

BIDMC API TERMS OF USE

Thank you for using the BIDMC API. In these API Terms of Use (“Terms”) “BIDMC” refers to Beth Israel Deaconess Medical Center and IS refers to the “Information Systems” Department that supports the API software vendor. These Terms govern your access to and use of the BIDMC API. **IF YOU ARE UNABLE TO COMPLY WITH ANY CURRENT VERSION OF THE TERMS, YOU SHOULD STOP USE OF THE BIDMC API IMMEDIATELY.**

By accessing or using the BIDMC API, the App Developer (“You”) agrees to be bound by these Terms and shall use BIDMC API in accordance with BIDMC’s policies and procedures, including BIDMC’s IS Data Security Policy and its Access, Use, and Disclosure of Protected Health Information (“PHI”) and Personal Information (“PI”) policy. These Terms as set forth below constitute a legal and binding agreement between BIDMC and you, or someone with the authority to act on your behalf.

1. OFFICE OF THE NATIONAL COORDINATOR FOR HEALTH INFORMATION TECHNOLOGY (“ONC”)

Pursuant to requirements set forth by the ONC for electronic health record (“EHR”) software to meet in order to be certified EHR for the 2015 edition, BIDMC has made available the BIDMC API via this site to enable retrieval of patient information from the BIDMC EHR. These Terms do not themselves constitute any grant of authorization by BIDMC for you to use BIDMC API for any reason. Any information you give to BIDMC will always be accurate and up to date and you agree to inform us promptly of any updates.

2. ACCEPTING THE TERMS

a. Legal Age

You represent and warrant that you are at least eighteen (18) years of age and that you possess the legal right and ability to agree to these Terms and to use the BIDMC API in accordance with these Terms.

b. Entity Level Acceptance

If you are using the BIDMC API on behalf of BIDMC or to support BIDMC entities, you represent and warrant that you have authority to bind that entity to the Terms and by accepting the Terms, you are doing so on behalf of that entity (and all references to “you” in the Terms refer to that entity).

3. RESPONSIBILITIES AND REPRESENTATIONS

By agreeing to be bound by these Terms, you agree and attest to the following:

- i. To comply with all applicable laws, rules and regulations relating to the use of the BIDMC API.
- ii. To register your app with BIDMC.
- iii. To represent and warrant that your app is stable.
- iv. To provide meaningful customer support for your app and to make it easy for customers and our patients to contact you with questions and concerns.
- v. To provide and comply with a publicly accessible privacy policy.

4. CHANGES

a. To BIDMC API

BIDMC may modify or update the BIDMC API from time to time. We will try to ensure, as far as possible, that future version(s) of the BIDMC API are backwards compatible with at least the most recent previous version, but cannot guarantee that this will always be possible. You should adapt your app to use the most up-to-date version of the BIDMC API promptly following release by BIDMC.

b. To BIDMC API Terms of Use

BIDMC may change and update these Terms from time to time, and will publish any changes on this page. Make sure to check this page for any updates. Your continued use of the API after any such changes constitutes your acceptance of the new terms.

5. BIDMC API RESTRICTIONS

When using the BIDMC API, you, or those acting on your behalf, may not perform any of the following actions, including, but not limited to:

- i. Sell, lease or sublicense the BIDMC API or any data derived through the BIDMC API
- ii. Reverse engineer or attempt to extract the source code from any API or any related software, except to the extent that this restriction is expressly prohibited by applicable law.
- iii. Perform an Action with the intent of introducing to the BIDMC API any viruses, defects, malware, or any items of a destructive nature.
- iv. Interfere with or disrupt the BIDMC API or the servers or networks providing the BIDMC API.

6. BIDMC API LIMITATIONS

BIDMC has sole discretion, without notice or liability, to set and enforce limits on your use of the BIDMC API. As part of those responsibilities, you and Apps you submit to BIDMC API must follow all of the below guidelines based upon ONC Certification Criteria codified under 45 C.F.R. 170.315. To obtain such approval, please submit an initial request to ISProjectRequest@bidmc.harvard.edu with a description of the following information:

1. The organization that you represent;
2. The use case or scenario this request is anticipated to address;
3. The platform/technology that will be used in relation to this request; and,
4. The expected benefit to the patient(s) as a result of this use case or scenario.

Based on that initial information provided, BIDMC will work with you to determine any further information we will need in order to process your use request. If you would like to extend your ability to use any API beyond your authorized limits, you must obtain BIDMC's express consent prior to such use. BIDMC has sole discretion to decline any use request or condition acceptance on your agreement to additional terms for such use.

In addition, BIDMC reserves the right to:

- i. Limit or block apps that make a large number of calls to the BIDMC API;
- ii. Disable, restrict or remove your app's access to the BIDMC API;
- iii. Change, suspend, or discontinue the availability of the BIDMC API at any time; and
Impose limits on certain features or restrict your access to parts or all of the BIDMC API.

