SMACKDAB INC. OFFICIAL POLICY

BETA/EARLY ACCESS TERMS

Official legal PDF. This document is generated from the Smackdab website legal source file.

SMACKDAB INC. BETA/EARLY ACCESS TERMS Effective Date: April 26, 2025 Last Updated: November 1, 2025 Version:

1.0 Document Location: https://smackdab.ai/legal/beta-early-access-terms

---

1. INTRODUCTION AND ACCEPTANCE

1.1. Purpose. These Beta/Early Access Terms ("**Beta Terms**") govern your access to and use of pre-release, beta, pilot, limited release, developer preview, non-production, evaluation, or similar versions of Smackdab Inc. ("**Smackdab**," "**we**," "**us**," or "**our**") software, products, services, features, or functionality (collectively, "**Beta Services**").

1.2. Binding Agreement. By accessing or using any Beta Services, clicking a box indicating acceptance, executing an Order Form that references these Beta Terms, or otherwise manifesting assent to these Beta Terms, you ("**Beta Participant**," "**you**," or "**your**") agree to be bound by these Beta Terms and acknowledge that they form a legally binding contract between you and Smackdab. If you are accessing or using the Beta Services on behalf of a company, organization, or other legal entity, you represent and warrant that you have the authority to bind such entity and its Affiliates to these Beta Terms.

1.3. Relationship to Other Agreements—Beta Services Scope Only (Data Protection Excluded). These Beta Terms supplement, and are incorporated by reference into, the Smackdab Terms of Service available at https://smackdab.ai/legal/terms-of-service ("**Terms of Service**" or "****TOS****").

In the event of a conflict between these Beta Terms and the TOS or any other document, these Beta Terms shall prevail **solely and exclusively with respect to your access, use, testing, and evaluation of the Beta Services** (including Beta-specific feature limitations and disclaimers), **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 Beta Services**.

For all other matters not directly related to the Beta Services themselves and not involving data protection (e.g., billing disputes, API usage, general confidentiality obligations, or disputes between other policies), the document hierarchy set forth in TOS Section 15.7 shall apply.

All other terms and conditions of the Terms of Service shall remain in full force and effect.

By way of example, if a dispute arises regarding the retention or deletion of personal data in Beta Services, the DPA shall control for those data protection and deletion matters, while these Beta Terms control Beta access rights, no-warranty disclaimers, and Beta-specific use limitations.

1.4. Not for Production Use—Data Loss Risk. The Beta Services are provided solely for evaluation and testing purposes and are not intended for production use. You acknowledge and agree that:

(a) The Beta Services may contain bugs, errors, defects, or harmful components, and you assume all risks associated with your use of the Beta Services; (b) **Beta Participant data may be deleted at any time without notice** (see Section 11.6), and the standard 30-day data retrieval period provided for terminated production accounts under the Terms of Service does NOT apply to Beta Services;

(c) You should never use the Beta Services for Production Data, business-critical information, or any data you are not prepared to lose permanently without prior notice; and

(d) You are solely responsible for backing up and exporting any data you wish to retain before the end of the Beta Period.

1.5. Modifications to Beta Terms. Smackdab reserves the right to modify these Beta Terms at any time by posting the revised terms on our website or by otherwise notifying you. Your continued use of the Beta Services after any such changes take effect constitutes your acceptance of the revised Beta Terms. If you do not agree to any of the revised terms, your sole and exclusive remedy is to discontinue use of the Beta Services.

---

2. DEFINITIONS

Capitalized terms used but not defined in these Beta Terms shall have the meanings given to them in the Terms of Service. The following additional terms shall have the meanings set forth below:

2.1. "Affiliate" means any entity that directly or indirectly controls, is controlled by, or is under common control with a party, where "control" means ownership of more than 50% of the shares or equity interest entitled to vote for the election of directors or equivalent governing body.

