

MODERNIZING MEDICINE STANDARD TERMS AND CONDITIONS

These Modernizing Medicine Standard Terms and Conditions (“**Terms and Conditions**”) form a part of the order form (the “**Order Form**”) or statement of work (“**Statement of Work**” or “**SOW**”) by and between (A) the Modernizing Medicine entity set forth in such Order Form or Statement of Work (“**Modernizing Medicine**” or “**Company**”), and (B) the client set forth on the Order Form or Statement of Work (“**Client**”), that references these Terms and Conditions. Modernizing Medicine and Client may be referred to herein each individually as a “**Party**” and together as the “**Parties**”. Capitalized terms are defined in Exhibit A unless otherwise defined in the section in which such terms are used.

1. Products. Subject to execution of an Order Form or Statement of Work, Client shall have the right to access and use the Products and Professional Services (as defined in Section 7 (Professional Services)) during the Term (as defined in Section 17.1 (Order Form)) in accordance with these Terms and Conditions, and the applicable Order Form or Statement of Work. To the extent the Products include Subscription Services, Modernizing Medicine will use commercially reasonable efforts to provide the Subscription Services to Client through the Modernizing Medicine Sites, and in accordance with the service level agreement set forth in Exhibit C attached hereto and incorporated herein and the Patient Data Security Exhibit set forth on Exhibit D attached hereto and incorporated herein. Client expressly acknowledges and agrees that all Products and Professional Services are made and intended to be used solely in the Territory.

The Products are designed solely as a reference for practicing healthcare professionals, and that as such, they may integrate clinical and financial information with other information of multiple origins. Modernizing Medicine shall not be deemed to be engaged, either directly or indirectly, in the practice of medicine or the dispensing of medical services or advice. It is incumbent upon Client to verify the proper use and interpretation of information obtained from the use of the Products. Modernizing Medicine is not responsible for the accuracy of any information (including codes, images or other data) obtained from the Products or for any damages resulting from Client’s use or misuse of such information. Accordingly, Client acknowledges and agrees that (i) Modernizing Medicine is not a health care provider, (ii) the Products provide only sample forms and templates, (iii) the treatments, procedures, information, medications, products and other matters referenced by the Products are not intended as a recommendation or endorsement of any course of treatment, procedure, information, product or medication and (iv) any and all responsibility for diagnosing, treating and/or providing any other medical care to any Patient, as well as drafting or completing all written materials related to such Patient and for ensuring compliance with any applicable laws, rules and regulations, and professional ethical guidelines which may apply to Client and/or its Authorized Users, rests exclusively with Client and the physicians and the other professionals treating such Patient. Client represents and warrants that, to the extent required by applicable law, Client and each Authorized User is duly licensed by the appropriate professional board or agency in each state in which Client or such Authorized User is located and/or performs services. Client shall provide evidence of such licensing to Modernizing Medicine upon reasonable request. At any time that Client or its Authorized Users cease to be duly licensed or authorized to the extent required by applicable law, Client shall immediately so inform Modernizing Medicine, and such unlicensed party shall immediately cease accessing and using the Products.

2. Additional Product Terms. The commercial and technical support terms for the Products that may be purchased by Client are found at the links below (“**Product Terms**”). Subject to Client’s purchase of the applicable Products, the Product Terms are considered to be part of these Terms and Conditions and incorporated herein by reference.

- (i) The EMA Product Page located at: http://www.modmed.com/EMA-product-page_1_22/;
- (ii) The Practice Management Product Page located at: http://www.modmed.com/PM-product-page_1_22/;

(iii) The Gastroenterology Product Page located at: http://www.modmed.com/Gastro-product-page_1_22/;

(iv) Revenue Cycle Management Services page located at: http://www.modmed.com/RCM-product-page_1_22/ (“RCM Services”); and

(v) AMP Product Page located at: https://www.modmed.com/AMP-product-page_3_22/.

In addition, and as a condition to Client’s and its Authorized Users’ use of the Products, Client shall cause each of its Authorized Users to comply with the terms of the Transaction Documents and the terms of use located at <https://www.modmed.com/terms-of-use/> (“TOS”), which are incorporated herein by reference and may be modified by Modernizing Medicine from time to time.

3. Service Guidelines. Client and its Authorized Users shall use the Products and any other services provided by Modernizing Medicine solely in the Territory and for Client’s internal business purposes only. Client shall not use the Products or Professional Services provided by Modernizing Medicine to: (i) send unsolicited communications, spam, or any form of duplicative communications; (ii) violate any law, rule or regulation; (iii) transmit through or post on the Products or Modernizing Medicine’s website(s) unlawful, immoral, libelous, tortious, infringing, defamatory, threatening, vulgar, or obscene material or material harmful to minors; (iv) transmit material containing software viruses or other harmful or deleterious computer code, files, scripts, agents, or programs; (v) interfere with or disrupt the integrity or performance of the Products or the data contained therein; (vi) attempt to gain unauthorized access to the Products, computer systems or networks used to host or provide access to the Products; or (vii) harass or interfere with another Modernizing Medicine client’s use and enjoyment of the Products or the Professional Services provided by Modernizing Medicine. Modernizing Medicine may immediately remove or delete any material stored in the Products that Modernizing Medicine determines, in its reasonable discretion, violates any of the guidelines set forth in the Transaction Documents; provided that Modernizing Medicine will provide notice thereafter. Client is responsible for (a) all activities that occur under logins assigned to Client’s Authorized Users; (b) adopting and maintaining reasonable and appropriate security precautions to keep logins confidential; (c) changing logins if it believes that they have been stolen, compromised, or might otherwise be misused; and (c) verifying the identities of Authorized Users to whom logins are granted. In addition to any other remedies Modernizing Medicine may have, Modernizing Medicine reserves the right to terminate any or all of the logins provided to Client or any Authorized User immediately if Modernizing Medicine determines that Client or any Authorized User is violating any of the foregoing guidelines; provided that Modernizing Medicine will provide notice thereafter. In the event of such termination, Client, or any Authorized User pursuant to Client’s express written consent, may obtain a copy of the Medical Records stored in the Products in accordance with the procedures specified in Section 17.5 **Return of Medical Records** (Return of Medical Records).

4. Hardware. Client is solely responsible for acquiring, installing, and maintaining the computer hardware, including Internet connections, that is adequate to support Client’s use of the Products. Upon Client’s written request, Modernizing Medicine will provide its recommended hardware, software, and infrastructure to meet the requirements of the Products, provided that such recommendations may be updated from time to time as new functionality is added to the Products and in response to changes in technology. Modernizing Medicine will not provide maintenance for any of Client’s hardware. Client expressly acknowledges and agrees that Modernizing Medicine is not responsible for the safeguard, loss, or recovery of any data stored on Client’s hardware. *Client assumes the entire risk with respect to Client’s use of the Products in connection with Client’s hardware. Modernizing Medicine shall not be liable for any damage caused by the interaction of the Products with any hardware or information technology infrastructure of Client.*

5. Product Updates; Modifications to Services. Client agrees that its purchases are not contingent on the delivery of any future functionality or features, or dependent on any oral or written public

comments made by Modernizing Medicine regarding future functionality or features. During the Term, Modernizing Medicine may, in its sole discretion, modify or update any aspect of the Products, which may include modifications to the Products that increase the speed, efficiency or ease of use of the Products, and may add additional capabilities or functionality to the Products. Client acknowledges and agrees that its assistance may be required to receive certain updates.

6. Affiliated Entities. Client may permit its Affiliated Entity's employees, representatives, consultants, contractors, medical staff or agents to become Authorized Users in accordance with these Terms and Conditions, provided that Client and each such Affiliated Entity: (i) are HIPAA Covered Entities (and/or members of their respective workforce) that participate in the same Affiliated Covered Entity (as defined by HIPAA); (ii) are HIPAA Covered Entities that participate in the same Organized Health Care Arrangement (as defined by HIPAA); or (iii) have entered into a HIPAA-compliant Business Associate Addendum under which Client is a Business Associate of the Affiliated Entity. In addition, the following terms and conditions shall apply: (a) Client shall notify Modernizing Medicine in writing of each Affiliated Entity who is to have Authorized Users in advance, including without limitation specifying the name and principal place of business of the entity, and the basis under the preceding sentence on which Client and the Affiliated Entity are proceeding; (b) Modernizing Medicine may treat Client as a sole point of contact for such Affiliated Entities for all purposes; (c) Without limiting any other rights of Modernizing Medicine, Client further agrees that Modernizing Medicine may use and disclose any information that Modernizing Medicine receives from Client or any Affiliated Entity in connection with the provision of services to each of Client and any Affiliated Entity. Neither Client nor any Affiliated Entity shall direct, request, or permit Modernizing Medicine to disclose any information to the other in any manner that is prohibited by law or the Transaction Documents; (d) For purposes of determining any Fees paid or payable by Client pursuant to the Transaction Documents, the definition of "Client" under the Transaction Documents shall be deemed to include Client and each of the Affiliated Entities. Modernizing Medicine shall have no obligation to provide separate invoices to each Affiliated Entity, and Modernizing Medicine may elect to only provide invoices to Client for all Fees and other amounts owed to Modernizing Medicine by the Affiliated Entities under any of the Transaction Documents for which Client shall be responsible in accordance with these Terms and Conditions; (e) Client shall cause each of the Affiliated Entities to comply with the Transaction Documents, and shall be liable to Modernizing Medicine (and Modernizing Medicine may look solely to Client) for relief based on any acts or omissions of any of the Affiliated Entities; (f) No Affiliated Entity is an intended third party beneficiary of the Transaction Documents and none shall be entitled to assert any claims against Modernizing Medicine. Instead, all claims an Affiliated Entity may have against Modernizing Medicine under the Transaction Documents must be asserted solely by Client on their behalf; and (g) For the avoidance of doubt, if the Transaction Documents contemplate any limit in respect to the usage of any Product, then such limitation shall be deemed to be an aggregate limit applicable to Client and all of the Affiliated Entities.

7. Professional Services.

7.1. Performance of Services. The Parties may contract for certain professional services in a Statement of Work or Order Form ("**Professional Services**"). Unless otherwise set forth in the Order Form or SOW, Professional Services will be completed at Modernizing Medicine's then-current rates set forth at the following link: https://www.modmed.com/mmi-mmgsow_servicesv1/ and for RCM Services, https://www.modmed.com/boost_sow_servicesv1/ (collectively, the "**Professional Services Site**"). For avoidance of doubt, the following services shall be considered Professional Services: conversions, document loads, and data import services, training services, advisory services, the establishment of any Interfaces, or any set-up or implementation services referenced in the Order Form and/or Statement of Work. Nothing in these Terms and Conditions or any Statement of Work will be deemed to restrict or limit Modernizing Medicine's right to perform similar services for any other client. Client acknowledges that Modernizing Medicine may engage subcontractors to perform certain services. The subcontracting by

Modernizing Medicine of any of the services shall not relieve Modernizing Medicine of any of its obligations under these Terms and Conditions, and Modernizing Medicine shall be liable for the performance of its obligations under these Terms and Conditions by such subcontractors. Any breach of these Terms and Conditions by a subcontractor of Modernizing Medicine shall be deemed a breach by Modernizing Medicine. Without limiting other rights of Modernizing Medicine in these Terms and Conditions, if Modernizing Medicine attempts to deliver Professional Services to Client and is unable to do so within six (6) months after the effective date of the applicable Order Form or Statement of Work, and such failure is not primarily due to a failure by Modernizing Medicine to perform its obligations under the Statement of Work (as determined by Modernizing Medicine in its reasonable discretion), then Modernizing Medicine shall have no further obligation to provide such Professional Services and all Fees paid or payable for such services shall be deemed fully earned by Modernizing Medicine.

