

MODMED TELEHEALTH™

TERMS OF USE

BY CLICKING “AGREE,” YOU ACKNOWLEDGE THAT YOU HAVE READ, ACCEPTED, AND AGREED TO BE BOUND BY THESE TERMS OF USE. IF YOU DO NOT AGREE TO THESE TERMS OF USE, DO NOT CLICK “AGREE”. IF YOU DO NOT CLICK THE “AGREE” BUTTON, YOU WILL NOT BE ABLE TO USE THE APPLICATION OR SERVICE (EACH AS DEFINED BELOW). YOU HEREBY GRANT AGENCY AUTHORITY TO ANY PARTY WHO CLICKS ON THE “AGREE” BUTTON ON YOUR BEHALF.

Modernizing Medicine, Inc. (“MMI,” “we,” or “us”) owns and operates the ModMed Telehealth mobile application (the “**Application**”). Your access and use of the Application, any part thereof, or anything associated therewith, including its content (“**Content**”) and any products or services provided through the Application (collectively, the “**Service**”) are governed by the terms and conditions set forth in these Terms of Use (“**Terms of Use**”).

Please read these Terms of Use carefully because they set forth the important terms you will need to know about the Service. In these Terms of Use, the terms “you” and “yours” refer to the person using the Service, or in the case of a use of the Service by or on behalf of a minor, “you” and “yours” refer to and include both (i) the parent or legal guardian who provides consent to the use of the Service by such minor or uses the Service on behalf of such minor, and (ii) the minor for whom consent is being provided or on whose behalf the Service is being utilized.

**IF YOU HAVE A MEDICAL EMERGENCY,
IMMEDIATELY CALL YOUR DOCTOR OR DIAL 911.**

THE SERVICE MIGHT NOT BE APPROPRIATE FOR ALL MEDICAL CONDITIONS OR CONCERNS.

THESE TERMS OF USE ARE SUBJECT TO CHANGE AS PROVIDED HEREIN.

YOU ACKNOWLEDGE THAT THE APPLICATION AND THE SERVICE IS IN A BETA TESTING AND DEVELOPMENT PHASE AND IS NOT A FINAL AND FINISHED PRODUCT AND THAT THE APPLICATION AND SERVICE MAY CONTAIN BUGS OR OTHER ERRORS, INCLUDING ONES WHICH MAY LIMIT FUNCTIONALITY, PRODUCE ERRONEOUS RESULTS, RENDER PART OR ALL OF THE APPLICATION OR SERVICE UNAVAILABLE OR INOPERABLE, PRODUCE INCORRECT RECORDS, TRANSMISSIONS, DATA OR CONTENT, OR CAUSE RECORDS, TRANSMISSIONS, DATA OR CONTENT TO BE CORRUPTED OR LOST. ACCORDINGLY, YOU AGREE TO ACCEPT ALL RISKS OF PARTICIPATING AS A BETA USER OF THE APPLICATION AND SERVICE.

Acceptance of Terms of Use

Your access to and use of the Service is subject to these Terms of Use as well as all applicable laws and regulations. If you do not accept and agree to be bound by any of these Terms of Use, you are not authorized to access or otherwise use the Service or any information or Content provided through the Service. The Service is continually under development, and MMI reserves the right to revise or remove any part of these Terms of Use in its sole discretion at any time and without prior notice to you. Any changes to these Terms of Use are effective upon posting to the Application. Unless otherwise indicated, any new Content added to the Service is also subject to these Terms of Use upon posting to the Application. If you disagree with these Terms of Use, your sole remedy is to discontinue your use of the Service. Your continued use after a change to these Terms of Use has been posted constitutes your acceptance of the Terms of Use as modified by such changes.

