



**DirectTrust Federated Services Agreement
For Accredited Entities
adopted on March 25, 2015**

THIS FEDERATED SERVICES AGREEMENT (the “DirectTrust FSA” or “Agreement”) is between DirectTrust.org, Inc., a Delaware not-for-profit corporation (“DirectTrust”), and _____, a _____ corporation (“Participant”) and is entered into effective _____ (“Effective Date”). This Agreement establishes the terms governing Participant’s inclusion into and continued participation in the “DirectTrust Accredited Trust Anchor Bundle,” which is comprised of trust anchor certificates for entities that have obtained the accreditation(s) referenced herein, have met the additional requirements for inclusion in the trust anchor bundle, and have signed and become a party to this DirectTrust FSA adopted on March 25, 2015 (collectively, “Accredited Community Members”).

Recitals:

DirectTrust is an independent non-profit trade association created by and for participants in the Direct community to establish and maintain a national Security and Trust Framework in support of Direct exchange. DirectTrust, in conjunction with EHNAC, administers the Direct Trusted Agent Accreditation Program (DTAAP) (“Accreditation Program”) for Health Internet Service Providers (“HISPs”), Certificate Authorities (“CAs”), and Registration Authorities (“RAs”).

Participant is a HISP that is recognized by DirectTrust as accredited. In addition, Participant either (i) is itself a CA and/or RA recognized by DirectTrust as accredited, or (ii) has obtained and attached hereto as Exhibit A the signed agreement of a CA and/or RA recognized by DirectTrust as accredited (the “CA/RA Addendum”), which CA and/or RA shall support Participant’s HISP services in connection with its participation in the DirectTrust Accredited Trust Anchor Bundle under this Agreement.

Participant desires to participate in the DirectTrust Accredited Trust Anchor Bundle with other Accredited Community Members.

It is the intention of the parties that this Agreement shall be in addition to and not replace the transitional DirectTrust Federation Agreement, adopted on February 15, 2013, but shall, as of the Effective Date, supersede and replace the DirectTrust Federated Services Agreement, adopted on July 7, 2014. This Agreement shall apply only in connection with the DirectTrust Accredited Trust Anchor Bundle; the transitional DirectTrust Federation Agreement, adopted on February 15, 2013, shall continue to apply to the transitional trust anchor bundle.



NOW, THEREFORE, in consideration of the mutual promises and benefits set forth herein, DirectTrust and Participant agree as follows:

I. PARTICIPANT RESPONSIBILITIES

a. Accreditation. Participant is currently, and shall for the duration of this Agreement remain, accredited and in good standing under the terms of the Accreditation Program or another accreditation program approved as equivalent by DirectTrust. Furthermore, Participant agrees that any separate CA or RA used by Participant in connection with its participation in the DirectTrust Accredited Trust Anchor Bundle shall be, and for the duration of this Agreement shall remain, accredited and in good standing under the terms of the Accreditation Program or another accreditation program approved as equivalent by DirectTrust. Participant shall cause each such separate CA or RA to sign, and Participant shall submit to DirectTrust, an addendum in the form of the CA/RA Addendum attached hereto as Exhibit A. Participant agrees that it, and its separate CA and/or RA, if applicable, shall adhere at all times to the criteria applicable to their respective accreditation(s), namely the DTAAP-HISP, DTAAP-CA, and DTAAP-RA criteria. Loss or revocation of Participant's or Participant's CA's or RA's accreditation shall immediately disqualify Participant from inclusion in the DirectTrust Accredited Trust Anchor Bundle, and from the rights and benefits set forth herein; *provided, however*, that a Participant excluded based on its CA's or RA's non-compliance shall be entitled to reinstatement upon replacement of the CA and/or RA, as applicable, with an accredited CA and/or RA that has signed and submitted to DirectTrust the required CA/RA Addendum.