7.2. Conversions; Document Loads; Data Imports. Modernizing Medicine shall use commercially reasonable efforts to perform any data conversions, bulk document loads or data imports set forth in an Order Form or Statement of Work. In the event Modernizing Medicine determines that it is technically unable to perform the contracted data conversion, bulk document load or data import, then Modernizing Medicine will provide written notice of such determination to Client, and Client's sole and exclusive remedy shall be a refund of the unused portion of the fee paid by Client to Modernizing Medicine for the applicable conversion, document load or data import, as determined by Modernizing Medicine. Client agrees that any fees charged by any third party vendor, excluding a Modernizing Medicine subcontractor, that relate to, or arise out of, any data conversion, bulk document load or data import are the responsibility of Client. Notwithstanding anything to the contrary, Client expressly acknowledges and agrees that Modernizing Medicine shall have no responsibility for any inability to perform its obligations under this Section which is primarily due to a failure of a third party (excluding a Modernizing Medicine subcontractor) or Client, including failure to provide reasonable cooperation.

7.3 Interfaces. To the extent set forth on an Order Form or SOW, Modernizing Medicine will use commercially reasonable efforts to establish an interface between any Product and another Product or a third-party product or service (each, an "**Interface**"). Client acknowledges and agrees that in establishing an Interface, the cooperation and services of third parties may be necessary; and, as such, Modernizing Medicine does not guarantee when, or if, any Interface will be established. Client acknowledges and agrees that the timing of the completion of any Interface will not impact the Client's obligations under the Transaction Documents. In the event that Modernizing Medicine determines that it is technically unable to establish an Interface for Client, then Modernizing Medicine will provide written notice of such determination to Client (the "**Interface Notice**"), and Client's sole and exclusive remedy shall be a refund of the unused portion of the Fee paid by Client to Modernizing Medicine for the establishment of such Interface, as determined by Modernizing Medicine. Notwithstanding anything to the contrary, Client expressly acknowledges and agrees that Modernizing Medicine shall have no responsibility for any inability to perform its obligations under this Section which is primarily due to a failure of a third party (excluding a Modernizing Medicine subcontractor) or Client, including failure to provide reasonable cooperation. Client agrees that any fees charged by any third party vendor (excluding a Modernizing Medicine subcontractor) that relate to, or arise out of, an Interface are the responsibility of Client. Without limitation to any of the foregoing, any modifications requested by Client after the initial establishment of an Interface, including if Client changes the version of the practice management system used by the Client or adopts a new practice management system, must be set forth in a mutually agreed SOW and will be completed at Modernizing Medicine's then-current rates set forth at the applicable Professional Services Site or as otherwise specified in such SOW. Client shall notify Modernizing Medicine in writing in the event that it desires an Interface to be deactivated. For the avoidance of doubt, to the limited extent that any provisions of these Terms and Conditions are contrary to Client's rights, including those related to fees, with respect to certified API technology under the then-current API TOU, then the then-current API TOU shall control.

7.4. Client Responsibilities. In connection with any Professional Services, Client will: (i) provide personnel qualified to perform Client's obligations under the Transaction Documents, as may be reasonably required to permit Modernizing Medicine to perform the Professional Services; (ii) provide Modernizing Medicine with access to Client's sites and facilities during Client's normal business hours and as otherwise reasonably required by Modernizing Medicine; (iii) provide Modernizing Medicine with such working space and office support (including access to WiFi, telephones, printers, photocopying equipment, and the like) as Modernizing Medicine may reasonably request. Client will also make available to Modernizing Medicine any Client Data or other information required by Modernizing Medicine to perform the Professional Services, and will ensure that all such information or materials are accurate and complete.

7.5. Non-Solicitation. Client acknowledges that Modernizing Medicine recruits and trains its employees to perform the Professional Services and provide the Products, that this is a costly and time-consuming endeavor, and that Client relies upon its trained employees to perform the Professional Services and provide the Products. Client also acknowledges that Modernizing Medicine's employees have access to and become familiar with confidential business information of Modernizing Medicine. Accordingly, during the Term and for a period of twelve (12) months thereafter, Client will not recruit or otherwise solicit for employment any Modernizing Medicine employees directly involved in the performance of the Transaction Documents without Modernizing Medicine's express prior written approval, provided that non-directed newspaper or internet help wanted advertisements or postings and search firm engagements shall not be considered recruitment or solicitations prohibited hereunder. Modernizing Medicine and Client agree that the main business purpose of these Terms and Conditions is the provision of the Professional Services and Products, and that the restrictive covenant contained in this section: is ancillary, subordinate and collateral to that main business purpose; is reasonably necessary to supporting and achieving that main business purpose; and protects Modernizing Medicine's legitimate business and property interests.

8. Fees and Payment Terms.

8.1 General. In consideration for the Products and Professional Services provided to Client, Client agrees to pay Modernizing Medicine the fees set forth on the Order Form or Statement of Work or otherwise specified in the Transaction Documents, as applicable (the "**Fees**") in accordance with the terms hereof and the applicable Transaction Document. All amounts set forth in the Transaction Documents are denominated and shall be paid in U.S. dollars. In addition, Client will reimburse Modernizing Medicine for all out-of-pocket costs and all travel, lodging and other related expenses incurred in connection with the performance of the Professional Services (the "**Expenses**"); provided that Modernizing Medicine agrees that, in providing the Professional Services, Modernizing Medicine personnel will, to the extent reasonably possible, (i) stay in commercially reasonable hotel accommodations, (ii) travel by the lowest available economy or coach class airfare and (iii) abide by the applicable per diems rates for meals and incidental expenses as published by the U.S. General Services Administration (GSA), or any replacement thereof. Except as otherwise provided in the Transaction Documents, all amounts paid are non-refundable.

8.2 Taxes. All Fees payable by Client hereunder are exclusive of all local, state, federal and foreign taxes, levies, or duties of any nature ("**Taxes**"), and all payments to Modernizing Medicine are payable in full without reduction for Taxes. Client is responsible for payment of all Taxes, excluding taxes owed by Modernizing Medicine based on Modernizing Medicine's net income. If Modernizing Medicine has the legal obligation to pay or collect Taxes for which Client is responsible pursuant to this Section, the appropriate amount shall be invoiced to and paid by Client, unless Client provides Modernizing Medicine with a valid tax exemption certificate authorized by the appropriate taxing authority.

8.3 Disputed Payments. Client must indicate to Modernizing Medicine that it is disputing any fees or expenses charged by Modernizing Medicine, in writing, to the contact email provided on the applicable invoice, within ten (10) business days after receipt of such invoice specifying such fees or expenses (a

“Dispute Notice”). If Client disputes any fees or expenses charged by Modernizing Medicine, Modernizing Medicine and Client agree to attempt to resolve such dispute through informal meetings and discussions between representatives of said parties as soon as possible, not to exceed thirty (30) days (the **“Payment Dispute Period”**). If the dispute remains outstanding following the Payment Dispute Period, Modernizing Medicine may seek any and all remedies it may have in law or in equity or otherwise under the Transaction Documents, including as set forth under Section 18.10. Any disputed amounts finally determined to be payable to Modernizing Medicine whether through mutual agreement or the dispute resolution provisions of Section 18.10 shall be paid by Client within ten (10) business days after such determination.

8.4 Payment Terms.

8.4.1 Products:

8.4.1.1 Unless otherwise specified in the Order Form, the Implementation Fees are due and payable upon the Contract Date.

8.4.1.2 Recurring monthly fees, if any, will be invoiced on either (i) the Product Delivery Date for the applicable Product and thereafter, on each monthly anniversary of such Product Delivery Date (provided that, to the extent that the applicable month does not have a day that is the same day of the month as the Product Delivery Date, then the last day of such month), or (ii) such other payment commencement date as is specified on the Order Form or Statement of Work and thereafter, on each monthly anniversary of such payment commencement date (provided that, to the extent that the applicable month does not have a day that is the same day of the month as such payment commencement date, then the last day of such month).

8.4.2 Professional Services: The Fees for Professional Services shall be invoiced as set forth in the applicable Order Form or Statement of Work.

8.4.3 RCM Services: The Fees for the RCM Services shall be as set forth in the Order Form for such services. Modernizing Medicine shall invoice Client monthly in arrears for the RCM Services Fees.

8.4.4 Payment Method and Authorization. Client shall pay Modernizing Medicine for all Fees due under the Transaction Documents through the Automated Clearing House (**“ACH”**). Within five (5) business days after the Contract Date, Client shall complete and deliver to Modernizing Medicine the electronic payment authorization form (the **“Electronic Payment Authorization Form”**) provided to Client by Modernizing Medicine or otherwise use such payment portal as directed by Modernizing Medicine. If the account or other information specified in the Electronic Payment Authorization Form or portal changes during the Term, Client shall provide Modernizing Medicine with a revised Electronic Payment Authorization Form or otherwise update the portal in a timely manner so as to avoid incurring an Overdue Payment (as defined below). Client authorizes Modernizing Medicine to automatically charge Client’s account designated in the Electronic Payment Authorization Form at an amount equal to the sum of any Fees and/or Expenses owing to Modernizing Medicine (i) for Products, twenty-one (21) days after the date of such invoice and (ii) for RCM Services, five (5) days after the date of such invoice, in each case unless Client has notified Modernizing Medicine of disputed Fees or Expenses as required by Section 8.3.

8.4.5 Overdue Payments. Any Fees and Expenses owed by Client to Modernizing Medicine hereunder which are overdue for a period of thirty (30) days (an **“Overdue Payment”**) that have not been disputed as required by Section 8.3 may accrue, at Modernizing Medicine’s discretion, from the date such payment was due until the date paid, late charges at the lower of: (i) the rate of one and one-half percent (1.5%) of the outstanding balance per month, or (ii) if less, the maximum rate permitted by law.

8.4.6 Price Change. Following the Initial Term, Modernizing Medicine may change the Fees set forth in the applicable Order Form by providing at least thirty (30) days' prior written notice of such change to Client, with any such change taking effect at the beginning of the next Renewal Term after the expiration of the thirty (30) day notice period.

9. Intellectual Property.

9.1 Client Intellectual Property. Client represents and warrants that the Client Content does not infringe or violate the intellectual property or other proprietary rights of any third party, and acknowledges and agrees that Modernizing Medicine shall have no liability for any claims arising out of Client Content, including those claims based on infringement. Further, Client and its Authorized Users grant to Modernizing Medicine a nonexclusive license to use the Client Content, as well as any trade names and/or trademarks of Client, to the extent necessary for Modernizing Medicine to provide the Products and Professional Services contracted hereunder (which includes the right to display personal and/or corporate name(s), and display other Client Content) and as otherwise permitted under the Transaction Documents.

9.2 Restrictions. Except for the rights to access and use the Products and Professional Services as set out in the Transaction Documents, these Terms and Conditions do not grant Client or its Authorized Users any additional right to the Products and Professional Services or any Modernizing Medicine Intellectual Property used in the delivery thereof, and Modernizing Medicine and its third-party providers reserve all rights, including intellectual property and other proprietary rights, not granted in the Transaction Documents. Client acknowledges and agrees that certain features of the Products may contain certain third-party licensed materials and Modernizing Medicine's licensors may independently protect and enforce their rights in the event of any violation of the Transaction Documents by Client. Except as otherwise expressly permitted herein, Client and its Authorized Users shall not, nor will they assist or encourage anyone else to: (i) sell, license, distribute, publicly perform or display, transmit, edit, adapt, modify, copy, translate or make derivative works based on the Modernizing Medicine Intellectual Property; (ii) disassemble, reverse engineer, or decompile any of the Modernizing Medicine Intellectual Property; or (iii) create Internet "links" to or from the Products, or "frame" or "mirror" any of Modernizing Medicine's content which forms part of the Products (other than on Clients' own internal intranets). Additionally, Client and its Authorized Users are not entitled to and will not: (i) sell, grant a security interest in, or make or transfer reproductions of the Products to other parties in any way, or lease or license the Products to others without the prior written consent of Modernizing Medicine; (ii) emulate or redirect the communication protocols used by the Products; (iii) use or access the Products or any other products or services contemplated by the Transaction Documents in order to build a competitive product or service, (iv) copy any features, functions or graphics of the Products or any other products or services contemplated by the Transaction Documents or (v) exploit the Products or any of their parts for any commercial purpose, in each case without Modernizing Medicine's express written consent.

