

Modernizing Medicine

API Terms of Use

Last Updated: 12 August 2021

1. INTRODUCTION

- 1.1. In these API Terms of Use (“API TOU”), Modernizing Medicine, Inc. and its affiliates (including Modernizing Medicine Gastroenterology, Inc., Modernizing Medicine Podiatry Systems, Inc., Modernizing Medicine Billing Services, LLC, Modernizing Medicine Retail Solutions, Inc., and Exscribe, Inc.) will be referred to as “Modernizing Medicine” and terms like “we”, “our”, or “us”. Capitalized terms used in these API TOU without definition will have the meanings in Appendix 1.
- 1.2. These API TOU govern your access to and use of our API Services. Please read these API TOU carefully before you use the API Services as they are a legal agreement between Modernizing Medicine and you once they are accepted. The API Services are also governed by our Terms of Use (“TOU”), which also include terms related to other Modernizing Medicine services, including our websites. These API TOU are incorporated into and are part of the TOU (the API TOU and the TOU, collectively, the “API Terms”). Please also review our Privacy Policy to learn about our information collection, use, and privacy practices. For example, our Privacy Policy applies to any personal information we may collect when you use the API Services.
- 1.3. **By using or accessing any of the API Services you accept and agree to be bound by the API Terms.** If you do not agree with any portion of the API Terms, then do not use any API Services. You represent and warrant that you are at least 18 years old and that you possess the legal ability to accept the API Terms.
- 1.4. If you are using the API Services on behalf of an entity, then: (i) you represent and warrant that you have the authority to bind that entity to the API Terms, (ii) you agree to be bound by the API Terms on behalf of that entity, (iii) you will require all users to comply with the API Terms, and (iv) references to “you”, “your”, and similar terms refer to that entity.

1.5.If you have a Primary Agreement to use the API Services. “Primary Agreement” means: (i) for ModMed Customers, your Transaction Documents (as defined in the TOU), (ii) if you are a ModMed Vendor, a written, binding agreement between you and Modernizing Medicine, and (iii) for synAPP providers who are not ModMed Customers or ModMed Vendors, a written, binding agreement between you and each ModMed Customer or Patient containing appropriate terms to cover the Data you will be exfiltrating, or transmitting to us, via the APIs. The Primary Agreement will set forth your rights and obligations related to Data, including its access, use, provisioning, and retention. Modernizing Medicine enters into unique Primary Agreements with ModMed Customers and ModMed Vendors. The API Terms supplement Primary Agreements with respect to use of the API Services. In the event of a conflict between a Primary Agreement and the API Terms, (a) the API Terms will control regarding use of the API Services and (b) the Primary Agreement will control regarding other matters, such as the use, provisioning, and retention of Data.

2. ACCOUNTS AND DEVELOPMENT PROCESS

This section 2 applies to synAPP providers.

2.1. User Accounts.

2.1.1. To access and use certain aspects of the API Services, you must register by providing certain information (e.g., name, contact information, synAPP details, etc.). You must provide us with true, accurate, and complete information on your registration and keep all provided information up to date. As part of our review of your registration, we may request additional information. Once you have completed your registration, we will provide you with Credentials.

2.1.2. You must protect your Credentials. Do not let anyone else use your Credentials and do not use anyone else’s Credentials. Notify us immediately if: (i) your Credentials are lost or stolen, (ii) you become aware of any unauthorized use of your Credentials, or (iii) you become aware of any unauthorized use of the API Services or any other breach of security that might affect the API Services. You are fully responsible for any activity under your account. Credentials may not be embedded in open source projects.

2.1.3. If you have multiple synAPPs, you must use the same user name Credentials for all synAPPs.

2.2. Development. You may use your Credentials to access the Test Environment. In the Test Environment, you may only use test data; you may not upload, transmit, or otherwise enter any “live” or “real” data. Performance in the Test Environment may differ from that in the Production Environment.

2.3. Customer Activation. In certain cases, for Data to be exchanged via the APIs the applicable ModMed Customer must activate use of such APIs in our Systems. We are not responsible for any ModMed Customer's failure or delay in activating any APIs or deactivation of any APIs.