2.2. "Beta Feedback" means all comments, questions, suggestions, ideas, or other feedback provided by Beta Participant in relation to the Beta Services, including but not limited to feature requests, usability evaluations, bug reports, test results, or any other information provided during Beta Participant's use of the Beta Services.

2.3. "Beta Materials" means all documentation, information, specifications, or other materials provided by Smackdab to Beta Participant in connection with the Beta Services.

2.4. "Beta Period" means the period during which Smackdab makes the Beta Services available to Beta Participant, as specified by Smackdab in the applicable Beta invitation, Beta registration confirmation, or other written communication.

2.5. "Beta Program" means Smackdab's program for providing early access to Beta Services for testing, feedback, and evaluation purposes.

2.6. "Confidential Information" has the meaning assigned in Section 6 of these Beta Terms.

2.7. "Intellectual Property Rights" means any and all registered and unregistered rights granted, applied for, or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection, or other intellectual property laws, and all similar or equivalent rights or forms of protection, in any part of the world.

2.8. "Order Form" means an ordering document, quote, online order, or other enrollment form that specifies the Beta Services to be provided by Smackdab to Beta Participant.

2.9. "Production Data" means any business-critical or sensitive data, information, or materials owned by or pertaining to Beta Participant, its customers, or its users that is used in Beta Participant's actual business operations.

---

3. BETA PROGRAM PARTICIPATION

3.1. Invitation and Acceptance. Participation in the Beta Program may be by invitation only. Smackdab may accept or reject any request to participate in the Beta Program at its sole discretion. Smackdab reserves the right to limit the number of Beta Participants and may add or remove Beta Participants at any time.

3.2. Registration Information. Beta Participant shall provide accurate, current, and complete information during the registration process and shall keep such information updated during the Beta Period. Smackdab may terminate Beta Participant's access to the Beta Services if any information provided is inaccurate, not current, or incomplete.

3.3. Participant Requirements. As a Beta Participant, you agree to:

(a) Use the Beta Services in accordance with all documentation and instructions provided by Smackdab;

(b) Dedicate adequate resources to testing and evaluating the Beta Services;

(c) Regularly provide Beta Feedback to Smackdab as requested;

(d) Report any bugs, defects, or other issues with the Beta Services promptly to Smackdab;

(e) Participate in surveys, interviews, or other feedback mechanisms as reasonably requested by Smackdab;

(f) Comply with these Beta Terms, the Terms of Service, and any other policies or guidelines provided by Smackdab; and

(g) Cooperate with Smackdab's reasonable requests in connection with the Beta Program.

3.4. No Compensation. Unless otherwise expressly set forth in a separate written agreement, Beta Participant shall not be entitled to any compensation for its participation in the Beta Program or for providing Beta Feedback.

3.5. Support and Maintenance. Smackdab may provide technical support for the Beta Services in its sole discretion. Any support provided will be on an "as available" basis, and Smackdab does not guarantee

response times or resolution of issues. Standard Service Level Agreements do not apply to Beta Services.

---

4. ACCESS AND USE RIGHTS

4.1. Limited License. Subject to Beta Participant's compliance with these Beta Terms, Smackdab grants Beta Participant a limited, non-exclusive, non-transferable, non-sublicensable, revocable license to access and use the Beta Services during the Beta Period solely for internal evaluation and testing purposes.

4.2. Acceptable Use. Beta Participant shall use the Beta Services only for the purposes of evaluation and testing and in accordance with the Smackdab Acceptable Use Policy available at https://smackdab.ai/legal/acceptable-use-policy, which is incorporated herein by reference.

