



TERMS OF USE OF BETA FUNCTIONALITY

From time to time, Omnicell, Inc. (“**Omnicell**”) may add certain beta functionality to your Delivered Products (individually and collectively, “**Beta Functionality**”). Beta Functionality will be identified as such in (i) the release note related to such functionality, (ii) a Beta invitation/participation letter, agreement or statement of work, and/or (iii) an amendment to the master agreement between you and Omnicell. It is your responsibility to review all such release notes, invitations, statements of work and amendments sent to you. By accessing or using Beta Functionality, you hereby accept and agree to be bound by the following terms and conditions with respect to your use of such Beta Functionality. Except as expressly amended or modified herein, the terms of your master agreement with Omnicell for the use of the Subscriptions (the “**Agreement**”) remain in full force and effect. To the extent of any conflict between the terms set forth herein and those in the Agreement, the terms set forth herein shall control.

1. Except as specifically set forth herein, your use of the Beta Functionality is at your own risk. **THE BETA FUNCTIONALITY IS PROVIDED HEREUNDER “AS IS.” THE BETA FUNCTIONALITY IS PRE-RELEASE AND IN THE DEVELOPMENT PHASE AS SET FORTH IN THE AGREEMENT. AS SUCH, THE BETA FUNCTIONALITY MAY NOT PROVIDE THE LEVEL OF PERFORMANCE OR COMPATIBILITY OF A FINAL, GENERALLY AVAILABLE DELIVERED PRODUCT. THE BETA FUNCTIONALITY MAY NOT OPERATE CORRECTLY AND MAY BE SUBSTANTIALLY MODIFIED AT ANY TIME BY OMNICELL IN ITS SOLE DISCRETION. OMNICELL MAKES NO REPRESENTATION OR WARRANTY, EITHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, OF ANY KIND WHATSOEVER WITH RESPECT TO THE BETA FUNCTIONALITY, INCLUDING, WITHOUT LIMITATION, ANY EXPRESS OR IMPLIED WARRANTY AS TO THE PERFORMANCE OF THE BETA FUNCTIONALITY, MERCHANTABILITY, ACCURACY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR THAT THE ALHPA FUNCTIONALITY WILL OPERATE ERROR-FREE, UNINTERRUPTED OR BE FREE OF VIRUSES. TO THE EXTENT THAT OMNICELL CANNOT DISCLAIM ANY SUCH WARRANTY AS A MATTER OF APPLICABLE LAW, THE SCOPE AND DURATION OF SUCH WARRANTY WILL BE THE MINIMUM REQUIRED UNDER SUCH LAW.**

2. **IN NO EVENT SHALL OMNICELL BE LIABLE FOR ANY DAMAGES (INCLUDING, WITHOUT LIMITATION, INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE AND SPECIAL DAMAGES, PERSONAL INJURY/WRONGFUL DEATH, LOSS OF PROFITS, LOSS OF USE, ACCURACY OR COMPLETENESS OF INFORMATION INCLUDED IN THE BETA FUNCTIONALITY, OR DAMAGES RESULTING FROM DELAYS, LOST DATA OR BUSINESS INTERRUPTION) RESULTING FROM THE BETA FUNCTIONALITY OR THE USE OF, MISUSE OF, INABILITY TO USE OR INTERPRETATION OF THE INFORMATION CONTAINED IN, THE BETA FUNCTIONALITY, WHETHER BASED ON WARRANTY, CONTRACT, TORT, OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT OMNICELL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. OMNICELL SHALL BE LIABLE ONLY TO THE EXTENT OF ACTUAL DAMAGES INCURRED BY YOU, NOT TO EXCEED \$1,000.00. ANY CLAIMS ARISING IN CONNECTION WITH YOUR USE OF THE BETA FUNCTIONALITY MUST BE BROUGHT WITHIN ONE (1) YEAR OF THE DATE OF THE EVENT GIVING RISE TO SUCH CLAIM OCCURRED. REMEDIES UNDER THESE TERMS ARE EXCLUSIVE AND LIMITED TO THOSE EXPRESSLY PROVIDED FOR IN THESE TERMS.**

3. Omnicell may, at any time and in its sole discretion, terminate your access to the Beta Functionality.

4. Where applicable, you shall be solely responsible for obtaining any approvals required to utilize the Beta Functionality and any patient consents or authorizations required with respect to the use of the Beta Functionality, and the disclosure of any patient information in connection therewith. Any required authorization or patient consent document must include appropriate provisions, consistent with federal, state and local privacy laws, to allow you to disclose “protected health information” as that term is used under HIPAA (“**PHI**”) to Omnicell and to Omnicell’s contractors.

5. You shall at all times operate the Beta Functionality in accordance with all instructions and documentation provided by Omnicell.

6. You agree to indemnify, defend and hold harmless Omnicell and its officers, directors, employees, affiliates and agents from and against any and all claims, actions, liabilities, losses, expenses, damages, judgments, settlements and costs (including, without limitation, reasonable attorneys’ fees) (“**Claims**”) arising from or relating to: (i) any breach by you of the terms herein, the release notes or any Documentation related to the Beta Functionality; or (ii) your use of the Beta Functionality.

7. Omnicell has the right, in its sole discretion, without liability to you, to change the design of, or discontinue further changes, or discontinue developing, producing, selling, licensing or distributing any of the Beta Functionality, or any Beta Functionality features. You should not rely on any of the developments relating to the Beta Functionality as deliverable commitments of Omnicell.