3. USE OF THE API SERVICES

3.1. Permission to Use the API Services. If you are a synAPP provider, we grant you the right to: (i) access and use the API Services in a Production Environment, (ii) use the API Services to help you develop your synAPPs, and (iii) market, offer, and distribute your synAPPs.

3.2. Limited Rights. All rights we grant in the API Terms are personal to you and you may not transfer, assign, or sublicense them to others. We may revoke these rights if you violate the API Terms or any applicable Laws. The API Services are the proprietary property of Modernizing Medicine or its third-party licensors and are protected by intellectual property and other Laws. No rights are granted to you relating to the API Services except for the express rights granted to you in the API Terms. We reserve all rights in the API Services not expressly granted in these API TOU.

3.3. Compliance; Regulatory.

3.3.1. You will, at your cost and expense, obtain all necessary regulatory approvals, licenses, and permits applicable to your business and your performance under the API Terms, and comply with all applicable Laws in performing under the API Terms (and, if you are a synAPP provider, in providing your synAPPs). You will not export the API Services in violation of applicable Laws.

3.3.2. If you are a synAPP provider, you must: (i) collect, process, use, store, disclose, provide, and transfer Data only in compliance with all applicable Laws, privacy policies, and third-party rights, (ii) if applicable, only use Data for the limited purposes authorized in your Primary Agreement, (iii) if applicable, notify ModMed Customers that their Data will be available to your synAPPs, and (iv) provide legally-compliant privacy notices and protections.

3.3.3. If you will be using the APIs to access or send Protected Health Information on behalf of Modernizing Medicine or a ModMed Customer, then you must first have one or more Business Associate agreements (each a "Business Associate Agreement") with either us or each ModMed Customer to the extent required by HIPAA. The API Terms are not a Business Associate Agreement and may not be construed as creating any Business Associate relationship. By using the APIs to access or send Protected Health Information, you represent and warrant that you have signed all Business

Associate Agreements or other arrangements as may be required for such access or transmission to comply with HIPAA or any other applicable Laws.

3.4. Additional Obligations. Except as expressly authorized by these API TOU, you will:

- 3.4.1. Not interfere with anyone else's use of the API Services;
- 3.4.2. Not copy, reproduce, sell, license, rent, lease, distribute, display, transfer, modify, or make derivative works from the API Services;
- 3.4.3. Not remove, alter, or tamper with any copyright, trademark, or other proprietary rights or legal notices associated with the API Services;
- 3.4.4. Not decompile, disassemble, reverse engineer, or otherwise attempt to discover or derive any proprietary software code or information associated with the API Services or the underlying ideas, algorithms, structure, or organization of the Systems (except to the extent such restriction is prohibited by applicable Law);
- 3.4.5. Not use the API Services to defame, harass, abuse, threaten, stalk, or defraud any entity or person;
- 3.4.6. Not submit, upload, post, or transmit any Data or other material that: (i) you do not have a right to reproduce, display, or transmit, (ii) infringes intellectual, proprietary, or other rights of any party, or (iii) is harmful or unlawful;
- 3.4.7. Ensure that your use of the API Services will not generate excessive load on the API Services or the Systems or cause the API Services or Systems to behave inaccurately or inconsistently;
- 3.4.8. Not interfere in any way with the operation of the API Services or Systems or any server, network, or system associated with the API Services or Systems;
- 3.4.9. Not attempt to breach, defeat, avoid, bypass, remove, deactivate, or otherwise circumvent any firewall, encryption, security, authentication routines, or software protection mechanisms in the API Services or Systems, including any such mechanism used to restrict or control the functionality of the API Services or Systems;
- 3.4.10. Not use any automated program, tool, or process (including web crawlers, scrapers, robots, bots, spiders, and automated scripts) to access the API Services, the Systems, or any server, network, or system associated

with the API Services or Systems, or to extract, collect, harvest, or gather content or data from the API Services or Systems; and

3.4.11. Not allow synAPPs to do or attempt to do any of the acts prohibited by this section 3.4 or assist or permit any person in engaging in any of the acts prohibited by this section 3.4.