4.3. Restrictions. In addition to the restrictions set forth in the Terms of Service and the Acceptable Use Policy, Beta Participant shall not:

(a) Use the Beta Services for production purposes or with Production Data unless explicitly authorized in writing by Smackdab;

(b) Use the Beta Services to develop or test any product or service that is competitive with the Beta Services or any other Smackdab products or services;

(c) Benchmark or conduct competitive analyses of the Beta Services or disclose the results of any such analyses to third parties;

(d) Attempt to reverse engineer, decompile, disassemble, or otherwise discover the source code or underlying components of the Beta Services;

(e) Circumvent or disable any security or other technological features of the Beta Services;

(f) Use the Beta Services in any manner that could interfere with, disrupt, negatively affect, or inhibit other users from fully enjoying the Beta Services, or that could damage, disable, overburden, or impair the functioning of the Beta Services in any manner;

(g) Distribute, publish, transmit, or otherwise make available the Beta Services to any third party;

(h) Modify, adapt, translate, or create derivative works based on the Beta Services or any part thereof; or

(i) Remove, alter, or obscure any proprietary notice (including any notice of copyright or trademark) of Smackdab or its affiliates, partners, suppliers, or licensors.

4.4. Test Data. Beta Participant should use only test data, not Production Data, with the Beta Services unless explicitly authorized in writing by Smackdab. Beta Participant acknowledges that use of Production Data with the Beta Services is at Beta Participant's sole risk.

4.5. Access Credentials. Beta Participant is responsible for maintaining the confidentiality of any access credentials (such as usernames and passwords) provided by Smackdab for use with the Beta Services. Beta Participant shall not share such credentials with any third party and shall be solely responsible for all activities that occur under such credentials.

5. BETA FEEDBACK AND SUGGESTIONS

5.1. Provision of Feedback. Beta Participant agrees to provide Smackdab with Beta Feedback regarding the Beta Services as reasonably requested by Smackdab during the Beta Period. Beta Feedback may be provided through various channels, including but not limited to email, surveys, interviews, user testing sessions, bug reports, or feedback forms.

5.2. License to Feedback. Beta Participant 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 the Beta Feedback for any purpose, including but not limited to incorporating Beta Feedback into Smackdab's products and services, without any attribution, compensation, or other obligation to Beta Participant.

5.3. No Obligation. Smackdab is under no obligation to implement any Beta Feedback or make any changes to the Beta Services based on Beta Feedback. All Beta Feedback is provided by Beta Participant on a voluntary basis.

5.4. Truthful Feedback. Beta Participant agrees to provide truthful, accurate, and complete Beta Feedback. Beta Participant shall not misrepresent or exaggerate any issues, bugs, or defects in the Beta Services, nor shall Beta Participant intentionally withhold information about material problems discovered during testing.

5.5. Ownership of Improvements. All improvements, modifications, enhancements, or derivatives of the Beta Services, whether or not based on Beta Feedback, shall be the sole and exclusive property of Smackdab. Nothing in these Beta Terms shall be construed as granting Beta Participant any rights, title, or interest in or to such improvements.

6. CONFIDENTIALITY OBLIGATIONS

6.1. Confidential Information. "Confidential Information" means all non-public information disclosed by Smackdab to Beta Participant in connection with the Beta Services, 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. Confidential Information includes, but is not limited to:

(a) The Beta Services and all Beta Materials;

(b) All features, functionality, performance, design, and specifications of the Beta Services;

(c) The fact that Beta Participant is participating in the Beta Program;

(d) Any information regarding the release date, pricing, or availability of the Beta Services;

(e) Any bugs, errors, or defects discovered in the Beta Services;

(f) Any roadmaps, development plans, or future product information; and

(g) Any business, technical, or marketing information related to the Beta Services.

6.2. Exclusions. Confidential Information does not include information that:

(i) is or becomes generally known to the public without breach of any obligation owed to Smackdab;

(ii) was known to Beta Participant prior to its disclosure by Smackdab without breach of any obligation owed to Smackdab;

(iii) is received from a third party without breach of any obligation owed to Smackdab; or

(iv) was independently developed by Beta Participant without use of or reference to Smackdab's Confidential Information.