b. Participation in DirectTrust Anchor Bundle. Upon compliance with all requirements of Section I.a, above, compliance with the applicable Standard Operating Procedure(s) ("SOP"), approval of Participant's trust anchor(s) by the Trust Anchor Approval Committee, and payment of the applicable fee(s) as set forth in Schedule 1 attached to this Agreement, Participant shall be granted inclusion in the DirectTrust Accredited Trust Anchor Bundle. Participant agrees that at all times during the term of this Agreement it will stay current in the payment of fees and adhere to all requirements of the applicable SOP(s) and this Agreement. Furthermore, Participant acknowledges and agrees that failure to adhere to the SOP(s) and to the requirements set forth in Section I.a of this Agreement may result in immediate termination of Participant's inclusion in the DirectTrust Accredited Trust Anchor Bundle, pursuant to Section II.b, below.

c. Changes in Applicable Policies. Participant acknowledges and agrees that DirectTrust, in consultation with the Accredited Community Members, may from time to time modify the requirements of the Accreditation Program, the DTAAP-HISP, DTAAP-CA, and DTAAP-RA criteria, or the SOP(s). Participant agrees to be bound by and adhere to all such changes, and to ensure that its CA and RA adopt and adhere to all such changes, and Participant acknowledges and agrees that Participant's obligations pursuant to Sections I.a and I.b, above, require adherence by Participant and its CA and RA to the most current version of the Accreditation



Program, the DTAAP-HISP, DTAAP-CA, and DTAAP-RA criteria, and the SOP(s). In the event Participant objects to changes to the requirements of the Accreditation Program, the DTAAP-HISP, DTAAP-CA, and DTAAP-RA criteria, or the SOP(s), and Participant elects not to comply, Participant must terminate this Agreement by giving notice as set forth in Section II.b, below.

d. Direct Standard. The Direct Standard is a set of protocols and technical specifications, as defined by 45 CFR Part 170, Section 170.202 (a), and endorsed by the Office of the National Coordinator for Health IT (ONC), to enable the secure exchange of health information over the Internet. Participant, its CA and RA shall follow the Direct Standard, and any amendments to the Direct Standard, for secure messaging when transmitting or receiving (or facilitating the transmission or receipt of) Basic Messages under this Agreement.

e. Basic Messaging. A “Basic Message” is a message used to send a variety of structured or unstructured content in accordance with the Direct Standard, which incorporates by reference the Applicability Statement for Secure Health Transport, Version 1.1, July 10, 2012, available at: <http://wiki.directproject.org/file/view/Applicability+Statement+for+Secure+Health+Transport+v1.1.pdf> and any amendments. Participant agrees to accept Basic Messages from other Accredited Community Members conforming to the Direct Standard, and in accordance with Participant’s trust constraints. It is understood and agreed that Participant does not validate or enforce clinical document standards on the content enclosed in a Basic Message. Participant shall hold respective entities appearing as the subject in a certificate submitted by Participant to the DirectTrust Accredited Trust Anchor Bundle solely responsible for obtaining proper consent under Applicable Law prior to Basic Message transmission.

f. No Interference in Message Transmission or Receipt. With the exception of routine maintenance and other transient outages, or as necessary to conform with Participant’s trust constraints (*e.g.*, if a sender’s trust certificate has expired), Participant in its exchange of messages with other Accredited Community Members shall not intentionally prevent or delay the incoming or outgoing transmission or receipt of any Basic Message meeting the Direct Standard to its intended recipient, nor shall Participant alter the content of any such message.

g. No Fees for Message Transmission or Receipt. Participant shall not charge DirectTrust or any Accredited Community Members any fees for the transmission or receipt of any Basic Message under this Agreement.

h. Support. Neither Participant nor DirectTrust is required to provide any technical or other support to the other party. However, for the duration of this Agreement Participant shall provide an email address that DirectTrust may use to submit to Participant questions relevant to this Agreement. Participant shall reply to all questions submitted by DirectTrust within three (3) business days after the email is sent.



i. Marketing, Publicity and Distribution. Either party may disclose the existence and terms of this Agreement as necessary in order to pursue its business goals; provided, however, neither party may issue a press release regarding Participant's execution of this Agreement without the prior written consent of the other party.