3.5. **No Viruses.** You represent and warrant that your use of the APIs (and, if you are a synAPP provider, your synAPPs) will not contain or introduce any viruses or other harmful or malicious code, software, computer instructions, devices, or techniques that can or were designed to threaten, infect, damage, disable, or shut down the API Services or the Systems or any other technology, software, solution, equipment, or computer system (e.g., no viruses, worms, Trojan horses, malware, etc.).

3.6. **Open Source.** If you are a synAPP provider, you represent and warrant that your synAPPs will not contain any software code that is subject to a license that, when used in conjunction with the API Services, requires our software code, or other software code combined or distributed with our software code, to be: (i) disclosed or distributed in source code form, (ii) licensed for the purpose of making derivative works, or (iii) redistributable at no charge.

3.7. **Costs and Technology Requirements.** You will be responsible for all of your own costs to perform under the API Terms. You are solely responsible for providing and maintaining, at your own risk, option, and expense, appropriate software, hardware, and other technology needed for you to receive and use the API Services, which must comply with the API Terms and the Documentation.

3.8. **Customer Support.** If you are a synAPP provider, you will be solely responsible for all aspects of the sales, enrollment, implementation of, training, maintenance, and support related to a ModMed Customer's use of your synAPPs.

3.9. **Customer Acknowledgements.** If you are a ModMed Customer, you acknowledge and agree that: (i) the synAPPs are Third-Party Services (as defined and further described in the TOU), which for example you access and use at your own risk; (ii) you are solely responsible for selecting which, if any, synAPPs you use and for screening and selecting the providers of the synAPPs; (iii) you are solely responsible for activating and deactivating the APIs used or accessed by any synAPPs; (iv) by activating use of the APIs by a synAPP, you give, and you direct Modernizing Medicine to enable you to give, the synAPP and its provider access to your Data; (v) once a synAPP and its provider has access to your data, the provider may share your Data with its developers, suppliers, affiliates, and other individuals and entities; and (vi) Modernizing Medicine is not responsible for any synAPP, the use or disclosure of Data by the synAPP or its provider, or any other acts or omissions by the synAPP provider. The synAPP provider's use

and disclosure of your Data is governed solely by the agreement between you and the synAPP provider. The data elements sent or received via an API may change over time. You can review the then-current data elements sent to or received from a synAPP in Firm Admin.

4. CHANGES TO THE API TERMS AND THE API SERVICES

4.1. Changes to the API Terms. We may change the API Terms at any time. Unless we say otherwise, changes will be effective upon the last updated date at the top of the API Terms. Please check the API Terms regularly to ensure that you are aware of any changes to the API Terms. We may, but do not have to, notify you of material changes to these API TOU, such as by posting a notice directly on the API Services, by sending an email notification (if you have provided your email address to us), or by other reasonable methods. In any event, your use of the API Services after changes to the API Terms means you have accepted the changes. If you do not agree with the changes, immediately stop using the API Services. If you accessed or used the API Services before the initial effective date of the API Terms, your use of the API Services after such effective date means you have accepted the API Terms and that you agree that the API Terms govern your use of the API Services prior to such effective date.

4.2. Changes to the API Services. We may, with or without notice, and without liability to you or any other party: (i) modify the operation of, or any feature of, the API Services, (ii) investigate any suspected or alleged misuse of the API Services and cooperate with any law enforcement or other governmental entity or any other third parties in such investigation, and (iii) disclose information about your use of the API Services in connection with a law enforcement or other governmental entity investigation or in response to a lawful court order or subpoena. Modernizing Medicine may monitor your use of the API Services (including accessing and using the synAPPs) in order to verify your compliance with the API Terms, improve the API Services and Systems, and assess the quality and security of the synAPPs. Currently, Modernizing Medicine does not charge any fees specific to the Certified API. If in the future we charge fees for the Certified APIs, we will update these API TOU to include a description of such fees.