9.3 Patient Marketing Materials. Modernizing Medicine may provide Client with Patient Marketing Materials for certain Products in Modernizing Medicine's sole discretion. If Modernizing Medicine provides Client with any Patient Marketing Materials, then, subject to Client's compliance with the Transaction Documents, Modernizing Medicine hereby grants to Client a non-exclusive, nontransferable, revocable, conditional, and limited license to use, copy, display, and distribute the Patient Marketing Materials to Patients in the Territory only during the Term for the Products and Professional Services to which such Patient Marketing Materials relate. Modernizing Medicine may revoke these rights at any time in its sole discretion. Client will comply with any additional terms provided with the Patient Marketing Materials. Client shall not alter, change or remove any proprietary notices or confidentiality legends placed on or contained within the Patient Marketing Materials.

9.4 General Third Party Products. The Products may contain third party materials, products, or services (“**Third Party Products**”), including the third-party coding and analytics products set forth at the following link: http://www.modmed.com/general-third-party-product-page_1_22/, the terms of which are required terms from such third party vendors. Modernizing Medicine reserves the right to supplement, replace or discontinue (including limit) any Third Party Products at any time, and upon notice to modify the terms and conditions applicable to any such Third Party Products.

10. Authorized User Content. Authorized Users may have access to “user forums” or other similar outlets made available by Modernizing Medicine to its clients where such Authorized Users may post, share or link media, text, audio and video recordings, photos, graphics, commentary or other content with other Modernizing Medicine customers (collectively, “Authorized User Content”). Modernizing Medicine makes no representations that any Authorized User Content will remain available in any way and may remove Authorized User Content in its reasonable discretion. Client acknowledges and agrees that Modernizing Medicine does not endorse or control, and is under no obligation to monitor, any Authorized User Content or other third-party content or any opinion, recommendation, or advice expressed therein (collectively, the “Non-Modernizing Medicine Content”). Under no circumstances will Modernizing Medicine be liable in any way for, or in connection with, the Non-Modernizing Medicine Content, including, but not limited to, for any inaccuracies, errors or omissions contained therein, any intellectual property right infringement with regard to any Non-Modernizing Medicine Content, or for any loss or damage of any kind incurred as a result of the use of any Non-Modernizing Medicine Content.

11. Business Associate Addendum. The Parties agree that Client is a Covered Entity and Modernizing Medicine is a Business Associate under HIPAA and each Party shall comply with the Party’s respective obligations under HIPAA, including as set forth in the Business Associate Addendum attached hereto as Exhibit B and incorporated herein (the “**Business Associate Addendum**” or “**BAA**”).

12. Confidentiality.

12.1 Confidential Information Terms. Each Party agrees to hold the other Party’s Confidential Information in strict confidence, not to use the other Party’s Confidential Information except as expressly permitted in the Transaction Documents or required in order for it to perform under the Transaction Documents, and not to disclose the other Party’s Confidential Information to any third party; provided that the receiving Party may disclose Confidential Information (i) to its Affiliates and its or their employees, agents, and contractors, who (a) reasonably require access to or use of the disclosing Party’s Confidential Information in order to perform under the Transaction Documents, and (b) are subject to written obligations of confidentiality at least as stringent as those set forth herein, and (ii) upon the order of any competent court or government agency; provided that prior to disclosure, to the extent legally permissible, the receiving Party shall inform the disclosing Party of such order and shall reasonably cooperate with the efforts of the disclosing Party, at the disclosing Party’s expense, to obtain a protective order or other action to protect the confidentiality of the Confidential Information. In the event of a breach of this provision, damages may not be an adequate remedy and each Party shall be entitled to seek injunctive relief to restrain any such breach, threatened or actual, without the necessity of posting a bond or other security.

For avoidance of doubt, the Parties agree that the terms and conditions, but not the existence, of the Transaction Documents shall be treated as each Party’s Confidential Information and that no reference to the terms and conditions of the Transaction Documents or to activities pertaining thereto can be made in any manner without the prior written consent of the other Party except as set forth in these Terms and Conditions, and further (i) in confidence, to each Party’s respective legal counsel, accountants, banks, and financing sources and their advisors; (ii) in confidence, in connection with the enforcement of the Transaction Documents; or (iii) in confidence, in connection with a merger or acquisition or proposed merger or acquisition, or the like.

12.2 Client Data. Client represents and warrants that it has procured all required consents, authorizations or permissions from each of Client’s Patients, Authorized Users, and other individuals to whom the Client Data relates that are necessary under applicable Privacy Laws. Client acknowledges and agrees that Modernizing Medicine may acquire, use or disclose Client Data as required to perform Modernizing Medicine’s obligations under the Transaction Documents or permitted under Privacy Laws. Client acknowledges and agrees that Modernizing Medicine may use Client Data in creating data that is not individually identifiable (“**De-identified Data**”) in accordance with the applicable Privacy Laws, including HIPAA de-identification requirements. Modernizing Medicine may use and provide to third parties such De-identified Data (i) in connection with providing the Products pursuant to the Transaction Documents as well as same or similar products or services to other customers, (ii) for its or their internal business purposes to benchmark, analyze, develop and improve its or their product and services, and (iii) for any other purposes not prohibited by law, including commercialization of such De-identified Data. Modernizing Medicine owns all right, title and interest in such De-identified Data and any data, information or material created with such De-identified Data. Modernizing Medicine may grant licenses to third parties to do any of the foregoing with respect to De-identified Data (with rights to sublicense), but subject to the same restrictions as apply to Modernizing Medicine hereunder.

12.3 Feedback. If Client or any Authorized Users provide any feedback or make any suggestions as to modifications to the Products (collectively, “**Feedback**”), then Modernizing Medicine shall own all right, title and interest in that Feedback. Client hereby irrevocably assigns and agrees to assign all of its right, title and interest (including intellectual property rights) in and to the Feedback to Modernizing Medicine. To the extent Client is unable to assign any of its rights in the Feedback to Modernizing Medicine, Client hereby grants to Modernizing Medicine a perpetual, irrevocable, worldwide, fully paid up license to sell, offer to sell, make, have made, import, use, disclose, copy, distribute, publicly perform, publicly display, modify, create derivative works of and otherwise fully exploit the Feedback for any purpose. The Feedback shall be treated as Modernizing Medicine’s Confidential Information and Modernizing Medicine shall have the unrestricted right to disclose the Feedback for any purpose.

13. Communications.

13.1 Protected Communication. Notwithstanding anything to the contrary herein, Client may make a Protected Communication (defined below) for any of the following purposes: (a) making a disclosure required by law; (b) communicating information about adverse events, hazards, and other unsafe conditions to government agencies, health care accreditation organizations, and patient safety organizations; (c) communicating information about cybersecurity threats and incidents to government agencies; (d) communicating information about information blocking and other unlawful practices to government agencies; or (e) communicating information about Modernizing Medicine’s failure to comply with a Condition of Certification requirement or other requirement of 45 C.F.R. Part 170 to ONC or an ONC-Authorized Certification Body. For purposes of this Section “**Protected Communication**” means any communication about (i) the usability of the Hosted Software or other Modernizing Medicine health information technology (“health IT”) (as defined at 45 C.F.R. § 170.102), (ii) the interoperability of the Hosted Software or other Modernizing Medicine health IT, (iii) the security of the Hosted Software or other Modernizing Medicine health IT, (iv) relevant information regarding users’ experience with the Hosted Software or other Modernizing Medicine health IT, (v) Modernizing Medicine’s business practices related to exchanging electronic health information (as defined at 45 C.F.R. § 171.102), or (vi) the manner in which a user of the Hosted Software or other Modernizing Medicine health IT has used the technology.

13.2 Non-User Facing Aspects. Notwithstanding Section 13.1, Client shall not disclose Confidential Information about non-user facing aspects of the Hosted Software or other Modernizing Medicine health IT.

13.3 Fair Use. Notwithstanding Section 13.1, Client shall not disclose Modernizing Medicine’s or a third party’s intellectual property such as technology, data or content existing in the Hosted Software or other Modernizing Medicine health IT, except that Client may publicly display a portion of the Hosted Software or other Modernizing Medicine health IT that is subject to copyright protection where such display would reasonably constitute “fair use” of the Hosted Software or other Modernizing Medicine health IT as provided by 45 C.F.R. § 170.403(a)(2)(ii)(C) and the display concerns one or more of the six subject areas in Section 13.1(i)-(vi).

13.4 Screenshots and Videos. If Client discloses a screenshot or video of the Hosted Software or other Modernizing Medicine health IT which contains Confidential Information as permitted under this Section 13, Client shall (i) not alter the screenshots or video, except to annotate the screenshots or video or resize the screenshots or video; (ii) limit the sharing of screenshots to the relevant number of screenshots needed to communicate about the Hosted Software or other Modernizing Medicine health IT regarding one or more of the six subject areas in Section 13.1 (i)-(vi); and (iii) limit the sharing of video to (1) the relevant amount of video needed to communicate about the Hosted Software or other Modernizing Medicine health IT regarding one or more of the six subject areas in Section 13.1 (i)-(vi) and (2) only videos that address temporal matters that cannot be communicated through screenshots or other forms of communication.

13.5. Condition of Certification. For the avoidance of doubt, nothing in these Terms and Conditions shall 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). Further, Client shall not impose any prohibition or restriction on any third party that prohibits or restricts any communication in a manner that violates that Condition of Certification.

14. Communications With Patients, Third Parties, And Modernizing Medicine.

14.1 Communications With Patients And Third Parties. Clients may now or in the future have access to outbound communications tools made available by Modernizing Medicine that permit Clients to draft, schedule, and/or transmit outbound communications to Patients and other third parties, including phone calls, recorded phone messages, text messages, facsimile messages, and electronic mail (collectively, “**Communications Tools**”). Client shall not use the Communications Tools or any Products or other services provided by Modernizing Medicine to send any unsolicited communications, spam, or any form of duplicative communications; or in a manner that violates (i) any law, rule, or regulation, including the Telephone Consumer Protection Act and the CAN-SPAM Act, or (ii) any law, rule, or regulation requiring that consent be obtained prior to transmitting, recording, collecting, or monitoring data or communications, or (iii) any law, rule, or regulation requiring compliance with opt-out requests or “do-not-contact” lists for any data or communications. Client expressly acknowledges and agrees that applicable law may restrict Client’s use of the Communications Tools, for instance by requiring Client to obtain legally sufficient consent from the Patient or other recipient prior to transmitting outbound communications, or by requiring Client to honor “opt-outs” from further communications. Client shall be solely responsible for ensuring that Client’s use of the Communications Tools complies with applicable law, including without limitation obtaining and retaining records of any required consent to communications and honoring “opt-out” requests.

14.2 Communications With Modernizing Medicine. Modernizing Medicine may now or in the future contact Client for various purposes in connection with the Products. By entering into the Transaction Documents, Client grants its prior express consent to receive all communications, including automated phone calls and text messages, prerecorded phone messages, facsimile messages, and electronic mail, from or on behalf of Modernizing Medicine, its Affiliates, and its or their employees, agents, and contractors (including third-party service providers), for any purpose. This consent shall be irrevocable and shall continue in force so long as Client continues to be subject to these Terms and Conditions or continues to

use Modernizing Medicine's Products, unless applicable law requires such consent to be revocable. Nothing in this Section shall be construed as an acknowledgment that Modernizing Medicine is required under applicable law to obtain consent to send any such communications.