II. TERM AND TERMINATION

a. Term. This Agreement and Participant's eligibility for inclusion in the DirectTrust Accredited Trust Anchor Bundle starts on the Effective Date of this Agreement and continues until (i) this Agreement is terminated as permitted in Section II.b; or (ii) the DirectTrust Board of Directors, upon sixty (60) days written notice to Participant, terminates or adopts an agreement that supersedes this DirectTrust FSA adopted on March 25, 2015.

b. Termination. Participant acknowledges and agrees that the DirectTrust Accredited Trust Anchor Bundle is a self-governing community, and that Accredited Community Members have empowered DirectTrust to enforce this Agreement for their mutual benefit. Accordingly, Participant agrees that Participant's inclusion in the DirectTrust Accredited Trust Anchor Bundle may be terminated immediately if the Board of Directors of DirectTrust determines, in its sole discretion, (i) that Participant is in violation of Section I.a or I.b of this Agreement (whether by reason of its own non-compliance or the non-compliance if its separate CA and/or RA, if any), and (ii) that Participant's continued inclusion in the DirectTrust Accredited Trust Anchor Bundle while in violation of Section I.a or I.b of this Agreement will jeopardize the integrity of the DirectTrust Accredited Trust Anchor Bundle or will otherwise be immediately detrimental to other Accredited Community Members.

DirectTrust shall provide Participant with written notice of, and sixty (60) days in which to cure, any breach of this Agreement (including any breach by Participant's separate CA and/or RA, if any, of the CA/RA Addendum). In the event Participant's inclusion in the DirectTrust Accredited Trust Anchor Bundle has been terminated under the immediate termination provisions set forth above, and Participant subsequently cures its noncompliance within the sixty (60) day cure period, Participant may be readmitted to the DirectTrust Accredited Trust Anchor Bundle by the affirmative vote of a majority (greater than fifty percent (50%)) of the Board of Directors of DirectTrust. A material breach of this Agreement that is not cured within sixty (60) days of Participant's receipt of written notice from DirectTrust shall result in termination of this Agreement, and Participant's exclusion from the DirectTrust Accredited Trust Anchor Bundle.

Participant expressly waives any claim against DirectTrust arising out of the exercise of the foregoing termination and readmission provisions.



Participant may terminate this Agreement and its inclusion in the DirectTrust Accredited Trust Anchor Bundle, with or without cause, by providing DirectTrust sixty (60) days' notice of the termination.

In the event of voluntary termination by Participant or termination as the result of Participant's breach of this Agreement, no fees paid by Participant to DirectTrust under this Agreement, or by its CA or RA to DirectTrust in connection with Participant's inclusion in the DirectTrust Accredited Trust Anchor Bundle, shall be refunded.

c. Survival. The provisions of Sections III-V survive termination of this Agreement.

III. PROPRIETARY INFORMATION

a. Protection of Proprietary Information. "Proprietary Information" means information, materials, processes, ideas, and techniques (whether or not reduced to writing) (i) which are not generally known in the relevant industry; (ii) which afford possessors of the information a commercial advantage over others; (iii) which are considered trade secrets under Applicable Law; and/or (iv) which, if utilized or disclosed by a party receiving such information, would place the party disclosing such information at a competitive disadvantage. Except as necessary for a party to perform its obligations under this Agreement, as permitted under a written consent of a disclosing party, or as required under Applicable Law, a party will not use or disclose Proprietary Information received from DirectTrust, any Accredited Community Member, or any Accredited Community Member's CA or RA.

b. Names, Logos, Marks. Neither party may use the name, logos, or marks of the other party without prior written consent, except that each party may use the trade name and logo of the other party to indicate the Participant's participation within the DirectTrust Accredited Trust Anchor Bundle. Use of the trademarks or logos of either party will be subject to compliance with licensing requirements of the party, to be provided upon request, and the trade name and logo of a government agency Participant shall not be used in such a manner as to express or imply Participant's endorsement of DirectTrust or other Participants. All use of one party's stock abbreviations or symbols, trademarks, trade names or logos by the other party will inure to the benefit of the owner of those stock abbreviations or symbols, trademarks, trade names or logos.