4.3. Updates.

4.3.1. Modernizing Medicine may, but does not have to, develop and provide updates for our API Services, which may include upgrades, bug fixes, patches, and other error corrections and new features (collectively, "Updates"). Updates may also change or completely remove certain features and functionality. You agree that Modernizing Medicine has no obligation to provide any Updates or to continue to provide or enable any particular features or functionality.

4.3.2. Portions of the API Services may not properly operate if you do not install all Updates, so we encourage you to promptly install all Updates. We may also suspend your access to API Services until you install certain Updates after providing you a reasonable opportunity to update your technology. For clarity, all Updates are part of the API Services and subject to the API Terms.

5. TERMINATION AND SUSPENSION

5.1. **Your Termination.** Subject to any obligations in a Primary Agreement you have with Modernizing Medicine, you may terminate your use of the API Services by providing written notice to Modernizing Medicine at api@modmed.com.

5.2. **Termination and Suspension.** You acknowledge and agree that, to the extent not inconsistent with applicable Law: (i) Modernizing Medicine may at any time and without liability, terminate or suspend your access to the API Services, in whole or in part, including if Modernizing Medicine determines that: (a) you have violated the API Terms, a Primary Agreement, or any applicable Law, (b) any term of the API Terms violates applicable Law, including the federal Anti-Kickback Statute, the Stark Law, or the False Claims Act, (c) you or any of your owners is excluded from participation in a Federal Health Care Program (as defined in at 42 U.S.C. § 1320a-7b(f)) or otherwise debarred, declared ineligible, suspended, or otherwise sanctioned by any federal or state government, or (d) if Modernizing Medicine believes your use of the API Services are unauthorized presents a security threat, is for fraudulent purposes, or interferes with others' use of the API Services, (ii) such termination or suspension may happen without prior notice, and (iii) in the event of such termination or suspension, Modernizing Medicine may immediately deactivate and terminate your account and terminate your access to the API Services.

5.3. **Suspension and Downtime.** To the extent not inconsistent with applicable Law, we may limit, suspend access to or shut down the API Services entirely or in part at any time, including in order to: (i) fix problems with the API Services, (ii) conduct routine maintenance, or (iii) update the API Services as described in section 4.3. The API Services may not always be available and should not be relied upon in an emergency. In the event of downtime, other temporary limits on, or unavailability of the API Services, including to fix problems with the API Services, conduct routine maintenance, update the API Services, provide support services, remediate unplanned downtime, or other planned or unplanned purpose, we will make commercially reasonable efforts to ensure that the period of unavailability is no longer than reasonably necessary to achieve the applicable purpose.

5.4. Effect of Termination.

5.4.1. Upon any termination of the API Terms: (i) all rights granted to you under the API Terms will cease and (ii) you must cease all use of the API Services.

5.4.2. Any provisions of the API Terms that, by their nature should survive the termination of the API Terms, will survive, including sections: 5.4, 6.1, 6.3, 7, 8, 9, and 10.

6. PROPRIETARY RIGHTS

This section 6 applies to synAPP providers. ModMed Customers should refer to their Primary Agreement regarding these matters.

6.1. **Retention of Rights.** Each party will retain all of its intellectual property rights.

6.2. Attribution.

6.2.1. Modernizing Medicine may: (i) include you in our listings of companies connected via the APIs, including on our websites, and (ii) in the course of promoting, marketing, or demonstrating the Systems or API Services, produce and distribute incidental depictions, including screenshots, video, or other content, from use of the synAPPs by ModMed Customers.

6.2.2. You may make appropriate and truthful reference to Modernizing Medicine in the documentation for the synAPPs; provided, that: (i) you must not either directly or indirectly, promote or advertise any synAPP as being sponsored, endorsed, or recommended by Modernizing Medicine and (ii) unless we have provided you prior written consent in each instance, all references to Modernizing Medicine must be limited to plain word marks (e.g., no using our logos). You must obtain our prior written consent before any other use of Modernizing Medicine's name or other references to Modernizing Medicine (e.g., in marketing materials, blogs, press releases, etc.).