15. Warranties and Disclaimers.

15.1. Product Warranty. Modernizing Medicine warrants that the Products will materially conform with the specifications set forth in the then-current Written Documentation for the respective Product provided by Modernizing Medicine for a period of ninety (90) calendar days after its delivery (the "**Warranty Period**"). If, during the Warranty Period, a Product fails to perform in conformance with the foregoing warranty, Modernizing Medicine will, as Client's sole and exclusive remedy and Modernizing Medicine's sole and exclusive obligation and liability for breach of the warranty set forth in this Section, either (in its sole discretion) (i) correct the reported failure, (ii) replace the applicable Product, in each case of (i) and (ii), within a time frame commensurate with the severity of the failure as set forth in the service level agreement, or (iii) if neither of the foregoing is reasonably practicable in Modernizing Medicine's determination, terminate the Order Form as it relates to the applicable Product and refund any prepaid fees for the applicable Product relating to the period after the termination date. The foregoing warranty is conditioned on (1) Client promptly notifying Modernizing Medicine in writing of any warranty failure discovered during the Warranty Period and furnishing to Modernizing Medicine adequate supporting documentation and details to substantiate and to assist Modernizing Medicine in the identification and detection of such failure and (2) Modernizing Medicine being able to reproduce the failure. Notwithstanding the foregoing, Modernizing Medicine has no responsibility or obligation to Client arising from any defects where such defects result from (a) modification of any Product other than by Modernizing Medicine or its contractors or agents; (b) the combination, use, or operation of any Product with products not specifically authorized by Modernizing Medicine to be combined with such Product; or (c) use of any Product other than in accordance with the Transaction Documents (including without limitation such Product's Written Documentation and service guidelines). For avoidance of doubt, this warranty shall not apply to RCM Services.

15.2 Professional Services Warranty. Modernizing Medicine warrants that the Professional Services will be performed in a professional and workmanlike manner. Client will notify Modernizing Medicine in writing promptly of any suspected breach of this warranty, but not later than thirty (30) days after the Professional Services in question have been completed. If this warranty has been breached, Modernizing Medicine shall re-perform the deficient Professional Services at no additional charge to Client. If after three (3) attempts or ninety (90) days, Modernizing Medicine is unable to rectify the deficiency, then as Client's sole and exclusive remedy, and Modernizing Medicine's sole and exclusive obligation and liability, for breach of the warranty set forth in this Section, Client may terminate the Professional Services in question and shall be refunded the portion of the fees representing the Professional Services terminated.

15.3 Disclaimers.

15.3.1 EXCEPT AS EXPRESSLY PROVIDED IN THE TRANSACTION DOCUMENTS, ALL PRODUCTS AND PROFESSIONAL SERVICES, INCLUDING ANY NON-MODERNIZING MEDICINE CONTENT OR THIRD-PARTY CONTENT, ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. MODERNIZING MEDICINE EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, COURSE OF DEALING OR COURSE OF PERFORMANCE. EXCEPT AS EXPRESSLY PROVIDED IN THE TRANSACTION DOCUMENTS, MODERNIZING MEDICINE DOES NOT GUARANTEE CONTINUOUS, ERROR-FREE, OR VIRUS-FREE

OPERATION OF OR ACCESS TO THE PRODUCTS OR ITS WEBSITES, AND THE CONTENTS THEREOF.

15.3.2 CLIENT ACKNOWLEDGES THAT THE AGING AND AMOUNTS OF COLLECTIONS ARE SUBJECT TO NUMEROUS VARIABLES BEYOND MODERNIZING MEDICINE'S CONTROL. NOTHING WILL BE CONSTRUED AS A GUARANTEE OR WARRANTY BY MODERNIZING MEDICINE THAT ANY OR ALL FEES BILLED BY CLIENT OR ON CLIENT'S BEHALF (INCLUDING CO-PAYMENTS, DEDUCTIBLES AND COINSURANCE) WILL BE COLLECTED OR COLLECTIBLE, IN WHOLE OR IN PART. CLIENT ACKNOWLEDGES AND AGREES THAT MODERNIZING MEDICINE IS NOT RESPONSIBLE FOR PAYMENT OR COLLECTION OF ANY CLAIMS SUBMITTED BY CLIENT OR ON CLIENT'S BEHALF UNDER ANY CIRCUMSTANCES.

15.3.3 MODERNIZING MEDICINE DOES NOT WARRANT OR MAKE ANY REPRESENTATION REGARDING THE ACCURACY OF CODES, IMAGES, INFORMATION OR OTHER DATA PROVIDED BY ANY PRODUCTS OR SERVICES. ANY CLINICAL INFORMATION PROVIDED BY ANY PRODUCTS OR SERVICES IS INTENDED AS A SUPPLEMENT TO, AND NOT A SUBSTITUTE FOR, THE KNOWLEDGE, SKILL AND JUDGMENT OF AUTHORIZED USERS OR OTHER HEALTHCARE PROFESSIONALS IN PATIENT CARE. THE ABSENCE OF A WARNING FOR A GIVEN DRUG OR DRUG COMBINATION OR OTHER TREATMENT SHOULD NOT BE CONSTRUED TO INDICATE THAT THE DRUG OR DRUG COMBINATION OR OTHER TREATMENT IS SAFE, APPROPRIATE OR EFFECTIVE IN ANY GIVEN PATIENT. MODERNIZING MEDICINE IS NOT A HEALTH PLAN, HEALTH CARE PROVIDER OR PRESCRIBER.

16. Limitation of Liability; Indemnification.

16.1 Limitation of Liability. EXCEPT WITH REGARD TO MODERNIZING MEDICINE'S INDEMNIFICATION OBLIGATIONS UNDER SECTION 16.5.1, MODERNIZING MEDICINE'S AND ITS THEN-CURRENT AND FORMER SUBSIDIARIES', AFFILIATES', DIRECTORS', OFFICERS', EMPLOYEES', AND AGENTS' AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO ANY OF THE TRANSACTION DOCUMENTS, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR UNDER ANY OTHER THEORY OF LIABILITY, SHALL NOT EXCEED THE FEES ACTUALLY PAID BY THE CLIENT TO MODERNIZING MEDICINE UNDER THE IMPACTED ORDER FORM(S) OR SOW(S) DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE THE MOST RECENT CAUSE OF ACTION AROSE.

EXCEPT WITH REGARD TO (I) CLIENT'S INDEMNIFICATION OBLIGATIONS HEREUNDER, (II) CLIENT'S INFRINGEMENT OR MISAPPROPRIATION OF ANY OF MODERNIZING MEDICINE'S INTELLECTUAL PROPERTY RIGHTS OR (III) CLIENT'S OBLIGATION TO PAY THE FEES DUE HEREUNDER, IN NO EVENT SHALL CLIENT'S AND ITS PRESENT AND FORMER SUBSIDIARIES', AFFILIATES', DIRECTORS', OFFICERS', EMPLOYEES', AND AGENTS' AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO ANY OF THE TRANSACTION DOCUMENTS, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED THE FEES ACTUALLY PAID BY THE CLIENT TO MODERNIZING MEDICINE UNDER THE IMPACTED ORDER FORM(S) OR SOW(S) DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE THE MOST RECENT CAUSE OF ACTION AROSE.

16.2. Exclusion of Consequential and Related Damages. IN NO EVENT SHALL MODERNIZING MEDICINE OR ITS THEN-CURRENT AND FORMER SUBSIDIARIES', AFFILIATES', DIRECTORS', OFFICERS', EMPLOYEES' OR AGENTS' HAVE ANY LIABILITY TO CLIENT, ITS

AUTHORIZED USERS OR ANY THIRD PARTY FOR ANY LOST PROFITS, LOSS OF DATA, LOSS OF USE, COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, PAYER RECOUPMENTS OF REIMBURSEMENTS, REFUNDS TO PAYERS, OR OTHER LOST REIMBURSEMENTS OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES HOWEVER CAUSED AND, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR UNDER ANY OTHER THEORY OF LIABILITY WHETHER OR NOT MODERNIZING MEDICINE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

EXCEPT WITH REGARD TO (I) CLIENT'S INFRINGEMENT OR MISAPPROPRIATION OF ANY OF MODERNIZING MEDICINE'S INTELLECTUAL PROPERTY RIGHTS, OR (II) CLIENT'S OBLIGATION TO PAY THE FEES DUE HEREUNDER, IN NO EVENT SHALL CLIENT OR ITS THEN-CURRENT AND FORMER SUBSIDIARIES', AFFILIATES', DIRECTORS', OFFICERS', EMPLOYEES' OR AGENTS' HAVE ANY LIABILITY TO THE OTHER PARTY, CLIENT'S AUTHORIZED USERS OR ANY THIRD PARTY FOR ANY LOST PROFITS, LOSS OF DATA, LOSS OF USE, COSTS OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, PAYER RECOUPMENTS OF REIMBURSEMENTS, REFUNDS TO PAYERS, OR OTHER LOST REIMBURSEMENTS (REGARDLESS OF HOW ANY OF THE FOREGOING MAY BE CHARACTERIZED, E.G. AS DIRECT DAMAGES, CONSEQUENTIAL DAMAGES, OR OTHERWISE) OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES HOWEVER CAUSED AND, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR UNDER ANY OTHER THEORY OF LIABILITY WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

16.3 Limitation of Action. No action (regardless of form) arising out of the Transaction Documents may be commenced by Client against Modernizing Medicine more than two (2) years after the cause of action arose.

16.4. Basis of the Bargain. CLIENT ACKNOWLEDGES AND AGREES THAT MODERNIZING MEDICINE HAS ENTERED INTO THE APPLICABLE TRANSACTION DOCUMENTS IN RELIANCE UPON THE WARRANTY DISCLAIMERS AND THE LIMITATIONS OF LIABILITY SET FORTH HEREIN, WHICH REFLECT A REASONABLE AND FAIR ALLOCATION OF RISK AND FORM AN ESSENTIAL BASIS OF THE BARGAIN BETWEEN CLIENT AND MODERNIZING MEDICINE. CLIENT ACKNOWLEDGES AND AGREES THAT MODERNIZING MEDICINE WOULD NOT BE ABLE TO PROVIDE ANY APPLICABLE PRODUCTS OR SERVICES ON AN ECONOMICALLY REASONABLE BASIS WITHOUT THESE LIMITATIONS.

16.5 Indemnification.

16.5.1 Modernizing Medicine shall defend Client from any third party claim brought against Client asserting that the Products infringe or misappropriate any intellectual property right of such third party enforceable in the Territory (an, "**Infringement Claim**"), and shall, subject to the conditions and limitations set forth in these Terms and Conditions, pay the damages finally awarded against Client by a court of competent jurisdiction or agreed to in settlement by Modernizing Medicine and attributable to such claim.

Modernizing Medicine's obligations under this provision are subject to Client: (i) notifying Modernizing Medicine of the Infringement Claim in writing as soon as Client learns of it; (ii) providing Modernizing Medicine all reasonable assistance and information to enable Modernizing Medicine to perform its duties under this Section; (iii) allowing Modernizing Medicine sole control of the defense and all related settlement negotiations; and (iv) not having compromised or settled such Infringement Claim.

If any Product is found by a court of competent jurisdiction to infringe as a result of an Infringement Claim, or if Modernizing Medicine determines in its sole opinion that any Product is likely to be found to infringe as a result of an Infringement Claim, then Modernizing Medicine shall, at its sole expense, either (i) obtain for Client the right to continue to use such Product; or (ii) modify such Product so as to make such Product non-infringing while providing substantially the same functionality, or replace it with a non-infringing equivalent substantially comparable in functionality, in which case Client shall stop using any infringing version of such Product; or if Modernizing Medicine determines in its sole opinion that (i) and/or (ii) are not commercially reasonable, (iii) terminate Client's rights and Modernizing Medicine's obligations under the Transaction Documents, and refund to Client any prepaid Fees with respect to such Product for the period after the date of such termination.

Notwithstanding the above, Modernizing Medicine will have no liability for any Infringement Claim to the extent that it is based upon: (i) modification of any Product other than by Modernizing Medicine; (ii) the combination, use, or operation of any Product with products not specifically authorized in writing by Modernizing Medicine to be combined with such Product; (iii) use of any Product other than in accordance with the Transaction Documents (including without limitation the applicable Written Documentation); or (iv) Client's continued use of any infringing Product after Modernizing Medicine, for no additional charge, supplies a modified or replacement non-infringing Product.