6.3. Confidentiality Obligations. Beta Participant shall:

(a) Not disclose any Confidential Information to any third party without Smackdab's prior written consent;

(b) Use Confidential Information solely for the purpose of evaluating and testing the Beta Services as permitted under these Beta Terms;

(c) Protect Confidential Information from unauthorized disclosure with the same degree of care used to protect its own confidential information of similar nature, but in no event less than reasonable care;

(d) Limit access to Confidential Information to those employees, contractors, or agents who have a need to know such information for the purpose of evaluating the Beta Services, provided that such individuals are bound by confidentiality obligations at least as restrictive as those contained in these Beta Terms; and

(e) Not make any public statements, press releases, or other announcements regarding the Beta Services, the Beta Program, or Beta Participant's participation therein without Smackdab's prior written consent.

6.4. Legally Required Disclosure. Beta Participant may disclose Confidential Information if required by law, regulation, or legal process, provided that Beta Participant:

(i) gives Smackdab prior written notice of such disclosure (to the extent legally permitted);

(ii) limits the disclosure to the information specifically required; and

(iii) reasonably cooperates with Smackdab's efforts to seek confidential treatment or a protective order for the Confidential Information to be disclosed.

6.5. Remedies. Beta Participant acknowledges that any breach of its confidentiality obligations may cause irreparable harm to Smackdab for which monetary damages may not be an adequate remedy. Accordingly, in addition to any other remedies available at law or in equity, Smackdab shall be entitled to seek injunctive relief to enforce the confidentiality obligations in these Beta Terms.

6.6. Survival. The confidentiality obligations in this Section 6 shall survive the termination or expiration of these Beta Terms and shall continue for a period of five (5) years thereafter, except with respect to trade secrets, which shall be maintained as confidential for as long as they remain trade secrets under applicable law.

7. INTELLECTUAL PROPERTY RIGHTS

7.1. Ownership by Smackdab. As between Beta Participant and Smackdab, Smackdab exclusively owns and reserves all right, title, and interest in and to the Beta Services, Beta Materials, and all Intellectual Property Rights therein. No rights are granted to Beta Participant hereunder other than as expressly set forth in these Beta Terms.

7.2. Ownership of Beta Feedback. As between Beta Participant and Smackdab, Beta Participant retains ownership of the Beta Feedback, subject to the license granted to Smackdab in Section 5.2.

7.3. No Implied Licenses. Except for the limited rights and licenses expressly granted under these Beta Terms, nothing in these Beta Terms transfers, assigns, or conveys any Intellectual Property Rights to Beta Participant. All rights not expressly granted to Beta Participant are reserved by Smackdab and its licensors.

7.4. No Challenge. Beta Participant agrees not to contest, challenge, or otherwise make any claim or action against Smackdab's ownership of or interest in the Beta Services, Beta Materials, or any Intellectual Property Rights therein.

7.5. Trademarks. Beta Participant shall not use Smackdab's name, logo, or trademarks for any purpose without Smackdab's prior written consent. Nothing in these Beta Terms grants Beta Participant any right to use Smackdab's trademarks or trade names.

7.6. Suggestions and Improvements. In addition to the license granted in Section 5.2, Beta Participant hereby assigns to Smackdab all right, title, and interest in and to any ideas, concepts, know-how, or techniques related to improvements or modifications to the Beta Services that are conceived, developed, or reduced to practice by Beta Participant, either alone or with others, during the Beta Period.

8. NO WARRANTIES

8.1. Disclaimer of Warranties. THE BETA SERVICES AND BETA MATERIALS ARE PROVIDED "AS IS" AND "AS AVAILABLE" WITHOUT ANY WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, SMACKDAB EXPLICITLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ANY WARRANTIES ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE.

8.2. Beta Status. Without limiting the foregoing, Smackdab makes no warranty that the Beta Services will meet Beta Participant's requirements, be error-free, or operate without interruption. Beta Participant acknowledges that the Beta Services are pre-release versions that may contain bugs, errors, and defects, may not operate correctly, and may be substantially modified prior to first commercial release, or withdrawn entirely.

8.3. Risk of Use. Beta Participant acknowledges and agrees that any use of the Beta Services is at Beta Participant's sole risk. Beta Participant is solely responsible for any damage to its computer systems or loss of data that results from the use of the Beta Services.