6.2.3. Except as expressly permitted in the API Terms or the Primary Agreement, neither party will refer to the other in any press release, marketing materials, advertisements, or other public broadcast or communication of any kind without first obtaining the other party's prior written consent.

6.3. **Feedback.** If you provide us with any comments, suggestions, ideas, or other feedback (together, "Feedback"), you agree that: (i) you have no obligation to provide Feedback, (ii) we have no obligation to use Feedback, (iii) we have an unrestricted right to use and exploit any Feedback you do provide, including the right to permit others to do both, and (iv) you are not entitled to receive any compensation for any Feedback.

6.4. **Data.** You acknowledge that: (i) ModMed Customers have granted Modernizing Medicine the right to use Protected Health Information and other data to create data that is de-identified in accordance with the HIPAA de-identification standard and (ii) Modernizing Medicine may use, sell, provide to third parties, and

otherwise commercialize any such de-identified data for any purpose not prohibited by Law. You agree that nothing in the API Terms will be deemed to restrict Modernizing Medicine's ability to commercialize, market, license, use, provide to third parties, exploit, transform, or sell such de-identified patient and other data.

7. NO WARRANTIES

THE API SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE". TO THE FULLEST EXTENT PERMITTED BY LAW, MODERNIZING MEDICINE MAKES NO AND DISCLAIMS ALL WARRANTIES WITH RESPECT TO THE API SERVICES, WHETHER ORAL OR WRITTEN, EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING ALL IMPLIED WARRANTIES, TERMS OR CONDITIONS, INCLUDING ANY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AND TITLE AND ALL WARRANTIES ARISING FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE IN TRADE. MODERNIZING MEDICINE DOES NOT WARRANT: (i) THAT THE API SERVICES WILL BE UNINTERRUPTED OR ERROR FREE, (ii) THAT ANY DEFECT OR ERROR WILL BE CORRECTED, (iii) THAT THE API SERVICES WILL BE SECURE AND FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS, (iv) THAT ANY DATA PROVIDED BY OR THROUGH THE API SERVICES WILL BE CURRENT OR ACCURATE, OR (v) AGAINST ANY LOSS OR CORRUPTION OF ANY DATA OR SUBMISSIONS. YOUR USE OF THE API SERVICES IS ENTIRELY AT YOUR OWN RISK.

8. LIMITATIONS OF LIABILITY

8.1. IN NO EVENT WILL WE (WHICH, AS A REMINDER, INCLUDES OUR AFFILIATES) OR ANY OF OUR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, REPRESENTATIVES, ADVISORS, CONTRACTORS, OR CONSULTANTS BE LIABLE TO YOU (WHETHER UNDER CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, WARRANTY, OR ANY OTHER THEORY) FOR (i) ANY INDIRECT, INCIDENTAL, EXEMPLARY, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF USE, DATA, OR INFORMATION OF ANY KIND) ARISING OUT OF OR RELATED TO YOUR USE OF THE API SERVICES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES OR (ii) DAMAGES ARISING OUT OF OR RELATING TO THESE TERMS EXCEEDING, IN THE AGGREGATE FOR ALL CLAIMS, THE GREATER OF: (A) THE AMOUNTS PAID BY YOU, IF ANY, SPECIFICALLY FOR THE API SERVICES ASSOCIATED WITH THE CLAIM IN THE 6 MONTHS PRIOR TO THE EVENTS GIVING RISE TO SUCH CLAIM OR (B) \$500.

8.2. EACH PROVISION OF THE API TERMS THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS INTENDED TO AND DOES ALLOCATE THE RISKS BETWEEN THE PARTIES. THIS ALLOCATION IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES. EACH OF THESE PROVISIONS IS

SEVERABLE AND INDEPENDENT OF ALL OTHER PROVISIONS OF THE API TERMS. THE LIMITATIONS IN THE API TERMS WILL APPLY EVEN IF ANY LIMITED REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

8.3. BECAUSE SOME STATES DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR CONSEQUENTIAL, INCIDENTAL, OR OTHER DAMAGES OR TOTAL LIABILITY, THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU.