THIS SECTION 16.5.1 STATES CLIENT'S SOLE AND EXCLUSIVE REMEDY, AND MODERNIZING MEDICINE'S SOLE AND EXCLUSIVE OBLIGATIONS AND LIABILITY, REGARDING INFRINGEMENT OR MISAPPROPRIATION OF ANY INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY.

16.5.2 Modernizing Medicine shall defend Client from any third party claim brought against Client resulting from or arising out of the unauthorized use or disclosure of PHI in breach of the Business Associate Addendum by Modernizing Medicine (each, a "**BAA Claim**"), and shall, subject to the conditions and limitations set forth in these Terms and Conditions, pay the damages finally awarded against Client by a court of competent jurisdiction, agreed to in settlement by Modernizing Medicine, or imposed by a regulatory agency, and attributable to such BAA Claim. Modernizing Medicine's obligations under this provision are subject to Client: (i) notifying Modernizing Medicine of the BAA Claim in writing as soon as Client learns of it; (ii) providing Modernizing Medicine all reasonable assistance and information to enable Modernizing Medicine to perform its duties under this Section; (iii) allowing Modernizing Medicine sole control of the defense and all related settlement negotiations; and (iv) not having compromised or settled such BAA Claim. For avoidance of doubt, Modernizing Medicine's obligations hereunder are subject to the limitations of liability and exclusion of damages set forth in Section 16.

16.5.3 Client shall indemnify and hold harmless Modernizing Medicine and Modernizing Medicine's Affiliates and each of their respective officers, directors, employees and agents, from and against any and all damages, liabilities, penalties, interest, fines, losses, costs and expenses (including reasonable attorneys' fees and expenses), arising, directly or indirectly, out of or relating to any claim or allegation based on (i) the misuse or non-authorized use of the Products by Patients, Client, any Affiliated Entity and/or the Authorized Users, including, any non-authorized use of Client's user logins, (ii) the accuracy, legality, or appropriateness of Client Data or any other content introduced to the Products by any Authorized User, including violation of any intellectual property right and the use or transmission of Client Data extractions provided to, or on behalf of, Client or any Affiliated Entity, (iii) violation of any law, rule or regulation by Client, any Affiliated Entity or any of their Authorized Users, or (iv) the diagnosis and/or treatment of any of Client's or any Affiliated Entity's Patients.

16.6. Waiver for Onsite Services. Should the Parties mutually agree to any onsite presence at Client's or any Affiliated Entity's premises as a requirement for Modernizing Medicine to provide support, training,

or other services, Client acknowledges and agrees that there is a risk of exposure to Client employees, contractors, or agents to COVID-19 as well as other illnesses. As such, Client waives any claim or cause of action, and releases from liability, Modernizing Medicine and Modernizing Medicine's Affiliates and each of their respective officers, directors, employees, contractors, and agents for exposure, infection and subsequent treatment from COVID-19 or any other illness.

17. Term and Termination.

17.1 Order Form. The initial term of an Order Form (the “**Initial Term**”) shall commence on the Contract Date and expire on the Contract End Date specified therein, unless terminated earlier as set forth herein. The Order Form shall automatically renew for additional terms of one (1) year, ending on the next annual anniversary of the Contract End Date (each such additional term, a “**Renewal Term**” and, collectively, with the Initial Term, the “**Term**”), unless either Party provides at least thirty (30) days’ written notice to the other Party of its intent not to renew the applicable Order Form or SOW.

17.2 Statement of Work Term. The term of any Statement of Work shall be as set forth therein.

17.3 Termination. Client may terminate a particular Transaction Document: (i) in the event of a material breach of such Transaction Document by Modernizing Medicine, provided that Client provides written notice of such material breach to Modernizing Medicine and such breach remains uncured thirty (30) days after Modernizing Medicine’s receipt of such notice; (ii) in accordance with the terms of the Business Associate Addendum, or (iii) immediately if Modernizing Medicine (a) becomes or is declared insolvent or bankrupt, (b) is the subject of any proceedings relating to its liquidation or insolvency, (c) is subject to the appointment of a receiver or similar officer, (d) makes an assignment for the benefit of all or substantially all of its creditors, or (e) enters into an agreement for the dissolution or readjustment of all or substantially all of its obligations.

Modernizing Medicine may terminate a particular Transaction Document: (i) if Client or any of its Authorized Users materially breaches any of its or their obligations under any Transaction Document or any other agreement between Modernizing Medicine and Client, and such breach remains uncured thirty (30) days after Client’s receipt of notice thereof; (ii) in accordance with the terms of the Business Associate Addendum, (iii) immediately if Client (a) becomes or is declared insolvent or bankrupt, (b) is the subject of any proceedings relating to its liquidation or insolvency, (c) is subject to the appointment of a receiver or similar officer, (d) makes an assignment for the benefit of all or substantially all of its creditors, or (e) enters into an agreement for the dissolution or readjustment of all or substantially all of its obligations or (iv) at any time following the Initial Term upon thirty (30) days’ prior written notice to Client.

17.4 End of Life and End of Support. Notwithstanding anything in the Transaction Documents to the contrary, Modernizing Medicine may declare any Product to be obsolete, and discontinue (i) the sale and/or offering of any Product or any portion thereof, without offering replacement Products, or (ii) support and maintenance for any Product or version thereof. In the event of such termination by Modernizing Medicine pursuant to the immediately prior sentence, then Client will be entitled to a prorated refund of any prepaid Fees. If, during the Term, Modernizing Medicine desires to discontinue the sale or support for any Products, then Modernizing Medicine will deliver to Client notice to such effect as far in advance of the implementation of the discontinuation as commercially practicable; provided that such notice may be public communication of the discontinuance in an End of Life or End of Support announcement.

17.5 Return of Medical Records. Modernizing Medicine may store demographic files in the PM Product and various forms of information for the Client in the Hosted Software that meet the definition of a medical record in various states (the “**Medical Records**”). To ensure the proper transfer of the Medical Records, the following policies shall apply:

(i) Until thirty (30) days after the effective date of termination or expiration of the contracted Product(s), Client may obtain a copy of the Medical Records stored in the Hosted Software by providing Modernizing Medicine with a written request for such records;

(ii) If the Client is a multi-physician group and one of the physicians in such group has terminated its relationship with such group, and the Client requests in writing that the Medical Records stored in the Hosted Software be transferred to such physician and provides a written list of Patients of such physician to Modernizing Medicine (the “**Applicable Patients**”), then Modernizing Medicine will provide a copy of the records of the Applicable Patients (the “**Applicable Patient Records**”) to Client or the departing physician as directed in writing by Client. Client shall determine whether the departing physician is entitled to a copy of the Applicable Patient Records. Subject to the terms and conditions of this Section, Modernizing Medicine shall not be required to transfer any Applicable Patient Records to a departing physician until the Client directs Modernizing Medicine to transfer such Applicable Patient Records and Modernizing Medicine determines that the transfer complies with applicable law;

(iii) If the Client (including an authorized representative of the Client) is unavailable for any reason to give Modernizing Medicine written direction as to how to process a Medical Records transfer request, after a reasonable attempt to contact the Client, Modernizing Medicine shall be permitted to transfer the Medical Records to any third party requesting the Medical Records in writing if such third party provides written evidence that it has the legal right to request and obtain such Medical Records under applicable law; and

(iv) In the event of a merger or sale of the Client, Modernizing Medicine will transfer a copy of Client’s Medical Records stored in the Hosted Software to Client’s successor or acquirer if requested in writing by Client.

In no event shall Modernizing Medicine be liable for transfers of Medical Records or Applicable Patient Records to Persons that Modernizing Medicine determines in good faith to be entitled to receive the Medical Records or Applicable Patient Records, or for failure to transfer Medical Records or Applicable Patient Records to Persons that Modernizing Medicine determines in good faith not to be entitled to receive the Medical Records or Applicable Patient Records, regardless of the accuracy of such determinations. Subject to the requirements of this Section, Modernizing Medicine shall transfer the applicable records in such format as is agreed to by Modernizing Medicine and Client in the applicable Statement of Work. The transferee of any records under this Section shall be responsible for the cost of any disk drives or other media used by Modernizing Medicine for the transfer of such records as well as shipping and handling for the transfer of such disk drives or other media to such transferee. Modernizing Medicine shall have the right to require any such third-party recipient to agree in writing to indemnify Modernizing Medicine as a condition to any transfer of records. Notwithstanding anything to the contrary, after the thirty (30) day period commencing on the effective date of termination or expiration, Modernizing Medicine shall have no obligation to maintain any copies of or provide any copies of the Medical Records (including any Applicable Patient Records), except as otherwise required by applicable law.

17.6. Effect of Termination. Upon termination or expiration, Modernizing Medicine shall cease provision of the Products and any Professional Services, any license granted hereunder shall terminate, and Client shall not use or access, directly or indirectly, the Products or any other Modernizing Medicine Intellectual Property. If either Party has any copies of any Confidential Information of other Party, the receiving Party shall either destroy or return such Confidential Information, including all such copies. Termination of a Transaction Document for any reason shall not affect either Party’s right to recover damages for events occurring before termination, and shall not relieve Client of the obligation to pay any fees or expenses accrued or payable to Modernizing Medicine prior to the effective date of termination.

17.7 Survival. The provisions of those sections which by their nature were intended to survive the Transaction Documents' termination or expiration date, shall so survive and continue beyond any termination or expiration thereof, including Sections 6, 7.5, 8, 12, 13, 15, 16.1-16.5, 17.5, 17.6, 18, and Exhibit B (as set forth therein).

18. General Provisions.

18.1 Relationship of the Parties. None of the Transaction Documents create a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the Parties and the status of the Parties shall be independent parties to a contractual arrangement. Neither Party shall have the authority to bind the other Party by contract or otherwise.

18.2 Customer Reference. Modernizing Medicine may refer to Client as a user of the Products, and use the Client Marks and basic facts about the purchased Products and services, solely for the purposes of referencing Client as a client of Modernizing Medicine on Modernizing Medicine's website and in its sales presentations, marketing collateral, press releases, case studies and other similar marketing materials. Without limiting Section 13 (Communications), Client is entitled to use Modernizing Medicine's name and logo solely to identify Modernizing Medicine as a provider of the Products and services to Client. Each Party shall retain all right, title, and interest in and to its own tradename, logo, trademarks, and other marks. To the extent that either Party has written guidelines on the use of its tradename, logo, trademarks and other marks by third parties, the other Party shall follow such guidelines when provided to it in writing. Other than as expressly stated herein or elsewhere in the Transaction Documents, neither Party shall use the other Party's tradename, logo, trademarks, or other marks without the prior written permission of the other Party.

18.3 No Benefit to Others. The representations, warranties, covenants and agreements contained in the Transaction Documents are for the sole benefit of the Parties and their respective successors and permitted assigns, and except as expressly set forth herein, they are not to be construed as conferring any rights on any other Persons, including, but not limited to, third party beneficiary rights for Client's Patients.

18.4 Notices. Any notice required hereunder or given in connection therewith, shall be in writing and shall be deemed given (i) if to any of the Modernizing Medicine companies: Modernizing Medicine, Inc., 4850 T-Rex Avenue, Suite 200, Boca Raton, Florida 33431, Attention: Chief Financial Officer with a copy to the attention of the General Counsel, by personal delivery or by certified mail, postage prepaid, or recognized overnight delivery services with proof of delivery and (ii) if to Client: Client's address (or email address) set forth in the Transaction Document or such other address (or email address) as may be provided in writing from time to time by email or by personal delivery or by certified mail, postage prepaid, or recognized overnight delivery services with proof of delivery.

18.5. Waiver and Cumulative Remedies. Either Party shall have the right to waive (or elect not to exercise) a right, including if such Party determines that the waiver (or election) is necessary to comply with applicable law. No waiver of any breach of any provision of the Transaction Documents by either Party or the failure of either Party to insist on the exact performance of any provision will constitute a waiver of any prior, concurrent or subsequent breach of performance of the same or any other provisions hereof, and no waiver will be effective unless made in writing. Other than as expressly stated herein, the remedies provided in the Transaction Documents are in addition to, and not exclusive of, any other remedies of a Party at law or in equity.