Your Relationship with MMI

The Service is designed to enable registered users (“**Users**”) to obtain telehealth consultations from such Users’ existing healthcare providers (“**Providers**”) with respect to certain dermatological conditions. A consultation (each, an “**E-Visit**”) is initiated only after you submit a request for an E-Visit through the Service and provide all requested information with respect to such E-Visit. MMI acts solely as a technology platform to connect you with your Provider. We do not control or interfere with the practice of medicine by Providers, each of whom is solely responsible for the medical care and treatment he or she provides to you. By accepting these Terms of Use, you acknowledge and agree that MMI is not a healthcare provider and that by using the Service, you are not entering into a doctor-patient or other health care provider-patient relationship with MMI.

By accepting the Terms of Use, you understand that, following your initiation of an E-Visit, your Provider may send you messages, reports, and emails via the Service regarding your diagnosis and/or treatment. You further understand and agree that it is your responsibility to monitor and respond to these messages, reports, and emails and that we will not be responsible in any way and you will not hold us liable for any loss, injury, or claims of any kind resulting from your failure to read or respond to these messages or for your failure to comply with any treatment recommendations or instructions from your Provider.

Limited Use and Availability

Our Service is currently only available to individuals who are located in certain jurisdictions while utilizing the Service and who meet certain age or parental/guardian use and/or consent requirements. In order to use the Service, you must be located in one of the following states or territories at the time you utilize the Service: Arizona, California, Florida, Illinois, New Jersey, New York, Maryland, Pennsylvania, Tennessee, Texas and Puerto Rico. In addition, you must be at least 18 years of age or such older age of majority as required under the applicable laws in the state in which you are located when utilizing the Service. If you are between the ages of 13 and 18, you may still use the Service, but you must have a parent or legal guardian provide valid and verifiable consent to your use of the Service and accept these Terms of Use, including our Privacy Policy and the Consent to Use of Telehealth Services (the “**Telehealth Consent**”), in each case as required by the Application or as otherwise required by MMI from time to time. If we determine at any time that the consent provided is invalid or inadequate, we may suspend or terminate your access to or use of the Service. If you are under the age of 13, the Service may still be utilized by your parent or legal guardian on your behalf, but you may not use the Service directly. By using the Service, you are representing and warranting to us that you satisfy at least one of the following: (a) you are at least 18 years of age or such older age of majority as required under the applicable laws in the state in which you are located when utilizing the Service, (b) you are at least 13 years of age and your parent or legal guardian has provided us with valid and verifiable consent to your use of the Service, (c) you are the parent or legal guardian of a minor child and are using the Service on such minor child’s behalf with full capacity and legal authority to do so. Our Service is subject to state regulations and may change from time to time due to changes in applicable regulatory requirements.

In some cases, the Service may not be the most appropriate way for you to seek medical care and treatment. For example, certain medical conditions may require an in-person procedure or a healthcare provider other than your Provider. To assist you in determining whether the Service is a fit for your needs, we ask a series of initial questions during registration before we submit your E-Visit request to your Provider. Based on your responses to these questions, we may determine that the Service is not well suited to the particular issue for which you are seeking treatment. In such a case, you will receive an alert notifying you that you will be unable to use the Service for the particular issue you submitted and providing additional information regarding next steps. If this occurs, your registration will remain on file with the Service, but your request for an E-Visit will not be submitted to your Provider and your Provider will not receive any of the information that you submitted. You can always return to the Service at a later time to submit a new E-Visit request for another condition or issue.

In addition, your Provider may, following submission of an E-Visit request, determine that your diagnosis and/or treatment require an in-person office visit or are otherwise not appropriately addressed through use of the Service. In such a case, you may receive notification from your Provider that you will be unable to use the Service for the particular issue you submitted and providing additional information regarding next steps. It will be the sole responsibility of your Provider to provide you any such notification, whether through the Service or otherwise, and in no event will MMI have any responsibility or liability in the event your Provider fails to notify you that your E-Visit cannot be completed or otherwise fails to provide you with next steps or follow-up information.

Consent to Use of Telehealth Services

Telehealth involves the delivery of healthcare services using electronic communications, information technology or other means between a healthcare provider and a patient who are not in the same physical location. While the provision of health care services using telehealth may offer certain potential benefits, there are also potential risks associated with the use of telehealth. In order to use the Service, you will be required to review and agree to the Telehealth Consent each time you submit an E-Visit request through the Service. The Telehealth Consent is hereby incorporated into these Terms of Use by reference and constitutes a part of these Terms of Use.