8.4. Internet Delays. The Beta Services may be subject to limitations, delays, and other problems inherent in the use of the internet and electronic communications. Smackdab is not responsible for any delays, delivery failures, or other damage resulting from such problems.

8.5. Security Disclaimer. While Smackdab takes reasonable security measures to protect data processed through the Beta Services, Smackdab does not guarantee that the Beta Services or any content therein will be free from security vulnerabilities, and Beta Participant's use of the Beta Services is at its own risk.

8.6. Accuracy of Information. Smackdab does not warrant the accuracy, completeness, or usefulness of any information provided in connection with the Beta Services. Any reliance on such information is strictly at Beta Participant's own risk.

---

9. LIMITATION OF LIABILITY

9.1. Exclusion of Indirect Damages. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL SMACKDAB OR ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, OR LICENSORS BE LIABLE TO BETA PARTICIPANT OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO DAMAGES FOR LOSS OF PROFITS, LOSS OF DATA, LOSS OF USE, BUSINESS INTERRUPTION, OR OTHER INTANGIBLE LOSSES, ARISING OUT OF OR RELATED TO BETA PARTICIPANT'S USE OR INABILITY TO USE THE BETA SERVICES, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), STATUTE, OR ANY OTHER LEGAL THEORY, EVEN IF SMACKDAB HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9.2. Limitation of Liability for Beta. For Beta Services, Smackdab's aggregate liability is limited as set forth in TOS §11.2 (currently $100). To the extent of any conflict between these Beta Terms and the TOS regarding liability for Beta Services, TOS §11.2 controls.

9.3. Essential Purpose. The limitations of liability in this Section 9 shall apply even if any limited remedy specified in these Beta Terms is found to have failed of its essential purpose. Beta Participant acknowledges and agrees that Smackdab would not provide the Beta Services to Beta Participant without these limitations.

9.4. Exclusions. Some jurisdictions do not allow the exclusion of implied warranties or limitation of liability for incidental or consequential damages, which means that some of the disclaimers and limitations in these Beta Terms may not apply. IN THESE JURISDICTIONS, SMACKDAB'S LIABILITY WILL BE LIMITED TO THE GREATEST EXTENT PERMITTED BY LAW.

9.5. Risk Allocation. Beta Participant acknowledges that the provisions of this Section 9 allocate the risks under these Beta Terms between the parties, and the parties have relied upon these limitations in determining whether to enter into these Beta Terms and to provide access to the Beta Services.

10. TERM AND TERMINATION

10.1. Term. These Beta Terms shall commence upon Beta Participant's acceptance and shall continue until the end of the Beta Period or until earlier terminated in accordance with the provisions of these Beta Terms.

10.2. Termination by Smackdab. Smackdab may terminate these Beta Terms and Beta Participant's access to the Beta Services at any time, with or without cause, and without liability, by providing notice to Beta Participant. Without limiting the foregoing, Smackdab may terminate these Beta Terms immediately and without prior notice if Beta Participant breaches any provision of these Beta Terms, the Terms of Service, or the Acceptable Use Policy.

10.3. Termination by Beta Participant. Beta Participant may terminate these Beta Terms at any time by ceasing all use of the Beta Services and providing written notice of termination to Smackdab.

10.4. Effect of Termination. Upon termination or expiration of these Beta Terms for any reason:

(a) All rights and licenses granted to Beta Participant under these Beta Terms shall immediately terminate;

(b) Beta Participant shall immediately cease all use of the Beta Services;

(c) Beta Participant shall return or destroy all Beta Materials and Confidential Information in its possession or control, and upon Smackdab's request, certify such return or destruction in writing; and

(d) Any provision of these Beta Terms that expressly or by implication is intended to come into or continue in force on or after termination or expiration shall remain in full force and effect.

10.5. No Obligation to Release. Smackdab shall have no obligation to release a final or commercial version of the Beta Services or to provide Beta Participant with any support or maintenance services related to the Beta Services. Smackdab reserves the right to modify, suspend, or discontinue the Beta Services at any time without notice or liability.