18.6 Force Majeure. Modernizing Medicine shall not be liable for failure or delay in performing its obligations hereunder if such failure or delay is due to circumstances beyond its reasonable control, including acts of any governmental body (e.g., military, civil, or regulatory authority), public safety incident, war, cyber war or attack, terrorism, insurrection, sabotage, embargo, natural or human-made

disaster (e.g., fire, flood, severe weather, earthquake, tornado, or hurricane), public health emergency, disease, pandemic, labor disturbance, interruption of or delay in transportation, telecommunication or internet service interruption, unavailability of third party products or services, failure of third party products or services, or inability to obtain raw materials, supplies or power used in or equipment needed for provision of the Products or any other products or services contemplated by any of the Transaction Documents (each, a “**Force Majeure Event**”).

18.7 Severability. If any provision of a Transaction Document is held by a court or arbitrator of competent jurisdiction to be unenforceable, such provision shall be changed by the court or by the arbitrator and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions shall remain in effect, unless the modification or severance of any provision has a material adverse effect on a Party, in which case such Party may terminate by notice to the other Party.

18.8 Assignment. Neither Party may assign any of its rights or obligations hereunder or under any other Transaction Document, whether by operation of law or otherwise, without the prior express written consent of the other Party, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, Modernizing Medicine shall be permitted to assign each of the Transaction Documents: (i) to an Affiliate, parent company or subsidiary or (ii) in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets to which the applicable Transaction Document relates. Any attempt by a Party to assign its rights or obligations under any of the Transaction Documents in breach of this Section shall be void and of no effect. Subject to the foregoing, each of the Transaction Documents shall bind and inure to the benefit of the Parties, their respective successors and permitted assigns.

18.9 Governing Law. Except as otherwise provided herein, each of the Transaction Documents shall be governed by, and construed in accordance with, the laws of the State of Florida, without regard to its conflict of laws provisions.

18.10 Venue. The federal courts of the United States in and for the Southern District of Florida and the state courts of the State of Florida located in Palm Beach County, Florida shall have exclusive jurisdiction to adjudicate any dispute arising out of or relating to any of the Transaction Documents. Each Party hereby consents to the jurisdiction of such courts and waives any right it may otherwise have to challenge the appropriateness of such forums, whether on the basis of the doctrine of forum non conveniens or otherwise.

Except in the event of a claim filed after the Payment Dispute Period, as a condition precedent to filing any lawsuit, the Parties will work together for a period of not less than thirty (30) days to resolve disputes (including any claim that alleges a breach for purposes of Section 17.3 (Termination)) in a collaborative fashion and in good faith with representatives authorized on behalf of each Party to resolve the dispute; provided that this does not limit the right of either Party to seek a temporary restraining order or other provisional remedy to preserve the status quo or prevent irreparable harm in any court having jurisdiction.

18.11 Enforcement Costs. If any legal action or other proceeding is brought for the enforcement or interpretation of any of the Transaction Documents, or because of an alleged dispute, breach, default or misrepresentation in connection with any provision of the Transaction Documents, the prevailing Party shall be entitled to recover reasonable attorneys’ fees, court costs and all expenses incurred in that action or proceeding and at all levels of trial and appeal, in addition to any other relief to which such Party may be entitled.

18.12 Third Party Arrangements. In the event that Client enters into an arrangement with any other individual or entity to fulfill all or any part of its payment obligations pursuant to the Transaction Documents (“**third-party payment arrangement**”), Client represents and warrants that any such third-

party payment arrangement shall not affect the obligations of Client to Modernizing Medicine pursuant to the Transaction Documents. Client further represents and warrants that any such third-party payment arrangement shall be in compliance at all times with all applicable federal, state, and local laws, regulations and ordinances including, without limitation, the Medicare and Medicaid Anti-Fraud and Abuse Amendments to the Social Security Act and the Stark Law. Client acknowledges and agrees that Modernizing Medicine is under no obligation to accept any payment from any third party which is unsatisfactory to Modernizing Medicine in its good faith business judgment. Client agrees that it shall be responsible for promptly reimbursing Modernizing Medicine for all fees required by the American Medical Association or other similar organization to be paid by Modernizing Medicine to such organization relating to Client and its Patients, employees, representatives, consultants, contractors or agents use of the CPT codes or other similar codes provided by the American Medical Association and included in the Products.

18.13 Entire Agreement and Construction. The Transaction Documents constitute the entire agreement between the Parties with respect to the subject matter thereof, and supersede all previous and contemporaneous agreements, proposals or representations, written or oral, concerning such subject matter. For the avoidance of doubt, any obligations of Client that accrued prior to the Contract Date remain in full force and effect. Except as otherwise expressly set forth herein, no modification, amendment, or waiver of any provision of the Transaction Documents shall be effective unless in writing and signed by the Party against whom the modification, amendment, or waiver is to be asserted. Further, by entering into a Transaction Document, each Party expressly acknowledges and intends that the terms contained herein related to the content and manner of a request for access, exchange, or use of EHI, including any and all terms related to fees, 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.

18.14 Order of Precedence. Any conflict or inconsistency between any provisions of the Transaction Documents shall be resolved in accordance with the following order of precedence, with each item in the list taking precedence over those that follow it: (a) any Order Form or Statement of Work; (b) these Terms and Conditions; (d) Product Pages; and (e) the TOS, except if and to the extent that any conflicting provision expressly references that another document or provision shall otherwise control. Under no circumstances shall the terms and conditions of any purchase order submitted by Client to Modernizing Medicine be deemed binding upon Modernizing Medicine.

18.15 Counterparts. Each of the Transaction Documents requiring execution by a Party hereto may be executed in one or more counterparts, which may be delivered by fax or other electronic transmission, including email, each of which shall be deemed an original and which taken together shall form one legal instrument.

18.16 Headings. Headings used in each of the Transaction Documents are provided for convenience only and shall not be used to provide meaning or intent.

18.17 Due Execution. Client acknowledges that Modernizing Medicine shall not be deemed bound by these Terms and Conditions, any Order Form or Statement of Work hereunder, or any other Transaction Document, requiring execution unless and until the same shall have been duly executed by an authorized representative of Modernizing Medicine.

Exhibit A Definitions

As used in these Terms and Conditions:

1.1 “Affiliate” means, with respect to any Person, any other Person directly or indirectly controlling, controlled by, or under common control with such Person now or in the future for so long as such control exists. For purposes of this definition, “control,” when used with respect to any specified Person, means the power to direct or cause the direction of the management and policies of such Person, directly or indirectly, whether through ownership of voting securities or by contract or otherwise, including any Person with which Client has entered into a written management services agreement pursuant to which Client handles and provides human resources, legal, IT, accounting, billing and collection, disbursements and cash management, operations, marketing, compliance, finance services, leases and office locations and personnel necessary for the above to such Person, and the terms “controlling” and “controlled by” have correlative meanings to the foregoing.

1.2 “Affiliated Entity” means any entity that is an Affiliate of Client.

1.3 “Ancillary Provider” means any medically trained and appropriately licensed clinical provider, other than a Physician or Physician Extender, who may enter patient information into the Products but may not write prescriptions therein, including, without limitation, physical therapists, occupational therapists, dermatopathologists, aestheticians, audiologists, certified registered nurse anesthetists (CRNAs), physical trainers, registered nurses and speech pathologists.

1.4 “API TOU” means the API Terms of Use set forth at modmed.com/api-terms-of-use/.

1.5 “Authorized User” means Client’s and any Affiliated Entity’s employees, representatives, consultants, contractors or agents who are authorized in accordance with the terms of the applicable Transaction Document to use the applicable Products.

1.6 “Client Content” means the materials, data or other information, including Client Data (as defined below), provided by Client, its Authorized Users and/or its Patients to Modernizing Medicine.

1.7 “Client Data” means any electronic data, information or material that Modernizing Medicine receives from or on behalf of Client, Affiliated Entities, and each of their Patients and Authorized Users through the Products or otherwise in connection with the Transaction Documents, including, without limitation, (i) any electronic data, information or material entered into the Products by Client and its Authorized Users (or at any of their direction), (ii) any electronic data, information or material imported into the Products relating to Client or any of its Patients, (iii) Patient Data, and (iv) Telehealth Data.

1.8 “Client Marks” means Client’s trade name, trademarks and logos.

1.9 “Confidential Information” means all information about the disclosing Party furnished by the disclosing Party to the receiving Party, that is (A) conspicuously designated as “Confidential” or “Proprietary” or similar designation if communicated in writing or other tangible form or otherwise orally at the time of disclosure with a written confirmation within twenty (20) days describing the Confidential Information communicated orally, or (B) by its nature would be understood by a reasonable person to be confidential or proprietary. “Confidential Information” shall not include any information which: (i) is in the public domain at the time of disclosure or enters the public domain following disclosure through no fault of the receiving Party, (ii) the receiving Party, through competent evidence, can demonstrate knowledge prior to disclosure, (iii) is disclosed to the receiving Party by a third party legally entitled to

make such disclosure without violation of any obligation of confidentiality, (iv) is independently developed by the receiving Party without reference to the disclosing Party's Confidential Information as evidenced by the written records of the receiving Party, or (v) PHI, as that term is defined in the Business Associate Addendum attached hereto, the treatment of which shall be governed therein.

1.10 "Contract Date" means such date specified on the Order Form as being the Contract Date.

1.11 "Contract End Date" means such date specified on the Order Form as being the Contract End Date.

1.12 "Device Software" means any applications or other software supplied by Modernizing Medicine to Client for local installation on Client's or its Authorized Users' mobile devices for use in conjunction with the Subscription Services. If the Subscription Services include EMA, then without limiting the foregoing, "Device Software" includes (i) the EMA application made available by Modernizing Medicine through the Apple "App Store" but only with respect to the portions of EMA related to the EMA specialty specified in the Order Form and (ii) modmed Pocket Practice™ but only with respect to the portions related to the EMA specialty specified in the Order Form.

1.13 "Electronic Health Information" or "EHI" means electronic protected health information as defined under HIPAA to the extent that it would be included in a designated record set as defined under HIPAA, regardless of whether the group of records are used or maintained by or for a Covered Entity (as defined under HIPAA), but excluding: (i) psychotherapy notes (as defined under HIPAA); or (ii) information compiled in reasonable anticipation of, or for use in, a civil, criminal or administrative proceeding, except that until October 6, 2022 (or any later date established by ONC), EHI is limited to the electronic health information identified by the data elements represented in the USCDI standard adopted at 45 C.F.R. § 170.213.

1.14 "EMA" means Modernizing Medicine's proprietary web-based electronic health record software marketed under the EMA name but only with respect to the specialties specified in the Order Form.

1.15 "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 from time to time.

1.16 "Hosted Software" means Modernizing Medicine's cloud-based Products listed in the Order Form.

1.17 "Implementation Fee" means the total one-time (not recurring) Fees specified in the Order Form.

1.18 "Modernizing Medicine Site" means www.modmed.com and any related sites operated by or on behalf of Modernizing Medicine or its Affiliates.

1.19 "Modernizing Medicine Intellectual Property" means the Modernizing Medicine name, the Modernizing Medicine logo, the modmed.com and other domain names, the product names associated with the Products and other trademarks; and (ii) information, technology, software, hardware, products, processes, algorithms, user interfaces, website content, visual interfaces, interactive features, graphics, compilations, computer code, website elements, Written Documentation, know-how and other trade secrets, techniques, designs, inventions and other tangible or intangible technical material or information, used by Modernizing Medicine in developing and providing the Products and Professional Services contemplated by the Transaction Documents.

1.20 "ONC" means the U.S. Department of Health and Human Services, Office of the National Coordinator for Health IT.

1.21 “Pathology Module” means Modernizing Medicine’s proprietary web-based software marketed under the name Pathology that is made available by Modernizing Medicine to Client through EMA.

1.22 “Patient(s)” means any individual who was a previous or is a prospective or current patient of Client.

1.23 “Patient Data” means any electronic data, information or material about a Patient entered into the Products.