9. INDEMNITY

In addition to any indemnification obligations you may have, you will indemnify Modernizing Medicine (which, as a reminder, includes affiliates) and our respective officers, directors, employees, agents, representatives, advisors, contractors, and consultants (collectively, "Indemnified Parties") from and against any and all claims, actions, suits, demands, liabilities, damages, losses, penalties, interest, fines, costs, and expenses (including reasonable attorneys' fees and legal costs) arising out of or related to: (i) third-party claims arising out of or related to your use of, inability to use, or reliance upon the API Services, (ii) the synAPPs, including your provision of or use of any synAPP, (iii) a synAPP provider's act or omission (including a Data incident or breach), or (iv) your violation of the API Terms or applicable Law.

10. MISCELLANEOUS

10.1. **Notice.** Modernizing Medicine may provide you with notices, including those regarding changes to these API TOU, by postings on our websites, on the API Services, or by other means (e.g., via email).

10.2. **Governing Law.** The API Terms and any claim or dispute between you and Modernizing Medicine arising out of or relating to the API Services or the API Terms will be governed by and construed in accordance with the Laws of the State of Florida, without regard to any provision of Florida Law that would require or permit the application of the substantive Law of another jurisdiction. Any claim or dispute between the parties will be resolved on an individual basis in the state or federal courts of the State of Florida and the United States, respectively, in or with jurisdiction over Palm Beach County, Florida. If you are a United States city, county, or state government entity, then the following applies instead of the language above: the parties agree to remain silent regarding governing Law and venue.

10.3. **Regulatory Acknowledgments.** The parties' intent is that the API Terms comply with the 21st Century Cures Act and any provision of the API Terms that does not comply with the 21st Century Cures Act will be replaced as described in section 10.5. Nothing in the API Terms will be construed to prohibit or restrict any communication in a manner that violates the Condition of Certification at 45 C.F.R. § 170.403(a). Each party acknowledges and intends that the terms contained in the API Terms that relate to the content and manner of a request for

access, exchange, or use of electronic health information (as defined at 45 C.F.R. § 171.102) reflect the parties' mutual agreement (in an arm's-length transaction without coercion) and meet the "content" and "manner requested" conditions of the Content and Manner Exception at 45 C.F.R. §§ 171.301(a) and (b)(1), respectively.

- 10.4. **Waiver.** A waiver of a provision of the API Terms must be in writing and signed by the party entitled to the benefit of such provision. Modernizing Medicine's failure to exercise or enforce any right or provision of the API Terms will not constitute a waiver of such right or provision.
- 10.5. **Severability.** If any provision of the API Terms is declared void or unenforceable by any judicial or administrative authority, the parties will replace such provision with a substitute that as closely as possible reflects the parties' original intent (including economics and allocations of risk) and is enforceable, and the validity of the other provisions and of the API Terms as a whole will not be affected.
- 10.6. **Independent Contractor.** No joint venture, partnership, employment, or agency relationship exists between you and Modernizing Medicine as a result of the API Terms or use of the API Services. Modernizing Medicine is not a third-party service provider under PCI-DSS.
- 10.7. **Force Majeure.** Modernizing Medicine will not be liable for failure or delay in performing its obligations if such failure or delay is due to a force majeure event or other circumstances beyond Modernizing Medicine's reasonable control, including acts of any governmental body, war, cyber war or attack, terrorism, insurrection, sabotage, embargo, fire, flood, severe weather, earthquake, tornado, hurricane, labor disturbance, pandemic or other public health emergency, interruption of or delay in the internet or transportation, unavailability of third-party services, failure of third-party software or services, or inability to obtain raw materials, supplies, or power used in or equipment needed for provision of the API Services.
- 10.8. **Interpretation.** Headings used in the API Terms are for convenience only and will not be used in interpreting the API Terms. The API Terms will be deemed to be drafted by both parties and will not be construed against either party. Unless the context otherwise requires, the term "include" (and its variants) are to be construed as inclusive, not exclusive, and are deemed to be followed by the words "without limitation."
- 10.9. **No Exclusivity.** You acknowledge that the API Terms are non-exclusive and nothing in the API Terms will be deemed to limit Modernizing Medicine's right to offer similar services to third parties. Nothing in the API Terms will be deemed to restrict Modernizing Medicine from selling, marketing, or licensing, whether by itself or through any third party, or from engaging others to market or solicit the sale or license of products or services similar to the synAPPs anywhere in the

world to any existing, prospective, or future customer, including any ModMed Customer, or from entering into any agreement with any third party.