Duty to Provide Information, Access, and Connectivity

You are responsible for providing and maintaining, at your own risk, option and expense, appropriate software and hardware capabilities (consistent with any technical, quality or other requirements described in the Service) to enable use of the Service. You also have a duty to provide truthful, accurate and complete information in any forms or other communications you submit to or through the Service. MMI reserves the right to change the access configuration, including any software, hardware or other requirements of the Service at any time without prior notice.

Privacy Policy

MMI understands the importance of confidentiality and privacy regarding your health information. Please see our Privacy Policy at <http://www.modmed.com/telehealth-patient-privacy-policy> for a description of how we may collect, use and disclose your personal information. The Privacy Policy is hereby incorporated into these Terms of Use by reference and constitutes a part of these Terms of Use.

Registration; User Accounts, Passwords, and Security

You are obligated to register and set up an account in the Application in order to access the Service, and the Service is available only to Users who have registered and have been granted accounts with usernames and passwords. You agree to accurately maintain and update any information about yourself that you have provided to MMI and/or your Provider. If you do not keep such information current, or fail to submit truthful, accurate and complete information, or MMI has reasonable grounds to suspect as much, MMI has the right to suspend or terminate your account and your use of the Service. You also agree to immediately notify MMI of any unauthorized use of your username, password or any other breach of security that you become aware of involving or relating to the Service by emailing MMI at legal@modmed.com. In addition, you agree to keep confidential your username and password and to exit from your User account at the end of each session. MMI explicitly disclaims liability for any and all losses and damages arising from your failure to comply with this section. You may not use anyone else's account at any time.

Our Service requires Users to give us unique identifiers in order to log into the Service. We utilize these unique identifiers to verify the User's identity and eligibility, in order to protect our Users from the release of sensitive or personally identifiable information to unauthorized persons. To help protect the privacy of data you transmit through the Service, where personally identifiable information is requested, we also use technology designed to encrypt the information that you input before it is sent to us using Secure Sockets Layer (SSL) technology or similar encryption technology. In addition, MMI takes steps to protect the User data we collect against unauthorized access. However, you should keep in mind that the Service and our services are run on software, hardware, and networks, any component of which may, from time to time, require maintenance or experience problems or breaches of security beyond our control.

You must exercise caution, good sense, and sound judgment in using the Service. You are prohibited from violating, or attempting to violate, the security of the Service. Any such violations may result in criminal and/or civil penalties against you. MMI may investigate any alleged or suspected violations and if a criminal violation is suspected, MMI will cooperate with law enforcement agencies in their investigations.

Fees; Credit Transactions

You agree to pay the fees specified in the Application. These fees may be billed to you by your Provider (or its designee) after your E-Visit or they may be billed directly by MMI (or its designee). If the fees are billed directly by MMI or its designee then you shall pay such fees immediately upon your submission of each E-Visit by major credit card in accordance with the terms of this Terms of Use. If the fees are billed after your E-Visit by your Provider then you shall pay such fees to your Provider in accordance with the payment terms specified by your Provider in its invoice to you or, if no such terms are specified, then promptly after receiving such invoice. You agree that your Provider is a third party beneficiary of the “Fees; Credit Transactions” provision of these Terms of Use with the right to enforce this provision against you.

MMI may facilitate your payment of certain fees from time to time through the Service. When you pay by credit card, you hereby authorize MMI, the Provider or a third party appointed by MMI and/or the Provider (an “**Authorized Biller**”) to bill and charge the credit card indicated in your order for any fees and any other amounts provided for in your order as the same become due and payable. In the event that your credit card expires or an Authorized Biller is otherwise unable to debit the applicable amounts from your credit card you shall immediately furnish MMI with a valid credit card for payment. Your request for E-Visits through the Service may not be fulfilled until full payment has been received and/or verified.

