXCEPT AS EXPRESSLY PROVIDED IN THESE API TERMS, THE API IS PROVIDED "AS IS" AND "AS AVAILABLE," WITH ALL FAULTS, AND SMACKDAB HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, ACCURACY, RELIABILITY, OR THAT THE API WILL BE UNINTERRUPTED, SECURE, ERROR-FREE, OR FREE FROM MALICIOUS CODE. SMACKDAB DOES NOT WARRANT THAT THE API WILL MEET DEVELOPER'S REQUIREMENTS OR THAT DEFECTS WILL BE CORRECTED. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY SMACKDAB OR ITS AUTHORIZED REPRESENTATIVES SHALL CREATE A WARRANTY.

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11. INDEMNIFICATION

11.1. **Developer Indemnification** Developer shall defend, indemnify, and hold harmless Smackdab, its affiliates, and their respective officers, directors, employees, agents, successors, and assigns from and against any and all claims, demands, actions, proceedings, liabilities, damages, losses, judgments, fines, penalties, settlements, costs, and expenses (including reasonable attorneys' fees) arising out of or related to:

- Developer's breach of these API Terms;
- Developer's negligence or willful misconduct;
- The Application or Developer's use of the API;
- Any actual or alleged infringement, misappropriation, or violation of any third-party's Intellectual Property Rights or other rights by the Application or Developer's use of the API;
- Developer's failure to comply with applicable laws or regulations; or
- Any dispute between Developer and an End User.

11.2. **Indemnification Procedure** If Smackdab seeks indemnification under Section 11.1, Smackdab shall:

- Promptly notify Developer in writing of the claim, action, or proceeding for which indemnification is sought, provided that failure to give prompt notice shall not relieve Developer of its indemnification obligations except to the extent Developer is materially prejudiced by such failure;
- Give Developer sole control of the defense and settlement of the claim, action, or proceeding, provided that

(i) Developer shall not settle any claim without Smackdab's prior written consent if the settlement requires Smackdab to admit liability, pay money, or take or refrain from taking any action, and

(ii) Smackdab may participate in the defense at its own expense; and

- Provide Developer, at Developer's expense, with all reasonable assistance in connection with the defense and settlement of the claim, action, or proceeding.

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12. LIMITATION OF LIABILITY

12.1. **EXCLUSION OF CERTAIN DAMAGES** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA, OR OTHER INTANGIBLE LOSSES, ARISING OUT OF OR RELATED TO THESE API TERMS OR THE USE OF OR INABILITY TO USE THE API, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF THE THEORY OF LIABILITY.

12.2. **CAP ON LIABILITY** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE TOTAL CUMULATIVE LIABILITY OF SMACKDAB TO DEVELOPER FOR ALL CLAIMS ARISING OUT OF OR RELATED TO THESE API TERMS OR THE USE OF OR INABILITY TO USE THE API, WHETHER IN CONTRACT, TORT, OR OTHERWISE, SHALL NOT EXCEED THE GREATER OF (A) THE AMOUNT PAID BY DEVELOPER TO SMACKDAB FOR USE OF THE API DURING THE TWELVE (12) MONTHS PRIOR TO THE EVENT GIVING RISE TO THE CLAIM, OR (B) $100 USD.

12.3. **EXCEPTIONS** THE LIMITATIONS OF LIABILITY IN SECTIONS

12.1 AND

12.2 SHALL NOT APPLY TO:

- DEVELOPER'S INDEMNIFICATION OBLIGATIONS UNDER SECTION 11;
- EITHER PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT;
- EITHER PARTY'S BREACH OF ITS CONFIDENTIALITY OBLIGATIONS;
- DEVELOPER'S BREACH OF SECTIONS 3.2 (LICENSE RESTRICTIONS), 4 (API CREDENTIALS AND SECURITY), OR 8 (PRIVACY AND DATA PROTECTION); OR
- ANY OTHER LIABILITY THAT CANNOT BE EXCLUDED OR LIMITED BY APPLICABLE LAW\[cite: 322\].

12.4. **BASIS OF THE BARGAIN** THE PARTIES ACKNOWLEDGE THAT THE LIMITATIONS OF LIABILITY IN THIS SECTION 12 ARE AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES AND THAT IN THE ABSENCE OF SUCH LIMITATIONS, THE TERMS AND PRICING OF THESE API TERMS WOULD BE SUBSTANTIALLY DIFFERENT.

13. TERM AND TERMINATION

13.1. **Term** These API Terms commence on the date Developer first accesses or uses the API and continue until terminated as provided herein (the "Term").