10.6. Transition to Commercial Service. If Smackdab decides to make a commercial version of the Beta Services generally available, Smackdab may offer Beta Participant the opportunity to convert its Beta Services access to a commercial subscription. Any such conversion shall be subject to Smackdab's then-current terms and conditions, which may differ from these Beta Terms. Smackdab is not obligated to offer Beta Participant preferential terms, pricing, or early access for any commercial version of the Beta Services.

11. DATA PRIVACY AND SECURITY

11.1. Data Processing. Smackdab will process any Personal Data (as defined in Smackdab's Privacy Policy) collected from or provided by Beta Participant in accordance with the Smackdab Privacy Policy available at https://smackdab.ai/legal/privacy-policy, which is incorporated herein by reference.

11.2. Security Measures. While the Beta Services may not include all of the security features that would be implemented in a commercial release, Smackdab will implement reasonable security measures to protect

Beta Participant's data processed through the Beta Services. For information about Smackdab's security practices, please refer to the Smackdab Security Policy available at https://smackdab.ai/legal/security-policy.

11.3. Security Vulnerabilities. Beta Participant agrees to promptly report any security vulnerabilities discovered in the Beta Services in accordance with Smackdab's Responsible Disclosure Policy available at https://smackdab.ai/legal/responsible-disclosure-policy. Beta Participant shall not exploit any security vulnerability or disclose any security vulnerability to a third party without Smackdab's prior written consent.

11.4. No Production Data. Beta Participant acknowledges that the Beta Services are not designed for use with Production Data or sensitive information. Unless explicitly authorized in writing by Smackdab, Beta Participant shall not use the Beta Services to process, store, or transmit:

(a) Protected Health Information (PHI) subject to the Health Insurance Portability and Accountability Act (HIPAA);

(b) Cardholder data subject to the Payment Card Industry Data Security Standard (PCI DSS);

(c) Personal Data subject to specific regulatory requirements such as the General Data Protection Regulation (GDPR) or California Consumer Privacy Act (CCPA);

(d) Financial account information;

(e) Social Security numbers or other government-issued identification numbers;

(f) Biometric data; or

(g) Any other sensitive or regulated data.

11.5. Data Collection and Usage. Beta Participant acknowledges and agrees that Smackdab may collect information about Beta Participant's use of the Beta Services, including usage statistics, error reports, performance metrics, and other telemetry data. Smackdab may use this information to improve the Beta Services, develop new features, and for other business purposes.

11.6. Beta Data Deletion—No Retrieval or Retention Guarantees

(a) Immediate Deletion Without Notice. Smackdab may delete all Beta Participant data and content processed through or stored in the Beta Services **at any time and without prior notice**, including:

- At the end of the Beta Period - Upon termination of Beta Participant's access - Upon Smackdab's discontinuation or modification of the Beta Services - At Smackdab's sole discretion for any reason or no reason **(b) No Data Retrieval Period .No twithstanding Section 9.5 of the Terms of Service (which provides a 30-day data retrieval period for terminated production accounts), the 30-day retrieval period does NOT apply to Beta Services or Beta Participant data.** Beta Participant data may be deleted immediately without providing any retrieval window.

Beta Participant is solely responsible for backing up, exporting, or retaining any data Beta Participant wishes to preserve before the Beta Services are discontinued or modified. **(c) No Obligation to Preserve or Provide Data.**Smackdab is under no obligation to:

- Maintain Beta Participant data in any form after termination, suspension, or discontinuation of the Beta Services - Provide Beta Participant with advance notice of data deletion - Store backups of Beta Participant data - Provide Beta Participant with a copy of or access to Beta Participant data after the Beta Period ends - Migrate Beta Participant data to a production environment or other services **(d) Backup Responsibility**.

It is **entirely Beta Participant's responsibility** to export, back up, or otherwise preserve any Beta data before the end of the Beta Period or before Smackdab discontinues the Beta Services.