You agree that you are solely responsible for the cost of any medications or supplies prescribed by your Provider and any charges that you may incur from your mobile service provider for using the Service.

Ownership of Information Submitted via the Service

With the exception of any protected health information you submit (which may be governed by the Health Insurance Portability and Accountability Act of 1996, Public Law 104-191, and its related regulations and amendments from time to time or related state-specific privacy laws and regulations) or any personal information maintained in accordance with the Privacy Policy, any information you transmit to MMI via the Service, whether by direct entry, submission, email or otherwise, including data, questions, comments, forum communications, or suggestions, will, to the extent permitted under applicable law, be treated as non-confidential and non-proprietary and will become the property of MMI.

Such information may be used for any purpose, including, without limitation, reproduction, solicitations, disclosure, transmission, publication, broadcast, and posting. MMI shall, to the extent permitted by applicable law, be free to use any ideas, concepts, know-how, or techniques contained in any communication you send via the Service or by any other means for any purpose whatsoever, including, without limitation, developing and marketing products using such information.

Prohibited Use

Any use or attempted use of the Service (i) for any unlawful, unauthorized, fraudulent or malicious purpose, (ii) that could damage, disable, overburden, or impair any server, or the network(s) connected to any server, (iii) that could interfere with any other party’s use and enjoyment of the Service, (iv) to gain unauthorized access to any other accounts, computer systems, or networks connected to any server or systems through hacking, password mining or any other means, (v) to access systems, data, or information not intended by MMI to be made accessible to a user, (vi) to obtain any materials, or information through any means not intentionally made available by MMI, (vii) to reverse engineer, disassemble or decompile any section or technology on the Service, or (viii) any use other than the business purpose for which it was intended, is prohibited.

In addition, in connection with your use of the Service, you agree you will not: (a) upload or transmit any message, information, data, text, software or images, or other content that is unlawful, harmful, threatening, abusive, harassing, tortuous, defamatory, vulgar, obscene, libelous, or otherwise objectionable, or that may invade another’s right of privacy or publicity; (b) create a false identity for the purpose of misleading others or impersonate any person or entity, including, without limitation, any MMI representative, or falsely state or otherwise misrepresent your affiliation with a person or entity; (c) upload or transmit any material that you do not have a right to reproduce,

display or transmit under any law or under contractual or fiduciary relationships (such as nondisclosure agreements); (d) upload files that contain viruses, trojan horses, worms, time bombs, cancel-bots, corrupted files, spyware or any other similar software or programs that may damage the operation of another's computer or property of another; (e) delete any author attributions, legal notices or proprietary designations or labels that you upload to any communication feature; (f) use the Service's communication features in a manner that adversely affects the availability of its resources to other users (e.g., excessive shouting, use of all caps, or flooding continuous posting of repetitive text); (g) upload or transmit any unsolicited advertising, promotional materials, "junk mail," "spam," "chain letters," "pyramid schemes," "phishing" or any other form of solicitation, commercial or otherwise; (h) violate any applicable local, state, national or international law; (i) upload or transmit any material that infringes any patent, trademark, service mark, trade secret, copyright or other proprietary rights of any party; (j) delete or revise any material posted by any other person or entity; (k) manipulate or otherwise display the Service by using framing, mirroring or similar navigational technology; (l) probe, scan, test the vulnerability of or breach the authentication measures of, the Service or any related networks or systems; (m) register, subscribe, attempt to register, attempt to unsubscribe, unsubscribe, or attempt to unsubscribe, any party for any services or any contests, promotions or sweepstakes if you are not expressly authorized by such party to do so; (n) harvest or otherwise collect information about others, including email addresses; (o) use any robot, spider, scraper, or other automated or manual means to access the Service, or copy any content or information on the Service; or (p) assist or permit any person in engaging in any of these activities.

MMI reserves the right to take whatever lawful actions it may deem appropriate in response to actual or suspected violations of the foregoing, including, without limitation, the suspension or termination of a User's access and/or account. MMI may cooperate with legal authorities and/or third parties in the investigation of any suspected or alleged crime or civil wrong.

