

These Health Information Service Provider terms (“Terms”) inure to the benefit of, and are binding upon, the parties subject to these Terms, including but not limited to all Qualified Users and any and all respective successors in interest to the parties subject to these Terms by way of merger, acquisition, consolidation, creation of a subsidiary, operation of law or otherwise, and their permitted assigns. To the extent that there is a conflict between these Terms and the Terms of Service for the use of the Network, the Terms of Service for the use of the Network shall control. Network may change these Terms from time to time. BY COMPLETING THE REGISTRATION PROCESS SUBSCRIBER AND/OR QUALIFIED USERS ARE AGREEING TO BE BOUND BY THESE TERMS AS MAY BE AMENDED FROM TIME TO TIME. Subscriber’s continued use of Directory Information constitutes Subscriber’s agreement to any revised terms. Any terms used herein and not otherwise defined shall have the meaning set forth in the Terms of Service for the use of the Network, available at: [www.mihin.org/terms-of-service/](http://www.mihin.org/terms-of-service/). To the extent the Terms of Service for the use of the Network refer to “Services,” such services shall include the Services as defined herein.

## **I. DEFINITION OF TERMS**

a. “Aggregator” means an electronic service run by DirectTrust that provides the following services: securely collects Directory Information directly from Disclosing Parties; combines and/or reformats the Directory Information into a uniform data structure; securely stores Directory Information; and makes the Directory Information available to Receiving Parties, via secure means. (The Aggregator facilitates bulk downloading and differential checks, but is not intended for real-time querying.)

b. “Customer” means any Person that enters into an agreement or arrangement of any kind with Network, Subscriber, Qualified User, Provider or Aggregator.

c. “Directory Information” means the Provider Information provided to the Aggregator that makes up the DirectTrust Directory and made available to Qualified Users.

d. “Disclosing Party” means HISP, which, by mutual agreement with its Subscriber(s), is the authoritative distribution source of the Provider Directory Information. The Disclosing Party (1) is the legal entity pledged to abide by these Terms, (2) is or is using a DirectTrust accredited HISP providing HISP services for the Direct Addresses submitted, and (3) the agent for enforcing this policy with its Subscriber(s). A Disclosing Party that is in compliance with these Terms shall have the right to also be a Receiving Party, and to access the DirectTrust Directory, including Directory Information provided by other Disclosing Parties, on behalf of its Subscribers.

e. “HISP” means any DirectTrust accredited HISP provided by Network.

f. “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity.

g. “Provider” means an organization or individual that provides clinical care to patients that is a Subscriber of Network, or receives Direct Messaging and related services through a Subscriber.

h. “Provider Information” means at a minimum Providers’ full name, specialty and/or specializations, city and state, and Direct Address. Provider information may also include practice street address, associate organization name(s), Provider gender, languages spoken, and National Provider Identifier (NPI).

h. “Qualified User” means HISP or a Subscriber of HISP that is permitted by these Terms to send, receive, find, and use (e.g., access, search, store, and use) the Directory Information obtained from the DirectTrust Aggregator.

i. “Receiving Party” means a HISP that downloads the Directory Information from the Aggregator.

j. “Services” means, as used in these Terms, sending, receiving, finding and using Directory Information.

k. “Subscriber” means the Customer of Network, which has active Direct Addresses serviced by Network, and to which Network provides Direct messaging and related services. The Subscriber may be an individual or an organization. (When a Direct Address belongs to an operator/employee of a HISP, or an automated service of that HISP, that operator/employee is a Subscriber.)

l. All Direct Addresses included in Directory Information must link to certificates with a certificate path verified and validated by a Certificate Authority (CA) in an active DirectTrust Trust Anchor Bundle.

The remaining sections of these Terms discuss responsibilities, usage restrictions, maintenance, and remediation responsibilities placed on the Receiving Party with respect to the use of Directory Information. These Terms do not place any restrictions on how a Subscriber uses or distributes Directory Information about *themselves*, either directly or through agreements with Network.

## II. RESPONSIBILITIES

To ensure the accuracy, permissibility, and timeliness of the Directory Information, the Disclosing Parties and Receiving Parties are required to carry out the functions described in this section. Each participant listed in this section, and any Customer of such participant in the preceding “Definition of Terms” must comply with the following terms and conditions:

a. Disclosing Party. The responsibilities of a Disclosing Party are as follows:

1. The Disclosing Party must have a legal and binding agreement with its Subscriber(s), providing the Disclosing Party permission to provide the Directory Information to the Aggregator. The legal agreement must also ensure that Directory Information is accurate when supplied by the Subscriber, and is regularly updated.

2. It is the Subscriber’s responsibility to ensure their Directory Information provided to the Disclosing Party is kept current, up to date, and accurate. This responsibility includes updating for any changes in provider specialties, geographic locations, telecommunications information, etc. (See the “Directory Services User’s Guide” which contains a complete list of required and optional data elements.) The Disclosing Party (i.e., HISP) will communicate with the Aggregator to update the Subscriber’s information.