Beta Participant should use external backup methods or tools to retain any data it considers important. **(e) Not for Production Use.** Because Beta data is not subject to the same retention and retrieval guarantees as production data, Beta Participant shall not rely on the Beta Services for any Production Data, business-critical information, or any data that Beta Participant is not prepared to lose without notice.

See also Section 11.4 (No Production Data).

---

12. INDEMNIFICATION

12.1. Indemnification by Beta Participant. Beta Participant agrees to defend, indemnify, and hold harmless Smackdab and its Affiliates, officers, directors, employees, agents, and licensors from and against any and all claims, demands, damages, liabilities, costs, and expenses (including reasonable attorneys' fees) arising out of or related to:

(a) Beta Participant's use of the Beta Services in violation of these Beta Terms, the Terms of Service, the Acceptable Use Policy, or any applicable laws or regulations;

(b) Beta Participant's breach of any representation, warranty, covenant, or obligation under these Beta Terms;

(c) Beta Participant's infringement or misappropriation of any intellectual property or other rights of any third party;

(d) Beta Participant's use of Production Data with the Beta Services; or

(e) Any activities or actions undertaken by Beta Participant or its Authorized Users in connection with the Beta Services.

12.2. Indemnification Procedure. Smackdab will promptly notify Beta Participant of any claim subject to indemnification, provided that any failure to provide prompt notice will only relieve Beta Participant of its indemnification obligations to the extent that Beta Participant is materially prejudiced by such failure. Smackdab reserves the right, at its own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by Beta Participant. In such case, Beta Participant agrees to cooperate with Smackdab in asserting any available defenses.

12.3. Exclusive Remedy. This Section 12 sets forth the entire liability of Beta Participant, and the exclusive remedy of Smackdab, with respect to any claims covered by Section 12.1.

13. GOVERNING LAW AND DISPUTE RESOLUTION

13.1. Governing Law. These Beta Terms shall be governed by and construed in accordance with the laws of the State of Florida, without regard to its conflict of law provisions. The United Nations Convention on Contracts for the International Sale of Goods shall not apply.

13.2. Dispute Resolution. Any dispute, claim, or controversy arising out of or relating to these Beta Terms or the Beta Services shall be resolved in accordance with the dispute resolution provisions set forth in Section 14 of the Terms of Service, which are incorporated herein by reference.

13.3. Equitable Relief. Notwithstanding the foregoing, Smackdab may seek injunctive or other equitable relief in any court of competent jurisdiction to protect its Intellectual Property Rights or Confidential Information without the need to engage in the dispute resolution process described in Section 13.2.

13.4. Class Action Waiver. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, EACH PARTY AGREES THAT ANY DISPUTE RESOLUTION PROCEEDINGS, WHETHER IN ARBITRATION OR COURT, WILL BE CONDUCTED ONLY ON AN INDIVIDUAL BASIS AND NOT IN A CLASS, CONSOLIDATED, OR REPRESENTATIVE ACTION. EACH PARTY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES ANY RIGHT IT MAY HAVE TO PARTICIPATE AS A CLASS REPRESENTATIVE OR CLASS MEMBER ON ANY CLASS CLAIM IT MAY HAVE AGAINST THE OTHER PARTY, OR TO CONSOLIDATE JUDICIAL OR ARBITRATION PROCEEDINGS. IF FOR ANY REASON A CLAIM PROCEEDS IN COURT RATHER THAN IN ARBITRATION, EACH PARTY WAIVES ANY RIGHT TO A JURY TRIAL AND AGREES THAT THE CLAIM WILL BE BROUGHT ONLY ON AN INDIVIDUAL BASIS.

14. GENERAL PROVISIONS

14.1. Entire Agreement. These Beta Terms, together with the Terms of Service, Acceptable Use Policy, Privacy Policy, and any other documents expressly incorporated by reference herein, constitute the entire agreement between Beta Participant and Smackdab with respect to the Beta Services and supersede all prior or contemporaneous communications and proposals, whether oral or written, between Beta Participant and Smackdab.