Except as may be expressly limited by the Privacy Policy, MMI reserves the right at all times to disclose any information as MMI deems necessary to satisfy any applicable law, regulation, legal process or governmental request, or to edit, refuse to post or to remove any information or materials, in whole or in part, in MMI's sole discretion.

Right to Monitor

MMI reserves the right to monitor general use of Service at any time as it deems appropriate and to remove any materials that, in MMI's sole discretion, may be illegal, may subject MMI to liability, may violate these Terms of Use, or are, in the sole discretion of MMI, inconsistent with MMI's purpose for the Service.

Third-Party Interactions

Your interactions with Providers or any other entities or individuals found on or through the Service, including payment and delivery of goods or services, and any other terms, conditions, warranties or representations associated with such dealings, are solely between you and such Providers and other entities or individuals. You should make whatever investigation you feel necessary or appropriate before proceeding with any online or offline transaction with any third party. You are solely responsible for, and shall exercise caution, discretion, common sense and judgment in, using the Service and disclosing personal information.

You agree that MMI shall not be responsible or liable for any loss or damage of any sort incurred as the result of any of your interactions with Providers or other entities or individuals. In the event of any dispute between you and any Provider, any other User or any other entity or individual, you understand and agree that MMI is under no obligation to become involved in such dispute, and you hereby release MMI, its affiliates and their respective contractors, and its directors, officers, employees, representatives, proprietors, partners, shareholders, servants, principals, agents, predecessors, successors, assigns, accountants, and attorneys (collectively, "**MMI Parties**") from any and all claims, demands and/or damages (actual or consequential) of every kind or nature, known or unknown, suspected and unsuspected, disclosed or undisclosed, arising out of or in any way related to such disputes or the Service or the features and services therein. If you are a California resident, you waive California Civil Code Section 1542, which states: "A general release does not extend to claims which the creditor does not know or suspect to exist in his favor

at the time of executing the release, which, if known by him must have materially affected his settlement with the debtor.”

Termination

MMI may terminate your use of the Service or any of our features or services at any time and for any reason without notice for conduct violating these Terms of Use. Upon any such termination, you must destroy all Content obtained from the Service and all copies thereof. The provisions of these Terms of Use concerning Service security, prohibited activities, copyrights, trademarks, user submissions, disclaimer, limitation of liability, indemnity and jurisdictional issues shall survive any such termination. You agree that if your use of the Service is terminated pursuant to these Terms of Use, you will not attempt to use the Service under any name, real or assumed, and further agree that if you violate this restriction after being terminated, you will indemnify and hold all MMI Parties harmless from any and all liability that any such MMI Parties may incur with respect thereto.

Disclaimers

Content and other information contained on the Service is provided by MMI as a convenience. Users relying on Content or other information from the Service do so at their own risk.

THE SERVICE, THE CONTENT AND THE APPLICATION ARE PROVIDED ON AN “AS IS” OR “AS AVAILABLE” BASIS. ANY ACCESS TO OR USE OF THE APPLICATION, THE CONTENT OR THE SERVICE IS VOLUNTARY AND AT THE SOLE RISK OF THE USER. MMI TO THE FULLEST EXTENT PERMITTED BY LAW, DISCLAIMS ALL WARRANTIES AND CONDITIONS OF ANY KIND, EITHER EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT OF THIRD PARTIES’ RIGHTS, SATISFACTORY QUALITY AND FITNESS FOR PARTICULAR PURPOSE WITH REGARD TO THE APPLICATION AND THE SERVICE, AND WITH RESPECT TO ANY INFORMATION, CONTENT, PRODUCT, SERVICE, MERCHANDISE OR OTHER MATERIAL PROVIDED ON OR THROUGH THE SERVICE OR THE APPLICATION (INCLUDING ANY CONSULTATIONS OR OTHER SERVICES YOU MAY RECEIVE FROM YOUR PROVIDERS). MMI DOES NOT WARRANT OR GUARANTEE THE ACCURACY, COMPLETENESS, RELIABILITY, TIMELINESS OR USEFULNESS OF THE, CONTENT, SERVICE OR THE APPLICATION. MMI DOES NOT WARRANT THAT THE SERVICE OR THE APPLICATION WILL FUNCTION WITHOUT DELAYS, DISRUPTIONS, INTERFERENCES, IMPERFECTIONS, OR ANY ADVERSE INCIDENT.