1.24 “Patient Marketing Materials” means sample marketing materials for Client to use to promote certain Patient-facing Products which Modernizing Medicine may choose to provide from time to time.

1.25 “Person” means an individual, corporation, partnership, limited liability company, association, trust or other entity or organization.

1.26 “Physician” means an individual duly licensed by the appropriate state authorities to practice medicine or surgery (including, without limitation, an MD, DO, ophthalmologist or optometrist).

1.27 “Physician Extender” means any medically trained and appropriately licensed professional, other than a Physician, who is permitted to enter patient information into and write prescriptions within the Products, including, without limitation, nurse practitioners and physician assistants.

1.28 “PocketPatient App” means either or both of Modernizing Medicine’s telehealth applications for mobile devices (for Apple iOS and Google Android) designed for use by Patients. As of the Contract Date the PocketPatient App includes functionality enabling PocketPatient Users to request and receive telehealth consultations from Authorized Users of the Telehealth Module.

1.29 “PocketPatient User” means a Patient who is a registered user of the PocketPatient App and, in the case of a minor who is a Patient, both (i) the parent or legal guardian who provides consent to the use of the PocketPatient App by such minor or uses the PocketPatient App on behalf of such minor, and (ii) the minor for whom consent is provided or on whose behalf the PocketPatient App is utilized.

1.30 “Privacy Laws” means laws, regulations and the like, enacted, promulgated, or imposed by a governmental authority at any level regarding the access, collection, storage, use, disposition or other processing of personally identifiable information, including without limitation PHI. Without limiting the foregoing, Privacy Laws include the relevant provisions of HIPAA and the California Consumer Privacy Act (CCPA) where applicable.

1.31 “Product Delivery Date” means, unless otherwise specified in the Order Form, (i) with respect to Subscription Services and Device Software, such date as Client’s first employee, representative, consultant, contractor or agent shall have initially been provided by Modernizing Medicine with a login to access a training or production environment for the applicable Subscription Service, (ii) if the Product is the Pathology Module, then such date as the first Order is placed through the Pathology Module by any Authorized User, or (ii) if the Product does not meet the criteria specified in (i) or (ii) above, such date as Client’s first employee, representative, consultant, contractor or agent shall have initially been provided by Modernizing Medicine with the Product. Notwithstanding the foregoing, except in the event a Product Delivery Date is specified in the Order Form for the applicable Subscription Service or Device Software, if Modernizing Medicine fails to deliver such Subscription Service or Device Software within forty-five (45) days after the Contract Date (the “**Cut-Off Date**”), and such failure is not primarily due to a failure by Modernizing Medicine to perform its obligations under the applicable Transaction Document (as determined by Modernizing Medicine in its reasonable discretion), then the Cut-Off Date shall be deemed the Product Delivery Date for such Subscription Service and Device Software. Notwithstanding the

foregoing, Client agrees that Modernizing Medicine may elect upon written notice to Client to delay any Product Delivery Date to an alternative date specified by Modernizing Medicine in such notice.

1.32 “Products” means the Subscription Services listed on the Order Form, any Device Software provided by Modernizing Medicine, and any other software listed on the Order Form.

1.33 “Provider” means a Physician Authorized User (including, without limitation, a Resident Authorized User or a Fellow Authorized User), Physician Extender Authorized User and/or an Ancillary Provider Authorized User. Resident and Fellow are defined in EMA Product Page.

1.34 “Subscription Services” means web-based access to the Hosted Software.

1.35 “Telehealth Data” means all images, electronic data, information, material or other content that a PocketPatient User or an Authorized User of the Telehealth Module enters or uploads into the PocketPatient App or the Telehealth Module, respectively, or that is otherwise created or collected in connection with, a telehealth consultation.

1.36 “Telehealth Module” means Modernizing Medicine’s telemedicine module comprising part of EMA that is designed to enable EMA to exchange Telehealth Data with the PocketPatient App.

1.37 “Territory” means the United States of America.

1.38 “Transaction Documents” collectively mean any Order Form, any Statement of Work, and these Terms and Conditions.

1.39 “Written Documentation” means the written documentation provided to Client in paper or electronic format describing procedures, guidelines, plans, and requirements for the implementation, training, standard configuration and use of the Products, including user guides, system administrator guides, training curricula, and implementation packages.

Exhibit B
Business Associate Addendum

This Business Associate Addendum (this “**Addendum**”) supplements and is incorporated into the Terms and Conditions to which it is attached, and establishes specific legal obligations pursuant to HIPAA, regarding Protected Health Information that is received, maintained, or transmitted by Modernizing Medicine from or on behalf of the Client (“**PHI**”). Capitalized terms used in this Addendum without definition shall have the meanings ascribed to such terms under HIPAA or the Terms and Conditions, as applicable.

I. OBLIGATIONS OF MODERNIZING MEDICINE

Section 1.1. Use and Disclosure of PHI. Modernizing Medicine may use and disclose PHI as permitted or required under the Terms and Conditions (including this Addendum) or as Required by Law, but shall not otherwise use or disclose PHI. Modernizing Medicine shall not use or disclose PHI received from Client in any manner that would constitute a violation of HIPAA if so used or disclosed by Client (except as set forth in Sections 1.1(a), (b) and (c) below). To the extent Modernizing Medicine carries out any of the Client’s obligations under the HIPAA Privacy Rule, Modernizing Medicine shall comply with the requirements of the HIPAA Privacy Rule that apply to Client in the performance of such obligations. Without limiting the generality of the foregoing, Modernizing Medicine is permitted to use or disclose PHI as set forth below:

(a) Modernizing Medicine may use PHI internally for Modernizing Medicine’s proper management and administrative services or to carry out its legal responsibilities, including without limitation to develop and improve its suite of products and services;

(b) Modernizing Medicine may disclose PHI to a third party for Modernizing Medicine’s proper management and administration, including without limitation to develop and improve its suite of products and services, provided that the disclosure is Required by Law or Modernizing Medicine obtains reasonable assurances from the third party to whom the PHI is to be disclosed that the third party will (1) protect the confidentiality of the PHI, (2) only use or further disclose the PHI as Required by Law or for the purpose for which the PHI was disclosed to the third party and (3) notify Modernizing Medicine of any instances of which the third-party is aware in which the confidentiality of PHI has been breached;

(c) Modernizing Medicine may use PHI to provide Data Aggregation services as defined by HIPAA;

(d) Modernizing Medicine may use PHI to create de-identified health information in accordance with the HIPAA de-identification requirements and Section 12.2 of the Terms and Conditions. Modernizing Medicine’s right to use such de-identified health information under this Section will survive the termination of this Addendum; and

(e) Modernizing Medicine may use and disclose PHI for purposes of obtaining an authorization to use and disclose PHI or any other permission from an Individual.

Section 1.2. Safeguards. Modernizing Medicine shall use commercially reasonable administrative, technical, and physical safeguards designed to prevent the use or disclosure of PHI other than as permitted or required under this Addendum, including requirements of the HIPAA Security Rule with respect to electronic PHI.

Section 1.3. Minimum Necessary Standard. To the extent required by the “minimum necessary” requirements of HIPAA, Modernizing Medicine shall only request, use and disclose the minimum amount of PHI necessary to accomplish the purpose of the request, use or disclosure.

Section 1.4. Mitigation. Modernizing Medicine shall take reasonable steps to mitigate, to the extent practicable, any harmful effect (that is known to Modernizing Medicine) of a use or disclosure of PHI by Modernizing Medicine in violation of this Addendum.

Section 1.5. Subcontractors. For each Subcontractor that creates, receives, maintains or transmits Client’s PHI on behalf of Modernizing Medicine, Modernizing Medicine shall enter into a written agreement meeting the requirements of 45 C.F.R. §§ 164.504(e) and 164.314(a)(2) that obligates the Subcontractor to comply with restrictions and conditions that are at least as restrictive as the restrictions and conditions that apply to Modernizing Medicine hereunder, as applicable to such Subcontractor’s services.

Section 1.6. Reporting Requirements.

(a) If Modernizing Medicine becomes aware of a use or disclosure of PHI in violation of this Addendum by Modernizing Medicine or by a third party to which Modernizing Medicine disclosed PHI, including a Breach of Unsecured PHI, Modernizing Medicine shall report any such use or disclosure to the Client in accordance with 45 C.F.R. § 164.410 without unreasonable delay, and in no case later than forty-five (45) days after discovery of the Breach.

(b) Modernizing Medicine shall report any Security Incident involving EPHI that is not an Unsuccessful Security Incident (as defined below) of which Modernizing Medicine becomes aware without unreasonable delay, and in no case later than forty-five (45) days after discovery of the Security Incident. Modernizing Medicine hereby notifies Client of pings and other broadcast attacks on a firewall, denial of service attacks, port scans, unsuccessful login attempts, interception of encrypted information where the encryption key is not compromised, and other Unsuccessful Security Incidents. Modernizing Medicine will provide additional information about Unsuccessful Security Incidents on a reasonable basis, orally or in writing, if requested by Client. If the HIPAA security regulations are amended to remove the requirement to report Unsuccessful Security Incidents, the requirement hereunder to report Unsuccessful Security Incidents will no longer apply as of the effective date of the amendment. “Unsuccessful Security Incident” means a Security Incident that does not involve unauthorized access, use, disclosure, modification or destruction of EPHI or interference with an Information System in a manner that poses a material threat to the Confidentiality, Integrity, or Availability of the EPHI.

Section 1.7. Access to Information. Upon Client’s written request, Modernizing Medicine shall make available PHI to Client in accordance with this Addendum for so long as Modernizing Medicine maintains the PHI in a Designated Record Set, in accordance with 45 C.F.R. § 164.524. If Modernizing Medicine receives a request for access to PHI directly from an Individual, Modernizing Medicine shall forward such request to Client within ten (10) business days; and Client shall have the sole responsibility for approving such request and providing such access to the Individual.

Section 1.8. Availability of PHI for Amendment. Upon Client’s written request Modernizing Medicine shall provide PHI to Client for amendment, and incorporate any such amendments in the PHI for so long as Modernizing Medicine maintains such information in the Designated Record Set, in accordance with 45 C.F.R. § 164.526. If Modernizing Medicine receives a request for amendment to PHI directly from an Individual, Modernizing Medicine shall forward such

request to Client within ten (10) business days. Client shall have the sole responsibility for approving such request and making such amendment.

Section 1.9. Accounting of Disclosures. Within thirty (30) business days of written notice by Client to Modernizing Medicine that it has received a request for an accounting of disclosures of PHI (other than disclosures to which an exception to the accounting requirement applies), Modernizing Medicine shall make available to Client such information as is in Modernizing Medicine's possession and is required for Client to make the accounting required by 45 C.F.R. § 164.528. If Modernizing Medicine receives a request for an accounting directly from an Individual, Modernizing Medicine shall forward such request to Client within ten (10) business days; and Client shall have the sole responsibility for providing an accounting to the Individual.

Section 1.10. Availability of Books and Records. Following reasonable advance written notice, Modernizing Medicine shall make its internal practices, books and records relating to the use and disclosure of PHI received from, or created or received by Modernizing Medicine on behalf of, Client, available to the Secretary for purposes of determining Client's compliance with HIPAA.

II. OBLIGATIONS OF THE CLIENT

Section 2.1. Permissible Requests. Client shall not request Modernizing Medicine to use or disclose PHI in any manner that would not be permissible under HIPAA if done by Client.

Section 2.2. Minimum Necessary Information. When Client discloses PHI to Modernizing Medicine, Client shall provide the minimum amount of PHI necessary for the accomplishment of Client's purpose.

Section 2.3. Appropriate Disclosure of PHI to Modernizing Medicine. Client and its employees, representatives, consultants, contractors and agents shall not submit any Protected Health Information to Modernizing Medicine (A) outside of the Hosted Software or the Device Software, including but not limited to submissions to any online forum made available by Modernizing Medicine to its customers, email transmissions, and submissions through any support website, portal, or online help desk or similar service made available by Modernizing Medicine outside of the Hosted Software and the Device Software; or (B) directly to any third party involved in the provision of an online forum, email, support website, online help desk or other service described in subpart (A) above.