- 10.10. **Entire Agreement.** The API Terms set forth the entire agreement between the parties regarding the API Services and supersede any prior or contemporaneous communications (whether written or oral) between the parties, but solely with respect to the API Services. Except as expressly set forth in the API Terms, there are no third-party beneficiaries to the API Terms.

APPENDIX 1 **Definitions**

1. “APIs” means Modernizing Medicine’s application programming interfaces that permit a party to access and send Data, including the Certified APIs and Proprietary APIs.
2. “API Services” means the APIs, the Documentation, Test Environment, Production Environment, Test Data, and all other products and services provided with or through the APIs.
3. “Business Associate” has the meaning in HIPAA.
4. “Certified APIs” means APIs that are certified to the certification criteria established by the Office of the National Coordinator for Health IT at 45 C.F.R. § 170.315(g)(7)-(9) or (g)(10).
5. “Credentials” means any username, password, keys, or tokens we provide you in relation to the API Services.
6. “Data” means data, information, or other content stored or to be stored in the Systems or otherwise transmitted or accessed via the APIs. Data does not include data that is subject to PCI-DSS, which data may not be stored in the Systems or otherwise transmitted via the APIs.
7. “Documentation” means the specifications, requirements, or other documentation provided or made available by Modernizing Medicine related to the APIs, including those at www.modmed.com/modmed-synapsys-api/, www.modmed.com/public-api/, and api.gmed.com/.
8. “HIPAA” means the Health Insurance Portability and Accountability Act of 1996, the Health Information Technology for Economic and Clinical Health Act, and their implementing regulations, as each may be amended.
9. “Laws” means any statute, law, regulation, ordinance, rule, code, order, constitution, treaty, common law, judgment, decree, or governmental requirement enacted, promulgated, or imposed by any governmental authority at any level (including municipal, county, province, state, national, or foreign), including HIPAA and other Privacy Laws, health care fraud and abuse laws (e.g., the federal Anti-Kickback

Statute, Stark Law, and False Claims Act), and any standards generally adopted by an industry organization (e.g., the Payment Card Industry) that applies to products or services offered by a party (e.g., PCI-DSS).

10. “ModMed Customer” means customers of Modernizing Medicine’s cloud-based or licensed on-premise electronic health records systems (including our Electronic Medical Assistant® or EMA® and gGastro® systems), associated systems (such as practice management systems), and related services.
11. “ModMed Vendor” means a supplier, service provider or other vendor of Modernizing Medicine.
12. “Patient” means a patient of a ModMed Customer who has requested access to his or her Data through a synAPP.
13. “PCI-DSS” means the Payment Card Industry Data Security Standards.
14. “Production Environment” means a live-access, production environment of the APIs.
15. “Proprietary APIs” means APIs that are not Certified APIs.
16. “Protected Health Information” has the meaning given in HIPAA.
17. “synAPP” means applications, websites, products, and services that use or access the APIs and that are not developed or provided by Modernizing Medicine.
18. “Systems” means: (i) with respect to ModMed Customers, Modernizing Medicine’s cloud-based or licensed on-premise electronic health records systems, including our Electronic Medical Assistant® or EMA®, and gGastro® systems, and associated systems such as practice management systems and related services, and (ii) with respect to Modernizing Medicine, the Modernizing Medicine technology, software, hardware, equipment, network, or other systems specified in the Primary Agreement.
19. “Test Data” means sample data provided or made available by Modernizing Medicine.
20. “Test Environment” means a “sandbox” environment for testing and development purposes.