13.2. **Termination by Developer** Developer may terminate these API Terms at any time by discontinuing all use of the API and notifying Smackdab in writing of such termination.

13.3. **Termination by Smackdab**

13.3.1. Smackdab may terminate these API Terms and Developer's right to access and use the API:

- Immediately upon written notice if Developer breaches any provision of Sections 3.2 (License Restrictions), 4 (API Credentials and Security), 7 (Developer Obligations), or 8 (Privacy and Data Protection);
- Immediately upon written notice if Developer breaches any other provision of these API Terms and fails to cure such breach within thirty (30) days after receiving written notice of the breach;
- Immediately upon written notice if Developer becomes the subject of a bankruptcy, insolvency, receivership, liquidation, assignment for the benefit of creditors, or similar proceeding;
- Immediately upon written notice if required by law or regulation;
- Immediately upon written notice if Smackdab determines, in its sole discretion, that Developer's use of the API poses a security risk or could harm Smackdab, the Services, or any third party;
- With thirty (30) days' prior written notice for any reason at Smackdab's discretion; or
- As otherwise provided in these API Terms.

13.3.2.Smackdab may also suspend Developer's access to the API immediately, with or without notice, if Smackdab reasonably believes that:

- Developer has violated these API Terms;
- Developer's use of the API poses a security risk;
- Developer's use of the API may subject Smackdab or any third party to liability; or
- Developer's use of the API may be fraudulent.

13.4. **Effect of Termination** Upon termination or expiration of these API Terms:

- All licenses and rights granted to Developer under these API Terms shall immediately terminate;
- Developer shall immediately cease all use of the API;
- Developer shall destroy all copies of the API Documentation and any other Confidential Information of Smackdab in Developer's possession or control;
- Developer shall delete all Customer Data in accordance with Section 8.4;

- Smackdab shall disable Developer's API Credentials;
- All outstanding payment obligations shall become immediately due and payable; and
- Sections that by their nature are intended to survive termination shall survive, including but not limited to Sections 2 (Definitions), 8.4 (Data Retention and Deletion), 9 (Intellectual Property Rights), 11 (Indemnification), 12 (Limitation of Liability), 13.4 (Effect of Termination), 15 (Confidentiality), and 17 (General Provisions).

13.5. **Transition Assistance** If these API Terms are terminated by Smackdab under Section 13.3.1 (with thirty days' notice for any reason), Smackdab will use commercially reasonable efforts to provide Developer with a reasonable transition period of not less than thirty (30) days to migrate away from the API, provided that:

(a) Developer continues to comply with these API Terms during the transition period;

(b) Developer pays all applicable fees; and (c) provision of transition assistance does not subject Smackdab to any legal liability or unreasonable burden.

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14. FEES AND PAYMENT

14.1. **Fees**

14.1.1. Developer shall pay Smackdab the fees specified in the applicable Order Form or pricing page for use of the API ("API Fees"). If no API Fees are specified, Smackdab reserves the right to introduce or modify fees at any time upon thirty (30) days' prior written notice to Developer.

14.1.2. If Smackdab offers a free tier for the API, use of the API within the limits of the free tier will not incur API Fees. Use of the API beyond the limits of the free tier will require payment of applicable API Fees.

14.2. **Payment Terms**

14.2.1. Unless otherwise specified in an Order Form\[cite: 365\]:

- API Fees are due and payable within thirty (30) days of the invoice date;
- API Fees are non-refundable;
- Developer shall provide and maintain valid payment information with Smackdab;
- Smackdab may automatically charge Developer's payment method for all API Fees when due;
- Developer is responsible for all taxes associated with the API Fees (excluding taxes based on Smackdab's net income)\[; and
- Smackdab may suspend Developer's access to the API if any API Fees are more than fifteen (15) days past due.

14.2.2.If Developer disputes any API Fees, Developer must notify Smackdab in writing within fifteen (15) days of the invoice date, specifying the amount and basis of the dispute.Undisputed amounts remain due

according to the payment terms.

14.3. **Fee Changes** Smackdab may change the API Fees at any time by providing at least thirty (30) days' prior written notice to Developer. The new API Fees will take effect at the start of the next billing cycle following the notice period, or as otherwise specified in the notice. If Developer continues to use the API after the new API Fees take effect, Developer shall be deemed to have accepted the new API Fees.

14.4. **Usage-Based Fees** If API Fees are based on usage metrics (e.g., number of API calls, data transfer volume), Smackdab will track Developer's usage of the API and bill Developer accordingly. Developer acknowledges and agrees that Smackdab's measurement of Developer's usage shall be final and binding, absent manifest error.