Section 2.4. Permissions; Restrictions. Client warrants that it has obtained and will obtain any consent, authorization and/or other legal permission required under HIPAA and other applicable law for the disclosure of PHI to Modernizing Medicine. Client shall notify Modernizing Medicine of any changes in, or revocation of, the permission by an Individual to use or disclose his or her PHI, to the extent that such changes may affect Modernizing Medicine's use or disclosure of PHI. Client shall not agree to any restriction on the use or disclosure of PHI under 45 CFR § 164.522 that restricts Modernizing Medicine's use or disclosure of PHI under this Addendum unless such restriction is Required By Law or Modernizing Medicine grants its written consent.

Section 2.5. Notice of Privacy Practices. Except as Required By Law, with Modernizing Medicine's consent or as set forth in this Addendum, Client shall not include any limitation in Client's notice of privacy practices that limits Modernizing Medicine's use or disclosure of PHI under this Addendum.

III. TERMINATION OF THIS AGREEMENT

Section 3.1. Termination Upon Breach of this Addendum. This Addendum may be terminated by either Party (the “**Non-Breaching Party**”) upon ninety (90) days written notice to the other Party (the “**Breaching Party**”) in the event that the Breaching Party materially breaches this Addendum in any material respect and such breach is not cured within such ninety (90) day period. Any determination of whether a material breach has been cured shall be made by Modernizing Medicine in its reasonable discretion.

Section 3.2. Return or Destruction of PHI upon Termination. Upon termination of this Addendum, Modernizing Medicine shall return or destroy all PHI received from Client or created or received by Modernizing Medicine on behalf of Client and which Modernizing Medicine still maintains as PHI. Notwithstanding the foregoing, to the extent that Modernizing Medicine determines, in its reasonable discretion, that it is not feasible to return or destroy such PHI, this Addendum shall survive termination hereof, and such PHI shall be used or disclosed solely for such purpose or purposes which prevented the return or destruction of such PHI.

IV. MISCELLANEOUS.

Section 4.1. Amendments to Comply with Law. If (a) any amendments to HIPAA are enacted after the Contract Date; or (b) any amendments to other data security and Privacy Laws are enacted after the Contract Date, to the extent such amendments require modifications to the then-current compliance obligations of either Party under this Addendum, the Parties agree to promptly meet and negotiate in good faith to mutually agree on such modifications. Any material modifications to Modernizing Medicine’s obligations under this BAA may include changes in financial terms as reasonably required to support such cost of compliance.

Section 4.2. Regulatory References. A reference in this Addendum to a section of HIPAA means the section in effect as of the Effective Date.

Exhibit C
Service Level Agreement

1. General Support. Modernizing Medicine will use commercially reasonable efforts to provide telephone help desk and online support services between the hours of 7:00 a.m. and 9:00 p.m., Eastern Time, Monday through Friday other than holidays observed by Modernizing Medicine.

2. Service Level Agreement.

2.1 Service Level Availability.

If the Order Form includes a subscription to EMA, PM or gGastro Cloud (each, a “**Service Level Product**”), then commencing as of the later of (i) the Contract Date or (ii) the Product Delivery Date for the applicable Service Level Product, Modernizing Medicine shall provide 99.9% availability for the applicable Service Level Product during each calendar month except for: (a) downtime outside of normal business hours (business days during 8:00 a.m. to 10:00 p.m., Eastern time); (b) planned downtime, which Modernizing Medicine shall use reasonable commercial efforts to be outside of normal business hours (business days during 8:00 a.m. to 10:00 p.m., Eastern time); for which Modernizing Medicine gives reasonable notice on its website(s), by email or otherwise that EMA will be unavailable and shall be for no longer than necessary to complete system maintenance or implement updates or other improvements; (c) downtime caused by circumstances beyond Modernizing Medicine’s reasonable control, including without limitation, a Force Majeure Event, computer or telecommunications failures or delays involving hardware or software not within Modernizing Medicine’s possession or reasonable control, and network intrusions or denial of service attacks, or (d) any act or omission of Client (including Client’s third-party service providers) (the “**Minimum Service Level**”).

2.2 Service Level Credit.

If Modernizing Medicine fails to meet the Minimum Service Level for a Service Level Product during any calendar month (“**Service Level Failure**”), as reasonably determined by Modernizing Medicine by reference to its server logs and other technical data, Client’s sole and exclusive remedy, and Modernizing Medicine’s sole and exclusive liability, shall be for Client to receive a service level credit (“**Service Level Credit**”) on its invoice for the calendar month after the month in which the Service Level Failure occurs. The Service Level Credit will be calculated such that a 1% deficiency from the Minimum Service Level equals a decrease (applied as a credit) of 1% of the Fees for the applicable Service Level Product, up to the full amount of the Fees invoiced for the calendar month in which the Service Level Credit is applied. To receive a Service Level Credit, Client must notify Modernizing Medicine of its credit request within ten (10) days from the end of the calendar month in which such the Service Level Failure occurred. Failure to comply with this requirement will forfeit Client’s right to receive a Service Level Credit. For avoidance of doubt, in no event shall Modernizing Medicine, as a result of a credit request, be required to refund any amounts previously paid by Client to Modernizing Medicine. **The Parties acknowledge and agree that (1) Client’s actual damages for Modernizing Medicine’s failure to meet the Minimum Service Level would be difficult to establish, (2) such credits are a reasonable estimate of Client’s damages, and (3) such credits serve as liquidated damages and not as a penalty.** This Exhibit shall not apply to any “beta” or similar in-development versions of the applicable Service Level Product that Modernizing Medicine may make available for evaluation purposes. For the avoidance of doubt, Modernizing Medicine shall resolve any questions about the application of this paragraph to bundled pricing arrangements in its sole discretion.

3. Support Priorities and Response Times.

Modernizing Medicine shall use commercially reasonable efforts to correct confirmed Errors in accordance with this Section. Modernizing Medicine, in consultation with Client, shall assign the priority level using the criteria set forth in the table below.

Client agrees to cooperate and work closely with Modernizing Medicine to reproduce suspected Errors, including conducting diagnostic or troubleshooting activities as reasonably requested. Client agrees to obtain the timely cooperation of Authorized Users.

For suspected Priority One or Priority Two Errors, Client must call the then-current Modernizing Medicine support (the “**Support Contact**”) and must also email the Support Contact.

Client expressly acknowledges and agrees that the response times set forth below are targets only, and that Modernizing Medicine shall have no liability, including service level credits, for failure to achieve the applicable response time.

Priority	Definition	Response Times	Error Resolution
One (1)	A critical production Error in the Product that (a) affects all of or a majority of the Authorized Users rendering either (1) the Product completely inaccessible or (2) the Product materially and generally not functioning in conformance with the Transaction Documents and the Written Documentation and critical functionality is not operational, and (b) has no workaround available.	A Response within 1 Support Hour with updates every 4 clock hours	Modernizing Medicine will work continuously during all hours on all calendar days to provide a workaround or resolve the Error, which may be in a hot fix or patch release
Two (2)	A major production Error in the Product that (a) either (1) renders one or more significant components of the Product materially and significantly non-functional in conformance with the Transaction Documents and the Written Documentation or (2) has no workaround available or (b) would otherwise be a Priority One but for which there is a workaround.	A Response within 4 Support Hours with updates daily	Modernizing Medicine will work continuously during normal business hours on business days to develop a workaround or resolve the Error, which may be in a hot fix, patch release or scheduled release.
Standard	All other Errors or confirmed issues with a Product.	Support request is entered into a log within 5 business days	Whether, and if so how and when, to resolve such Errors will be in Modernizing Medicine’s discretion

“**Error**” means a failure of one or more Products (i) to operate in material accordance with the Written Documentation, (ii) that has a material adverse effect on Client’s use of the Product, and (iii) is reproducible.

A “**Response**” means that Modernizing Medicine has opened an internal support ticket regarding a suspected, reproducible Error in response to a support request received from Client and notified Client that the support ticket has been opened.

Exhibit D

Patient Data Security Exhibit

This Patient Data Security Exhibit (“**Exhibit**”) sets forth certain further Modernizing Medicine and Client obligations regarding the security and confidentiality of Patient Data (beyond what is provided in these Terms and Conditions), and applies to EMA and Gastroenterology services only.

1. SECURITY PROGRAM

Modernizing Medicine has implemented and maintains a written information security program, which provides for, as set forth in further detail in Section 4 of this Exhibit D, administrative, physical, and technical safeguards designed to protect Patient Data from unauthorized access, acquisition, or disclosure, that includes, as applicable, corresponding policies, procedures, and risk assessments that are reviewed periodically.

2. OWNERSHIP

Other than as expressly set forth in these Terms and Conditions, as between Modernizing Medicine and Client, Client shall retain all right, title and interest, including all intellectual property and proprietary rights, in and to all Patient Data.

3. MODERNIZING MEDICINE EMPLOYEES

Modernizing Medicine shall require employees who have access to Patient Data to complete privacy and data security training on a periodic basis in accordance with its standard employment policies. Modernizing Medicine’s information security awareness training shall include, but not be limited to, the following topics:

- (i) Protection against malicious software (such as viruses), social engineering and phishing;
- (ii) Password protection and password management practices;
- (iii) Compliance requirements; and
- (vi) Procedures for reporting Patient Data breaches.

4. DATA SECURITY AND DISASTER RECOVERY

Taking into account industry standards, the costs of implementation, the nature, scope, context and purposes of the processing and any other relevant circumstances relating to the processing of the Patient Data, Modernizing Medicine will maintain commercially reasonable administrative, technical and physical safeguards for the Hosted Software to protect Patient Data consistent with industry standards. Such safeguards will include (i) networks, databases, platforms, servers, backup systems, and computing equipment; (ii) securing information transmission, storage, and disposal; (iii) implementing authentication and access controls within applications, operating systems, and equipment; (iv) encrypting Patient Data when stored on storage media or transmitted over public or wireless networks; and (v) conducting risk assessments, penetration testing, and vulnerability scans, and addressing identified risks.

Modernizing Medicine represents that, to its knowledge, the Products do not contain Malicious Code, and Modernizing Medicine has implemented and will maintain commercially reasonable measures, including firewall protections and regular virus scans, designed to prevent the introduction of Malicious Code into the Products. For purposes of this paragraph, “Malicious Code” means any “back door,” “drop dead device,” “time bomb,” “Trojan horse,” “virus,” “worm,” “spyware” or “adware” (as such terms are commonly understood in the software industry) or any other externally originating code designed or intended to have or be capable of disrupting, disabling, harming or otherwise impeding in any manner the

operation of, or providing unauthorized access to, a computer system or network or other device on which such code is stored or installed; provided that features built into the Products for security and other reasons that may limit access, suspend users when authorized under the Transaction Documents, and the like are not considered to be Malicious Code. Client's sole and exclusive remedy, and Modernizing Medicine's sole and exclusive obligation and liability, for any breach of this paragraph shall be for Modernizing Medicine to use commercially reasonable efforts to remediate the deficiency and, upon request by Client, to restore Client Data to the last back-up that Modernizing Medicine possesses that is prior to when the Malicious Code was introduced.

Modernizing Medicine will maintain a disaster recovery plan ("**DR Plan**"). The DR Plan documents the routine data backup protocols and system capability recovery procedures. Modernizing Medicine will exercise the DR Plan at least annually to verify the currency of the technical procedures therein.

5. DATA SECURITY AUDITS

Upon Client's written request, Modernizing Medicine will provide Client with a copy of its Service Organizational Control (SOC) 2, Type II audit report (the "**SOC 2 Report**"); provided, however, that Modernizing Medicine shall not be obligated to divulge to Client any particular information where the disclosure would reveal confidential information of third parties to whom Modernizing Medicine owes an obligation of confidentiality. Client expressly acknowledges and agrees that the SOC 2 Report, the information it contains, and all information obtained by Client in discussions with Modernizing Medicine related to the SOC 2 Report will be deemed Modernizing Medicine Confidential Information.