Limitation of Liability

IN NO EVENT SHALL ANY MMI PARTY BE LIABLE TO YOU OR ANY OTHER PERSON OR ENTITY FOR ANY DAMAGES (INCLUDING, WITHOUT LIMITATION, INCIDENTAL AND CONSEQUENTIAL DAMAGES, PERSONAL INJURY/WRONGFUL DEATH, LOST PROFITS, OR DAMAGES RESULTING FROM LOST DATA OR BUSINESS INTERRUPTION) RESULTING FROM THE USE OF OR INABILITY TO USE THE APPLICATION, THE CONTENT OR THE SERVICE, INCLUDING ANY INFORMATION MADE AVAILABLE THROUGH THE SERVICE OR ANY SERVICES PERFORMED BY YOUR PROVIDER(S) (INCLUDING CLAIMS OF MEDICAL MALPRACTICE), WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), OR ANY OTHER LEGAL THEORY, AND WHETHER OR NOT MMI ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. MMI SHALL BE LIABLE ONLY TO THE EXTENT OF ACTUAL DAMAGES INCURRED BY YOU, NOT TO EXCEED U.S. \$1,000.

NO MMI PARTY SHALL BE LIABLE FOR ANY PERSONAL INJURY, INCLUDING DEATH, CAUSED BY YOUR USE OR MISUSE OF THE APPLICATION, THE CONTENT OR THE SERVICE. ANY CLAIMS ARISING IN CONNECTION WITH YOUR USE OF THE APPLICATION, SERVICE OR CONTENT MUST BE BROUGHT WITHIN ONE (1) YEAR OF THE DATE OF THE EVENT GIVING RISE TO SUCH ACTION OCCURRED. YOU UNDERSTAND AND AGREE THAT YOUR USE OF THE

APPLICATION, SERVICE OR CONTENT IS PREDICATED UPON YOUR WAIVER OF ANY RIGHT TO PARTICIPATE IN A CLASS ACTION SUIT FOR ANY LOSSES OR DAMAGES RESULTING FROM YOUR USE OF THE APPLICATION, SERVICE OR CONTENT.

SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES. TO THE EXTENT THAT WE MAY NOT DISCLAIM ANY IMPLIED WARRANTY OR LIMIT ITS LIABILITIES, THE SCOPE AND DURATION OF SUCH WARRANTY AND THE EXTENT OF OUR LIABILITY WILL BE THE MINIMUM PERMITTED UNDER APPLICABLE LAW.

Indemnification

You agree to defend, indemnify, and hold the MMI Parties harmless from and against any and all suits, actions, claims, proceedings, damages, settlements, judgments, injuries, liabilities, obligations, losses, risks, costs, and expenses (including, without limitation, attorneys' fees and litigation expenses) relating to or arising from the Application, the Service, your use of the Service, your use of the Application, your use of the Content, your fraud, violation of law, or willful misconduct, any breach by you of these Terms of Use or your violation of any rights of any other person or entity. We reserve the right to control the defense of any claim by a third-party for which we are entitled to indemnification, and you agree to provide us with such cooperation as is reasonably requested by us.

Notices

Any notices to you from MMI regarding the Service, the Application or these Terms of Use may be made by email, a detailed posting notice on the Service, or regular mail, in the sole discretion of MMI.