IV. WARRANTIES/COVENANTS/DISCLAIMER

a. Disclaimer of Warranties. Participant warrants that its systems and operations, and those of any CA or RA under its direct control, shall perform as required by Participant's accreditation(s) and the SOP(s); *however*, with the exception of the foregoing, Participant and DirectTrust disclaim any other warranty with regard to the performance of their respective systems and operations.



b. Carrier Lines. The transmission of messages is provided over various facilities and communications lines, and information shall be transmitted over local exchange and Internet backbone carrier lines and through routers, switches, and other devices (collectively, "Carrier Lines") owned, maintained, and serviced by third-party carriers, utilities, and Internet service providers, all of which may be beyond the Participant's control. Provided that Participant uses reasonable security measures that comply with its accreditation(s) and the SOP(s), Participant does not assume any liability relating to (i) the integrity, privacy, security, confidentiality, or use of any information resulting from transmission using Carrier Lines that are not under Participant's control, or (ii) any delay, failure, interruption, interception, loss, transmission, or corruption of any Basic Message information resulting from transmission using Carrier Lines that are not under Participant's control.

c. Indemnity. Participant, unless it is a government entity, acknowledges and agrees that DirectTrust.org and other Accredited Community Members shall have no liability for and Participant shall indemnify, defend, and hold them harmless from third-party claims and actions that arise out of or result from: (i) any unauthorized alteration or modification by Participant of any content of any Direct messages transmitted by Participant; (ii) Participant's mis-delivery of any Direct messages; (iii) a breach of Participant's network (unless it is shown that such breach was directly caused by DirectTrust.org or an Accredited Community Member); or (iv) Participant's breach of its specific obligations under this Agreement; *provided*, that the party to be indemnified has provided to Participant prompt notice of the claim or action, and the opportunity to defend and/or compromise such claim or action at Participant's expense.

d. Limited Third-Party Beneficiaries. This Agreement does not create any beneficiary rights in any third-parties except Accredited Community Members, and no third-party except an Accredited Community Member has a right to enforce this Agreement.

e. Limitation of Liability. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY OR ANY OTHER ACCREDITED COMMUNITY MEMBER FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL, OR EXEMPLARY DAMAGES RELATED TO THIS AGREEMENT. THIS LIMITATION OF LIABILITY DOES NOT APPLY, IF THE PARTY OR ACCREDITED COMMUNITY MEMBER IS A FEDERAL GOVERNMENT ENTITY.

f. Federal Participant Liability. If Participant is a federal government entity, liability for any breach of or claim arising from this Agreement shall be determined under the Federal Tort Claims Act or other governing federal law, and federal statute of limitations provisions shall apply to any such breach or claim.



V. GENERAL PROVISIONS

a. Dispute Resolution. Any dispute regarding Participant's or Participant's CA's or RA's good standing under the terms of its accreditation(s) or adherence to the criteria applicable to its accreditation(s), which may include the DTAAP-HISP, DTAAP-CA, and/or DTAAP-RA criteria, shall be resolved pursuant to the non-compliance notification procedures for accredited entities administered by EHNAC or any successor thereto or, for Participants, CAs or RAs accredited outside the Accreditation Program, the dispute mechanism applicable to Participant's or the CA's or RA's accreditation. In each instance, the final decision rendered pursuant to the designated dispute resolution mechanism shall be final and dispositive for purposes of determining Participant's or Participant's CA's or RA's compliance with the accreditation provisions of this Agreement and Participant's qualification, pursuant to Section I.a above, for inclusion in the DirectTrust Accredited Trust Anchor Bundle.

Any dispute regarding Participant's or Participant's CA's or RA's adherence to the SOP(s) or any other requirements for inclusion in the DirectTrust Accredited Trust Anchor Bundle shall be subject, in the first instance, to the termination provisions set forth in Section II.b, above. Disputes not resulting in immediate termination pursuant to Section II.b, and any instance in which Participant is terminated from and not readmitted to the DirectTrust Accredited Trust Anchor Bundle as specified in Section II.b shall be subject to the negotiation and arbitration provisions set forth below.