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15. CONFIDENTIALITY

15.1. **Confidential Information**

15.1.1.

"Confidential Information" means any non-public information disclosed by one party ("Disclosing Party") to the other party ("Receiving Party") in connection with these API Terms, whether orally, in writing, or by any other means, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure.

15.1.2. Confidential Information includes but is not limited to:

- For Smackdab: The API, API Credentials, API Documentation, non-public features of the Services, technical specifications, security protocols, product roadmaps, pricing information, and Customer Data.
- For Developer: Developer Data, Application specifications, and non-public business information.

15.1.3. Confidential Information does not include information that:

- Is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party;
- Was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party;
- Is received from a third party without breach of any obligation owed to the Disclosing Party; or
- Is independently developed by the Receiving Party without use of or reference to the Disclosing Party's Confidential Information.

15.2. **Protection of Confidential Information**

15.2.1. The Receiving Party shall:

- Protect the Disclosing Party's Confidential Information with at least the same degree of care it uses to protect its own confidential information of a similar nature, but in no event less than reasonable care;

- Not use the Disclosing Party's Confidential Information for any purpose outside the scope of these API Terms;
- Not disclose the Disclosing Party's Confidential Information to any third party, except as permitted by Section 15.3; and
- Limit access to the Disclosing Party's Confidential Information to its employees, contractors, and agents who need such access for purposes consistent with these API Terms and who are bound by confidentiality obligations at least as protective as those herein.

15.2.2. The Receiving Party shall promptly notify the Disclosing Party if it becomes aware of any actual or reasonably suspected unauthorized use or disclosure of the Disclosing Party's Confidential Information.

15.3. **Permitted Disclosures** The Receiving Party may disclose the Disclosing Party's Confidential Information:

- To its legal counsel, accountants, or auditors who need to know such information in order to provide services to the Receiving Party, provided that such professionals are bound by confidentiality obligations at least as protective as those herein;
- As required by law, regulation, or court order, provided that the Receiving Party (a) gives the Disclosing Party prompt written notice of such requirement (to the extent legally permitted), (b) provides reasonable assistance to the Disclosing Party in seeking a protective order or other appropriate remedy, and (c) discloses only that portion of the Confidential Information that is legally required to be disclosed; or
- With the Disclosing Party's prior written consent.

15.4. **Return or Destruction** Upon termination or expiration of these API Terms, or upon the Disclosing Party's request, the Receiving Party shall promptly return or destroy all Confidential Information of the Disclosing Party in its possession or control, except as otherwise provided in these API Terms or as required by law. \[cite_start\]Upon request, the Receiving Party shall certify in writing its compliance with this Section.

15.5. **Injunctive Relief** Each party acknowledges that unauthorized use or disclosure of the other party's Confidential Information may cause irreparable harm for which monetary damages would not be an adequate remedy. Accordingly, a party may seek injunctive or other equitable relief to prevent or stop unauthorized use or disclosure of the other party's Confidential Information, without posting a bond or proving actual damages.

15.6. **Duration** The obligations in this Section 15 shall continue for a period of five (5) years after termination or expiration of these API Terms, except for Customer Data and trade secrets, for which the obligations shall continue for as long as such information remains protected under applicable law.

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16. COMPLIANCE WITH LAWS

16.1. **General Compliance** Each party shall comply with all applicable laws, regulations, and industry standards in its performance under these API Terms, including but not limited to laws related to data

protection, privacy, intellectual property, consumer protection, export control, anti-corruption, and telecommunications.

16.2. **Export Controls**

16.2.1. Developer acknowledges that the API and related technology may be subject to U.S. export control laws and regulations, including the Export Administration Regulations and sanctions programs administered by the Office of Foreign Assets Control. 16.2.2.Developer shall not, directly or indirectly, export, re-export, or transfer the API or any related technology:

- To any country, person, entity, or end user subject to U.S. export restrictions or sanctions;
- For any prohibited end-use, including military, nuclear, missile, chemical, or biological weapons proliferation; or
- In violation of any U.S. or applicable non-U.S. export law or regulation.

16.3. **Anti-Corruption**

16.3.1. Developer shall not, directly or indirectly, make, offer, promise, or authorize any payment, gift, or transfer of anything of value to any government official or any other person:

- To obtain or retain business or secure any improper advantage;
- To influence any act or decision of such person in their official capacity; or
- In violation of the U.S. Foreign Corrupt Practices Act, the UK Bribery Act, or any other applicable anti-corruption laws.