14.2. Amendment. Smackdab reserves the right to modify or update these Beta Terms at any time by posting the amended terms on the Smackdab website or by otherwise notifying Beta Participant. Beta Participant's continued use of the Beta Services after the effective date of the amended terms constitutes Beta Participant's acceptance of the amended terms.

14.3. Waiver. No waiver of any provision of these Beta Terms shall be effective unless in writing and signed by the party waiving the right. No failure or delay by either party in exercising any right under these Beta Terms shall operate as a waiver of that right.

14.4. Severability. If any provision of these Beta Terms is held to be invalid or unenforceable, the remaining provisions shall continue in full force and effect, and the invalid or unenforceable provision shall be interpreted to the maximum extent possible to reflect the original intentions of the parties.

14.5. Assignment. Beta Participant may not assign or transfer these Beta Terms or any rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of Smackdab. Any attempted assignment or transfer in violation of this Section shall be null and void. Smackdab may assign or transfer these Beta Terms, in whole or in part, without restriction.

14.6. No Third-Party Beneficiaries. These Beta Terms are for the sole benefit of Beta Participant and Smackdab and do not create any third-party beneficiary rights in any individual or entity that is not a party to these Beta Terms.

14.7. Relationship of the Parties. Nothing in these Beta Terms shall be construed to create a partnership, joint venture, agency, or employment relationship between Beta Participant and Smackdab.

14.8. Force Majeure. Neither party shall be liable for any failure or delay in the performance of its obligations under these Beta Terms to the extent such failure or delay is caused by factors beyond its reasonable control, including but not limited to acts of God, natural disasters, pandemic, epidemic, war, terrorism, riots, civil unrest, government action, strikes, lockouts, or other labor problems.

14.9. Notices. All notices, requests, consents, and other communications under these Beta Terms shall be in writing and shall be deemed delivered

(i) when delivered by hand,

(ii) when sent by email (with confirmation of transmission),

(iii) one (1) business day after being deposited with a nationally recognized overnight courier service, or

(iv) three (3) business days after being deposited in the United States mail, postage prepaid, registered or certified mail, return receipt requested, addressed to the party at the address set forth in Section 15.

14.10. Export Compliance. The Beta Services may be subject to U.S. export control laws and regulations. Beta Participant shall comply with all applicable export control laws and regulations and shall not export, re-export, or transfer the Beta Services to any country, entity, or person prohibited by such laws and regulations.

14.11. Survival. The following provisions shall survive the termination or expiration of these Beta Terms: Sections 5 (Beta Feedback and Suggestions), 6 (Confidentiality Obligations), 7 (Intellectual Property Rights), 8 (No Warranties), 9 (Limitation of Liability), 10.4 (Effect of Termination), 12 (Indemnification), 13 (Governing Law and Dispute Resolution), and any other provisions that by their nature should survive termination or expiration.

14.12. Interpretation. The headings used in these Beta Terms are for convenience only and shall not affect the interpretation of these Beta Terms. The word "including" means "including without limitation." Unless the context requires otherwise, words in the singular include the plural and vice versa.

14.13. Counterparts. These Beta Terms may be executed in counterparts, which taken together shall form one legal instrument.

14.14. Electronic Signature. The parties agree that electronic signatures, whether digital or encrypted, are intended to authenticate these Beta Terms and have the same force and effect as manual signatures.

15. CONTACT INFORMATION

15.1. 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 Phone: +1 (239) 299-4616

15.2. Notices to Beta Participant shall be sent to the email address and/or physical address provided by Beta Participant during the registration process or subsequently updated by Beta Participant through the proper channels.

15.3. Beta Program Support. For technical support or questions related to the Beta Program, please contact:

Email: support@smackdab.ai

© 2025 Smackdab Inc. All rights reserved.

This PDF is the formal downloadable version of BETA/EARLY ACCESS TERMS.