For unresolved disputes as set forth above, and for all other disputes related to this Agreement, the parties shall attempt to resolve the dispute through good-faith negotiations. If negotiations fail to achieve a satisfactory resolution within fifteen (15) days after either party provides written notice of the dispute, then binding arbitration shall be used to resolve the dispute, unless Participant is a government entity. In lieu of arbitration, a government entity shall have the right to proceed to court. Any Accredited Community Member with an interest in the dispute shall have the right to intervene as a party. The parties to a binding arbitration shall mutually select an arbitrator. If the parties fail to select an arbitrator, then the DirectTrust Board of Directors shall select an arbitrator that they believe can fairly and impartially resolve the dispute. Arbitration will occur at a place mutually selected by the parties. If a place cannot be mutually agreed to, then the parties will arbitrate the dispute in Washington, D.C. Absent other agreement among the parties, the arbitration shall be governed by the commercial arbitration rules and procedures of the American Arbitration Association. The decision of the arbitrator shall be final and binding for purposes of this Agreement, and each party shall bear its own attorneys' fees. The costs of arbitration shall be shared equally among the parties to the arbitration.

b. Assignment. Participant shall provide notice of any assignment of this Agreement and any change of control event in Participant's organization within thirty (30) days of the assignment/change of control event. A change of control event means (i) the ownership of fifty



percent (50%) of the Participant’s voting rights changes, (ii) the ability to manage the business by a vote of the ownership of Participant changes, (iii) the ability to elect more than fifty percent (50%) of Participant’s board of directors changes. No assignment of this Agreement shall be effective, unless the party accepting the assignment agrees to be fully bound as the Participant named herein.

c. Compliance with Applicable Law. “Applicable Law” means all federal and state laws and regulations governing Basic Messages transmitted in accordance with the Direct Standard and/or the parties’ trade secrets or other proprietary information. Each party shall perform its obligations under this Agreement in accordance with Applicable Law.

d. Governing Law. The laws of the state of Delaware govern the interpretation, construction, and enforcement of this Agreement and all matters related to it, including tort claims, without regards to any conflicts-of-laws principles, and the parties hereby submit to the exclusive jurisdiction of and venue in the state and federal courts located in the state of Delaware, unless Participant is a government entity, in which case the laws of Participant’s jurisdiction (state or federal) shall apply, and jurisdiction and venue shall be in the courts of the Participant’s jurisdiction (state or federal).

e. Notices. Notices are effective on the date received, per written proof of delivery from a delivery service or via email. Parties shall send any notices required under this agreement addressed as follows:

If to DirectTrust: DirectTrust.org, Inc. Attn: General Counsel 1101 Connecticut Ave. NW, Suite 1000 Washington, DC 20036	If to Participant: _____ _____ _____ _____
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h. Counterparts. The parties may execute this Agreement in counterparts, each of which is considered an original copy of the same agreement.

i. Modification. This Agreement may not be modified, but may be superseded or terminated as set forth in Section II.a, above.

j. Severability. If any portion of this Agreement is deemed to be unenforceable, the balance shall nevertheless continue in effect and the remaining provisions may be enforced to the full extent permitted by law.



The parties are signing this Agreement as of the Effective Date by a duly authorized officer below:

DIRECTTRUST.ORG, INC.

By:

Name: _____

Title: _____

PARTICIPANT

By:

Name: _____

Title: _____



Schedule 1 – Fee Addendum to the DirectTrust Federated Services Agreement

The following schedule of fees for HISPs included in the Accredited Trust Anchor Bundle shall apply in the calendar year 2015, and shall include the cost of receiving any DirectTrust network services associated with that bundle. The fee schedule will be reviewed and, if necessary, revised by the DirectTrust Board of Directors annually. Absent revision by the Board of Directors, the fee for each subsequent six-month period shall be the amount set forth for July 1-December 31, 2015.

Category of HISP	January 1 - June 30, 2015	July 1 - December 31, 2015
Members of DirectTrust -- Less than 2,500 Direct accounts and addresses	All fees waived	\$ 1,000
Members of DirectTrust -- Greater than 2,500 Direct accounts and addresses	All fees waived	\$ 2,500
Non-members -- Less than 2,500 Direct accounts and addresses	All fees waived	\$ 7,500
Non-members -- Greater than 2,500 accounts and addresses	All fees waived	\$ 15,000

All HISPs will be billed by DirectTrust on June 15, 2015, or within 15 days of their review and approval for inclusion in the trust bundle, and semi-annually thereafter. Payment is due within 30 days of receipt of invoice. No pro rated or partial payments will be accepted.