Electronic Communications

When you access or use the Service or send emails to us or your Provider, you are communicating with us and your Provider electronically. You consent to receive communications from us and your Providers electronically. We will communicate with you via email or through the Service. You agree that all agreements, notices, disclosures and other communications that we provide to you electronically satisfy any legal requirement that such communications be in writing. You further agree that any notices provided by us electronically are deemed to be given and received on the date we transmit any such electronic communication as described in these Terms of Use.

Entire Agreement

These Terms of Use, including the Privacy Policy and the Telehealth Consent, and any other policies or agreements MMI may post on the Service or that you and MMI may execute from to time constitute the entire agreement between MMI and you in connection with your use of the Service and supersede any prior agreements between MMI and you regarding use of the Service, including prior versions of these Terms of Use, including the Privacy Policy and the Telehealth Consent.

Governing Law; Venue; Severability of Provisions

This Service is controlled and operated by MMI from our offices within Florida, United States of America. Those who choose to access the Service from other locations do so on their own initiative and are responsible for compliance with local laws, if and to the extent applicable. Access to the Service from jurisdictions where the contents of the Service are illegal or penalized is prohibited.

The validity, interpretation, construction and performance of these Terms of Use will be governed by the laws of the State of Florida, without regard to any conflicts of law provisions. Any dispute arising under or relating to these Terms of Use will be resolved exclusively by final and binding arbitration in Boca Raton, Florida, under the rules of the American Arbitration Association, except that either party may bring a claim related to intellectual property

rights, or seek temporary and preliminary specific performance and injunctive relief, in any court of competent jurisdiction, without the posting of bond or other security. The parties agree to the personal and subject matter jurisdiction and venue of the courts located in Boca Raton, Florida, for any action related to these Terms of Use. You may only resolve disputes with us on an individual basis and not as part of any class, consolidated or representative action.

All parts of these Terms of Use apply to the maximum extent permitted by law. Our failure to enforce any provision of these Terms of Use will not constitute a waiver of such right. We both agree that if we cannot enforce a part of this contract as written, then that part will be replaced with terms that most closely match the intent of the part we cannot enforce to the extent permitted by law. The invalidity of part of these Terms of Use will not affect the validity and enforceability of the remaining provisions. The section headings are for convenience and do not have any force or effect.

No Agency Relationship

Neither these Terms of Use, nor any Content, materials or features of the Service create any partnership, joint venture, employment, or other agency relationship between us and you. You may not enter into any contract on our behalf or bind us in any way.

Remedies

You agree that any violation, or threatened violation, by you of these Terms of Use constitutes an unlawful and unfair business practice that will cause us irreparable and unquantifiable harm. You also agree that monetary damages would be inadequate for such harm and consent to our obtaining any injunctive or equitable relief that we deem necessary or appropriate. These remedies are in addition to any other remedies we may have at law or in equity.

Assignment

You may not assign any of your rights under these Terms of Use, and any such attempt will be null and void. MMI may, in its sole discretion, transfer, without further consent or notification, all contractual rights and obligations pursuant to these Terms of Use to any affiliate of MMI or to another third party in the event that some or all of the business of MMI is transferred to such other third party by way of merger, sale of its assets or otherwise.

Third Party Beneficiaries

Any use of third-party software provided in connection with the Service, or any third-party product or service accessed or used in connection with the Service, will be governed by the applicable third-party's license or terms of use, and not by these Terms of Use. In addition to these Terms of Use, your use of the Service must comply with all applicable third-party terms of agreement.

Except for the foregoing or as otherwise specifically set forth in these Terms of Use, including with respect to the indemnification obligations contained herein in favor of the MMI Parties, we hereby expressly agree that there is no intent by either party to create or establish third-party beneficiary status rights or their equivalent in any other referenced individual, subcontractor or third party, including, without limitation, any Provider, and, except as specifically set forth in these Terms of Use, that no third party shall have any right to enforce any right or enjoy any benefit that is created or established under these Terms of Use.

Contacting Us

If you have any questions or concerns about these Terms of Use, please contact us at legal@modmed.com. We will attempt to respond to your questions or concerns promptly after we receive them.

These Terms of Use were last updated on September 11, 2015.