3. The Disclosing Party agrees to upload their contributed Directory Information on a consistent periodic basis, as described in the “Directory Services User’s Guide.”

4. It is recommended that each Disclosing Party upload Directory Information to the DirectTrust Aggregator at a minimum of every 72 hours, or when there are changes to that information or participants.

5. If the business relationship between the Disclosing Party and the Subscriber is terminated, the Disclosing Party agrees to (1) stop publishing the Subscriber’s Directory Information, and (2) update the Disclosing Party’s Directory Information, removing the former Subscriber’s information. The method to be followed by the Disclosing Party for removing the Subscriber’s information from the Aggregator is described in the “Directory Services User’s Guide.”

6. All Direct Addresses included in Directory Information must link to certificates with a certificate path verified and validated by a Certificate Authority (CA) in an active DirectTrust Trust Anchor Bundle.

7. If a Direct Address is no longer linked to an anchor certificate in a DirectTrust Trust Anchor Bundle, that Direct Address and its associated Directory Information must be removed immediately from the DirectTrust Provider Directory. The removal method is described in the “Directory Services User’s Guide.”

b. Receiving Party. The responsibilities of a Receiving Party are as follows:

1. To qualify as a Receiving Party, Network must first act as a Disclosing Party by contributing Direct Addresses and associated Directory Information to the Aggregator as a Disclosing Party.

2. The Receiving Party may reformat and distribute the downloaded Directory Information to its Subscribers, in a format convenient for the Subscribers.

3. The Receiving Party may provide searching and/or filtering services to its Subscribers, but must employ sufficient security controls to ensure only their Subscribers can access those services.

4. A Receiving Party is responsible for ensuring that all its Qualified Users obtain and use the Directory Information only in ways permitted by these Terms. If a Qualified User uses Directory Information in a way prohibited by or contrary to these Terms, the Receiving Party will take immediate actions to stop the use of that Directory Information. A Receiving Party will obtain the affirmative consent and agreement to terms and conditions of these Terms by Qualified Users prior to the use of the Directory Information by such Qualified Users.

5. A Receiving Party may not give the downloaded Directory Information to any Person that is not one of its Subscribers.

c. Qualified User. The responsibilities of Qualified Users are as follows:

1. Qualified Users may optionally download search results, but are required to check periodically to confirm the downloaded information is still valid and accurate (e.g., prior to sending a Direct Message) and use the Directory Information only in accordance with these Terms.

2. Qualified Users may not give the downloaded Directory Information to any Person that is not also both (1) in their organization and (2) a Qualified User.

3. Qualified Users will consent and agree to terms and conditions of these Terms prior to the use of the Directory Information.

d. Subscriber. The responsibilities of Subscriber are as follows:

1. Under no circumstances will the Directory Information be used for any purpose beyond the permitted purposes stated in these Terms.

2. Subscriber will ensure that Directory Information is accurate when supplied by the Subscriber, and is regularly updated and maintained by Subscriber.

3. Subscriber will provide true and correct information as part of registration.

4. Subscriber agrees that it will not use Directory Information for illegal purposes or for the transmission of material that is unlawful, harassing, libelous, invasive of another’s privacy,

abusive, threatening, harmful, vulgar, obscene, tortuous, or otherwise objectionable, or that infringes or may infringe the intellectual property or other rights of another.

5. Subscriber will not resell or otherwise distribute commercially Directory Information, or to use the Directory Information for the transmission of “junk mail”, “spam”, “chain letters”, or unsolicited mass distribution of email.

6. Subscriber must provide for its own access to the World Wide Web and pay any service fees associated with such access

7. Subscriber is responsible for providing all equipment necessary for its Qualified Users to make such connection to the World Wide Web, including a computer and network connection.

### **III. PERMITTED USES OF DIRECTORY INFORMATION**

The Receiving Party may use the Directory Information received from the DirectTrust Aggregator only for the purposes of:

a. Supporting the Direct Messaging and related HISP services provided by the Receiving Party to only its Subscribers and Qualified Users.

b. Permitting and enabling its Qualified Users to search the Directory Information by selected individual data elements.

c. Sending messages to Direct Addresses contained in the DirectTrust Provider Directory for the purposes of manual testing.

*Note:* Examples of permitted communications include, but are not limited to: transition of care documents, referrals, consultations, etc. Unless a “No Patient Access” flag is set on a record, all Directory data may be made available for patient access for permitted use.

### **IV. PROHIBITED USES OF DIRECTORY INFORMATION**

This section discusses inappropriate uses of Directory Information obtained from the DirectTrust Aggregator. The intent is not to impede standing medical practices, interactions with insurance companies, suggestions by Accountable Care Organizations for follow-on procedures, etc. The intent is to provide reasonable assurances to Direct message recipients that their systems will not be flooded with messages inappropriate for their electronic systems’ workflow as a result of their participation in the DirectTrust Directory.