16.3.2. Developer shall maintain accurate books and records relating to its use of the API and shall provide such records to Smackdab upon request to verify compliance with this Section.

16.4. **No Illegal Purpose** Developer shall not use the API for any illegal purpose, including but not limited to:

- Fraudulent or deceptive activities;
- Money laundering or terrorist financing;
- Unauthorized access to computer systems or data;
- Distribution of Malicious Code;
- Violation of intellectual property rights; or
- Harassment, defamation, or invasion of privacy.

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17. GENERAL PROVISIONS

17.1. **Governing Law and Jurisdiction** These API Terms shall be governed by and construed in accordance with the laws of the State of Florida, USA, without regard to its conflict of laws principles\[cite: 438\]. \[cite_start\]Any legal action or proceeding arising under these API Terms shall be brought exclusively

in the federal or state courts located in Collier County, Florida, and the parties hereby consent to the personal jurisdiction and venue therein.

17.2. **Dispute Resolution** Any dispute, controversy, or claim arising out of or relating to these API Terms shall be resolved in accordance with the dispute resolution provisions set forth in the TOS.

17.3. **Relationship of Parties** The parties are independent contractors. These API Terms do not create a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the parties. Neither party has the authority to bind the other party or to incur any obligation on behalf of the other party.

17.4. **No Third-Party Beneficiaries** These API Terms do not confer any rights or remedies upon any person or entity other than the parties and their respective successors and permitted assigns.

17.5. **Assignment** Developer may not assign or transfer these API Terms or any rights or obligations hereunder, whether by operation of law or otherwise, without Smackdab's prior written consent. Any attempted assignment or transfer without such consent will be void. \[Smackdab may assign these API Terms, in whole or in part, without Developer's consent to: (a) an affiliate; (b) an acquirer of all or substantially all of Smackdab's business or assets; or (c) a successor by merger. Subject to the foregoing, these API Terms will bind and inure to the benefit of the parties and their respective successors and permitted assigns.

17.6. **Force Majeure** Neither party shall be liable for any failure or delay in performance under these API Terms due to causes beyond its reasonable control, including but not limited to acts of God, natural disasters, war, terrorism, riots, civil unrest, government actions, power failures, internet or telecommunications disruptions, or pandemics. The affected party shall use reasonable efforts to minimize the effects of such force majeure event and shall resume performance as soon as reasonably practicable.

17.7. **Notices** All notices under these API Terms shall be in writing and shall be deemed to have been duly given when:

- Delivered personally;
- Sent by email, with confirmation of transmission;
- Upon delivery when sent by recognized overnight courier; or
- Upon receipt when sent by certified or registered mail, return receipt requested, postage prepaid.

Notices to Smackdab shall be sent to: Smackdab Inc. Attn: Legal Department 372 Live Oak Ln Marco Island, FL 34145 United States Email: legal@smackdab.ai Notices to Developer shall be sent to the address and email provided in Developer's account or as otherwise specified in writing.

17.8. **Waiver** No failure or delay by either party in exercising any right under these API Terms shall constitute a waiver of that right. No waiver under these API Terms shall be effective unless made in writing and signed by an authorized representative of the party being deemed to have granted the waiver.

17.9. **Severability** If any provision of these API Terms is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the

objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of these API Terms shall remain in effect.

17.10. **Entire Agreement** These API Terms, together with the TOS and any applicable Order Forms, constitute the entire agreement between the parties regarding the subject matter hereof and supersede all prior and contemporaneous agreements, proposals, or representations, written or oral, concerning the subject matter. No modification, amendment, or waiver of any provision of these API Terms shall be effective unless in writing and signed by both parties, except as otherwise provided herein.

17.11. **Interpretation** The headings in these API Terms are for convenience only and shall not affect their interpretation. The terms "include," "includes," and "including" shall be deemed to be followed by the words "without limitation". The word "or" is not exclusive.The terms "herein," "hereof," "hereunder," and similar terms refer to these API Terms as a whole and not to any specific section. These API Terms shall be construed as if drafted jointly by the parties, and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any provision of these API Terms.

17.12. **Counterparts** These API Terms may be executed in counterparts, which taken together shall constitute one instrument. Electronic signatures and signatures transmitted by facsimile or electronic mail shall be binding and effective for all purposes.

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18. CONTACT INFORMATION

If you have any questions about these API Terms, please contact us: **Email: legal@smackdab.ai Mail:** Smackdab Inc. Attn: Legal Department 372 Live Oak Ln Marco Island, FL 34145 United States **Phone:** +1 (239) 299-4616 **©2025 Smackdab Inc. All rights reserved.**

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