7. OWNERSHIP OF BIDMC PROPERTY

BIDMC retains ownership of BIDMC property, including all intellectual property, and reserves all of its applicable rights with respect to the content of this site, the BIDMC EHR and the BIDMC API. Nothing in these Terms shall convey any transfer of ownership of BIDMC's property.

8. INDEMNIFICATION

YOU AGREE TO INDEMNIFY, DEFEND AND HOLD HARMLESS BIDMC, ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AFFILIATES, INFORMATION PROVIDERS AND SUPPLIERS FROM AND AGAINST ALL CLAIMS, LIABILITIES, LOSSES, EXPENSES, DAMAGES AND COSTS, INCLUDING REASONABLE ATTORNEYS' FEES ("CLAIMS"), RESULTING FROM ANY VIOLATION OF THESE TERMS OR ANY CLAIMS ARISING FROM YOUR USE OF THE BIDMC API INCLUDING BUT NOT LIMITED TO INFRINGEMENT OF THIRD PARTIES' INTELLECTUAL PROPERTY RIGHTS, MISAPPROPRIATION OF TRADE SECRETS OR OTHER PROPRIETARY RIGHTS OR NEGLIGENT OR WRONGFUL CONDUCT.

9. DISCLAIMERS

THE BIDMC API IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. YOU EXPRESSLY AGREE THAT USE OF THE BIDMC API IS AT YOUR SOLE RISK. TO THE FULLEST EXTENT PERMITTED BY LAW, BIDMC AND ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AFFILIATES, INFORMATION PROVIDERS AND SUPPLIERS DISCLAIM ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, OR NON-INFRINGEMENT. BIDMC MAKES NO REPRESENTATIONS ABOUT THE SUITABILITY, RELIABILITY, AVAILABILITY, AND ACCURACY OF THE BIDMC API OR OTHER INFORMATION, TECHNOLOGY, SOFTWARE, PRODUCTS, SERVICES AND RELATED GRAPHICS PROVIDED BY BIDMC FOR ANY PURPOSE.

10. LIMITATION OF LIABILITY

TO THE FULLEST EXTENT PERMITTED BY LAW, UNDER NO CIRCUMSTANCES, SHALL BIDMC, ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AFFILIATES, INFORMATION PROVIDERS AND/OR ITS SUPPLIERS BE LIABLE FOR ANY DIRECT, INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, CONSEQUENTIAL DAMAGES OR ANY OTHER DAMAGES WHATSOEVER INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF USE, DATA OR PROFITS, ARISING OUT OF OR IN ANY WAY CONNECTED WITH THE ACCESS, USE OR PERFORMANCE OF THE BIDMC API, WITH THE DELAY OR INABILITY TO USE THE BIDMC API OR RELATED TECHNOLOGY, SOFTWARE OR SERVICES, THE PROVISION OF OR FAILURE TO PROVIDE THE BIDMC API, SOFTWARE OR SERVICES, OR FOR ANY INFORMATION, SOFTWARE, PRODUCTS, SERVICES AND RELATED GRAPHICS OBTAINED FROM BIDMC, OR OTHERWISE ARISING OUT OF THE USE OF THE BIDMC API, WHETHER BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, EVEN IF BIDMC HAS BEEN ADVISED OF THE POSSIBILITY OF DAMAGES. IF YOU ARE DISSATISFIED WITH ANY PORTION OF THE BIDMC API OR WITH THESE TERMS OF USE, YOUR SOLE AND EXCLUSIVE REMEDY IS TO DISCONTINUE USING THE BIDMC API. NOTWITHSTANDING THE FOREGOING PARAGRAPH, THE TOTAL

LIABILITY OF BIDMC, ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AFFILIATES, INFORMATION PROVIDERS AND/OR SUPPLIERS, IF ANY, FOR LOSSES OR DAMAGES SHALL NOT EXCEED THE FEES PAID BY YOU FOR THE USE OF THE PARTICULAR TECHNOLOGY, SOFTWARE, PRODUCT, INFORMATION OR SERVICE PROVIDED BY BIDMC .

11. THIRD PARTY CONTENT

The BIDMC API may contain software, materials, content, data, or information provided, posted, or offered by third parties. You agree that neither BIDMC nor its affiliates shall have any liability whatsoever to you for any such third party software, materials, content, data, or information.

12. TERM AND TERMINATION

Either you or BIDMC may terminate your right to use the BIDMC API at any time, with or without cause or notice.

13. PUBLICITY

You will not make any statement regarding your use of the BIDMC API which suggests partnership with, sponsorship by, or endorsement by BIDMC without BIDMC's prior written approval.

14. APPLICABLE LAW

These Terms shall be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts. Any and all claims arising out of or relating to these Terms shall be brought in a state or federal court of competent jurisdiction in the Commonwealth of Massachusetts. You consent to the personal and subject matter jurisdiction of the state and/or federal courts located in the Commonwealth of Massachusetts and waive (a) any objection to jurisdiction or venue, or (b) any defense claiming lack of jurisdiction or improper venue, in any action brought in such courts.