Qualified Users may not use the Directory Information for any purpose not covered in the “Permitted Uses” section of these Terms without express written permission of the Disclosing Party, including but not limited to:

a. Selling, disclosing, making available, or otherwise permitting to obtain, DirectTrust Directory Information to any third party that is not a Qualified User and/or which is not a legal client of the Receiving Party and which is receiving HISP services from the Receiving Party.

b. Providing and/or using the Directory Information for direct marketing, database marketing, telemarketing, marketing analysis, or research purposes.

c. Under no circumstances shall the Receiving Party use, or permit their Subscribers to use, the Directory Information for any of the following activities:

- a. Advertising
- b. Pop-up ads
- c. Soliciting business
- d. Surveys

e. Any unsolicited communications using Directory Information by or on behalf of parties not already part of the healthcare team or not already part of the normal healthcare workflows.

d. Using Directory Information acquired (i) via the HISP provided by Network, or (ii) any other services from Network with any other HISP without prior written authorization from Network.

## **V. REMEDIATION**

In the event a Disclosing Party notifies DirectTrust of any use of Directory Information in violation of these Terms:

a. DirectTrust shall notify in writing (email sufficient) the Receiving Party responsible for the use in violation of these Terms.

b. The Receiving Party will immediately notify in writing (email sufficient) the responsible Subscriber of the use in violation of these Terms, and shall immediately notify in writing (email sufficient) its Subscriber(s) to stop using the Direct Addresses of concern in the offending context.

c. The Receiving Party, in its capacity as a HISP, will take action, if necessary, within 2 business days after notice of the violation, to block the sending of messages using Directory Information in violation of these Terms.

d. In the event a Receiving Party or its Subscriber discloses any portion of the DirectTrust Directory Information in an unauthorized or unapproved manner, the offending party will immediately notify the unauthorized recipient that the information was delivered in error and must be removed.

## **VI. TERM AND TERMINATION**

If Network no longer wishes to participate in the DirectTrust Directory, Network will notify DirectTrust in writing (email sufficient). If Network offers directory services to its Subscribers, that directory service can no longer contain any information obtained from the DirectTrust Directory. Network and its Subscribers remain under obligation to abide by the terms stated in the previous section titled "Prohibited Uses of Directory Information." To the extent possible, Subscribers of Network should remove from their local client phonebooks/addressbooks any Direct Address retrieved from the DirectTrust Directory which are not part of their expected healthcare exchange partners.

DirectTrust, in turn will notify in writing (email sufficient) all Receiving Parties of Network's departure from the DirectTrust Directory. The notification will include Network identifier. The Aggregator operator will remove Aggregator access rights for Network.

All Receiving Parties should notify their Subscribers that the Direct domains that will no longer be updated.

Subscriber agrees that Network may terminate Subscriber's password, account or use of the DirectTrust Directory if Network believes (a) that Subscriber has violated or acted inconsistently with the letter or spirit of these Terms, (b) that Subscriber has violated the rights of Network or other users or parties, or (c) any information provided by Subscriber is untrue, inaccurate, not current or incomplete. Subscriber acknowledges and agrees that any termination of use of the DirectTrust Directory under these Terms may be effected without prior notice, and acknowledges and agrees that

Network may immediately delete email files in Subscriber's account and bar any further access to such files or the DirectTrust Directory.

## **VII. REPORTING**

Subscriber shall report any suspected fraud, abuse, or violations of the Terms to [abuse@MiHIN.org](mailto:abuse@MiHIN.org).

## **VIII. SECURITY INCIDENT REPORTING**

Subscriber has in place policies and procedures that are designed to detect inappropriate acquisition, access, use or disclosure of Directory Information and trains its work force and agents on these procedures. Subscriber will notify Network within ten (10) business days of discovering an inappropriate acquisition, access, use or disclosure of Directory Information or if a Qualified User's account is compromised.

## **IX. AUTHORIZATION POLICY**

Access procedures for the Network are documented within Network's API documentation and the Network HISP Administration Manual.

## **X. ADDITIONAL TERMS**

a. User Account, Password and Security; Unauthorized Use. Subscribers will receive a password and account designation upon completing the registration process. Subscriber is responsible for maintaining the confidentiality of the password and account, and is fully responsible for all activities which occur under Subscriber's password or account. If Subscriber knows or has reason to believe that any third party has access to Subscriber's password without authorization, Subscriber agrees to notify Network immediately at [help@MiHIN.org](mailto:help@MiHIN.org) of any actual or suspected unauthorized use of Subscriber's password or account or any other breach of security.

b. Message Storage. Network may establish default criteria that govern the size and retention period of message storage for Subscriber. Network assumes no responsibility for any deletion or failure to store messages (by Subscriber, Network or any third party).

c. Indemnity. All indemnification obligations shall be as set forth for the Services in the Terms of Service for the use of the Network.

d. Disclaimer Of Warranties. Any warranties and disclaimers set forth in the Terms of Service for the use of the Network shall apply to the Services.

e. Limitation of Liability. Any limitations of liability, including any waiver of damages, set forth in the Terms of Service for the use of the Network shall apply to the Services.

f. General. Except as set forth here, the Terms of Service for the use of the Network shall govern in all other respects the Services provided hereunder.