



Applicant Agreement

Binding Terms and Conditions

In consideration of the mutual benefits accruing and expected to accrue hereunder, DirectTrust® and the Applicant, intending to be legally bound, agree as follows:

For purposes of the following provisions, “Applicant” means [_____ name of your organization]. If not defined here, capitalized terms shall have the meaning set forth in the Accreditation Guidelines.

1. Applicant hereby authorizes DirectTrust and each of the Electronic Healthcare Network Accreditation Commission (EHNAC) Commissioners (Commissioners), for any and all purposes reasonably related to Applicant’s application and ongoing accreditation relationship to DirectTrust, to use any and all information submitted by Applicant provided that DirectTrust and each of its Commissioners shall take reasonable steps to hold and keep in confidence such information. Applicant further agrees that Applicant will not include in its application any information in any form or medium that may be considered “protected health information” (PHI) as that term is defined at 45 C.F.R. §160.103, or its successor. Applicant is solely responsible for their definition/scope of what is considered within the Review and that DirectTrust is not responsible for any misuse, inappropriate use or disclosure or related breach which results from candidate’s handling of PHI. Notwithstanding the foregoing duty of confidentiality, Applicant hereby authorizes DirectTrust to publicly disclose on its website(s) Applicants status as part of the accreditation process and in comparable DirectTrust publications the fact that Applicant has applied for accreditation, status of accreditation, and the Applicant’s name in connection therewith.
2. Applicant confirms that they have read the [Accreditation Guideline document](#) and is aware of the accreditation process including the steps needed to make application, preparation and submission of self-assessment documentation, site review process, late penalty policy, Sentinel Event Notification and accreditation award status etc. It is the Applicant’s responsibility to commence the Application Process and submit the Self-assessment in a timely manner as described in the Accreditation Guidelines. Additionally, if this is a reaccreditation, assure that all previous recommendations in the final report must be addressed. All documentation must be submitted in English. DirectTrust may investigate any Event and determine its impact on the Applicant’s Compliance Status. Applicant shall cooperate with DirectTrust’s investigation into any Sentinel Event. (***Breach, for use in this Agreement, means an incident in which sensitive, protected health information or confidential data is copied, transmitted, viewed, stolen, used, disclosed or accessed by in an unauthorized fashion and/or by an individual unauthorized to do so.***)
3. If travel is required due to a site visit or other circumstance, the Applicant agrees to the Site Visit Policy and [International Travel Policy](#) available for review on DirectTrust website(s).
4. Applicant hereby releases and discharges DirectTrust and each of its Commissioners, individually and in their official capacity, from any and all claims or causes of action of any nature arising out of the acceptance and review, and approval or disapproval of Applicant’s application, or, if approved, DirectTrust’s implementation and application of the [DirectTrust Business Risk Planning Sentinel Events Document](#) unless Applicant clearly and convincingly, by a preponderance of the demonstrable evidence, can first show malice or intentional and willful misconduct by DirectTrust or one of the Commissioners.



In granting this release, Applicant represents and warrants to DirectTrust that it is aware of the Commissioners as listed on the DirectTrust website and Applicant acknowledges and accepts the fact that one or more Commissioners may have personal, professional or business relationships (including employment) to organizations that may compete with the Applicant or that might view the Applicant as a competitor.

5. If an organization is using HITRUST Certification to cover their privacy and security criteria, they must submit their HITRUST Assessment with Certification report before they can be DirectTrust accredited. When a HITRUST Assessment is conducted by another Assessor organization, HITRUST Certification must be achieved by the accreditation expiration date in order to be accepted as evidence for DirectTrust Accreditation.

If the organization does not receive HITRUST certification by the expiration date, the entity has a 90-day grace period past the expiration date to attain HITRUST certification. If this does not occur the organization will have Provisional accreditation until HITRUST Certification is achieved. All incurred penalties must be paid before a subsequent application can be approved.

If HITRUST Certification is not awarded, DirectTrust will need all applicable evidence provided within 2 weeks (or specified timeframe) and either a Desk Review or additional Site Visit (and associated fees) will be required, at the discretion of the Site Reviewer. All incurred penalties must be paid before a subsequent application can be approved. DirectTrust reserves the right to request more information for those requirement statements resulting in Corrective Action Plans.

6. Applicant agrees to display on their website, collateral and any other social media or printed materials only the approved DirectTrust registered logo as provided for the use by valid candidates, accredited organizations and any other status as deemed by DirectTrust. If an accredited or candidate organization decides not to continue the accreditation process or, their accreditation status changes, [no longer accredited] then any DirectTrust logo must be removed from the applicant website, collateral, social media or printed materials immediately. Any other representation of DirectTrust accreditation status is prohibited as the logo and DirectTrust name are trademarked.
7. Accreditation by DirectTrust is awarded based upon its review of the organization for that specific “point in time” that the accreditation process occurred. DirectTrust is not responsible for any changes in policies, procedures or controls, processes or access that may occur subsequently in which it has no visibility or is unaware. It is the organization’s responsibility to report significant changes to us through our [Sentinel Events policy](#).
8. In the event that Applicant asserts against DirectTrust, or any or all of its EHNAC Commissioners, a claim or cause of action, Applicant agrees that such claim will be adjudicated pursuant to binding arbitration in accordance with the rules of the American Arbitration Association and that in no case will DirectTrust or any EHNAC Commissioner be subject, jointly and severally, to damages of any type or nature (e.g., punitive or consequential, whether or not such damages were foreseeable), that are in excess of \$100,000. Any such arbitration shall take place in Delaware and shall be governed by the laws of the State of Delaware without regard to principles of conflicts of law. Each party shall bear its own costs and expenses of any such arbitration notwithstanding its outcome.

9. Representations and Warranties.

DIRECTTRUST PROVIDES ACCREDITATION SERVICES “AS IS,” WITH ALL FAULTS. DIRECTTRUST AND ITS OFFICERS, EMPLOYEES, AGENTS, REPRESENTATIVES AND AFFILIATES DISCLAIM ALL WARRANTIES AND REPRESENTATIONS, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR



NONINFRINGEMENT SECURITY, CONFORMITY TO DESCRIPTION, ACCURACY, COMPLETENESS, OR RESULTS. THE ENTIRE RISK AS TO THE QUALITY OR ARISING OUT OF THE USE OF DIRECTTRUST EHNAC ACCREDITATION SERVICES CONTEMPLATED HEREUNDER REMAINS AT ALL TIMES WITH THE PARTICIPANT.

10. Exclusion of Incidental and Consequential Damages.

EXCEPT IN EVENT OF WILLFUL OR GROSS MISCONDUCT OR MISUSE OF DIRECTTRUST'S INTELLECTUAL PROPERTY, IN NO EVENT SHALL DIRECTTRUST OR ANY OFFICER, COMMISSIONER, AGENT, EMPLOYEE, REPRESENTATIVE OR AFFILIATE THEREOF BE LIABLE FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, INDIRECT OR CONSEQUENTIAL DAMAGES WHATSOEVER ARISING FROM OR RELATED TO ITS, HIS OR HER ACTIONS OR INACTIONS IN CONNECTION WITH THIS AGREEMENT, EVEN IN THE EVENT OF ITS, HIS OR HER FAULT, TORT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE), MISREPRESENTATION, STRICT LIABILITY, BREACH OF CONTRACT OR BREACH OF WARRANTY, AND EVEN IF IT, HE OR SHE HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

11. Limitation of Liability and Remedies.

(a) **No Liability for Good-Faith Exercise of Judgment.** Under no circumstances will DirectTrust or any officer, commissioner, agent, employee, representative or affiliate thereof be liable to the other party or any person or entity in privity with the other party for any loss, injury, damage, cost, claim or expense arising from or relating directly or indirectly to the good-faith exercise of his or its judgment in connection with this Agreement.

(b) EXCEPT IN EVENT OF WILLFUL OR GROSS MISCONDUCT OR MISUSE OF DIRECTTRUST'S INTELLECTUAL PROPERTY, IN NO EVENT WILL THE TOTAL LIABILITY OF DIRECTTRUST OR ANY OFFICER, COMMISSIONER, AGENT, EMPLOYEE, REPRESENTATIVE OR AFFILIATE THEREOF EXCEED ONE HUNDRED THOUSAND DOLLARS.

(c) THESE DISCLAIMERS AND LIMITATIONS SHALL APPLY TO THE MAXIMUM EXTENT PERMITTED BY LAW, EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

12. Indemnification.

Applicant will hold harmless, indemnify and defend DirectTrust and its officers, directors, shareholders, employees, agents, representatives and affiliates of, from and against any and all third-party suits, claims, actions, losses, costs, penalties and damages of whatsoever kind in nature (collectively, "Costs") directly caused by a material breach of this Agreement by Applicant.

NOTE: A change in the organization's primary contact person having responsibility to liaison with DirectTrust needs to be communicated within 10 days of a change in personnel so that there is no disruption in any notices or communications between the entities.

Being duly authorized by Applicant to bind Applicant to the terms and conditions of this application, Applicant hereby agrees to and accepts the terms and conditions of applying for accreditation by DirectTrust.

Signed: _____ Title: _____

Print Name: _____ Date: _____

Organization Name/Applicant: _____