

OTNHUB'S TERMS OF SERVICE FOR MEMBER ORGANIZATIONS

A. INTRODUCTION

NOTIFICATION OF CHANGE

Last Update: June 2018

Notification of significant changes to the Terms of Service will be provided by Ontario Telemedicine Network (“OTN”) via online pop-up messages on the OTNhub or emails and other methods of communication as OTN deems appropriate. Use by the Member organization or any of its authorized Members of OTN Services or access to the OTNhub after an update of the Terms of Service constitutes your acceptance, on behalf of your Member organization, of the updated Terms of Service. A current version of the Terms of Service is always available online under “My Account” for your reference. You are accountable for reading the revised terms when notified; by making a conscious decision to use OTN Services after notification you explicitly provide your consent to the then-current terms.

These Terms of Service govern the overarching relationship between the Member organization and OTN, and outlines each Party’s obligations to one another. Each Member in your Member organization using OTN Services will be governed by the OTNhub User Agreement, outlining the individual Member’s and OTN’s obligations to one another.

ABOUT ONTARIO TELEMEDICINE NETWORK

A world leader in telemedicine, OTN helps Ontarians get more out of the health care system by bridging the distance of time and geography to bring more patients the care they need, where and when they need it. Using innovative technology, OTN streamlines the healthcare process, while also expanding the way knowledge is shared and how the medical community interacts with each other and with patients. OTN’s products and services are available to healthcare providers on OTNhub.ca - a private and secure online platform where healthcare practitioners can practice telemedicine. An independent, not-for-profit organization, OTN is funded by the Government of Ontario.

B. TERMS & CONDITIONS

TERMS AND CONDITIONS

To access the OTNhub and use OTN Services, you (either on behalf of your organization or as an independent practitioner) (hereinafter referred to as “you” or “Member organization” or “User”) must abide by these Terms of Service. By accessing the OTNhub, you confirm and OTN relies on your ability, to bind your organization to these Terms of Service on the behalf of the organization. These Terms of Service, between the Ontario Telemedicine Network (“OTN”) and Member organization, and any other materials incorporated by reference, constitute the entire agreement between the Parties. If there is any inconsistency between the Terms of Service and any other materials incorporated by reference, these Terms of Service will prevail. These Terms of Service affirm that you, in your role, are a Health Information Custodian, as defined by *The*

Personal Health Information Protection Act, 2004 (PHIPA), and as such must comply with its requirements. By registering for OTN's services you are agreeing to these Terms of Service.

Definitions

A definition section is provided for your reference and for clarity.

The Use of Headers

The division of the Terms of Service into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of these Terms of Service. All uses of the words "hereto", "herein", "hereof", "hereby" and "hereunder" and similar expressions refer to these Terms of Service and not to any particular section or portion of it. References to an Article, Section or Schedule refer to the applicable article, section or schedule of these Terms of Service.

Inconsistencies

In the event of a conflict between these Terms of Service and any supplemental documents, including but not limited to, schedules, appendices, or additional agreement executed between you and OTN, these Terms of Service will prevail.

Limitation of Liability

OTN will not be liable:

1. OTN, its affiliates or any of their respective directors, officers, employees and agents will not be held liable or responsible in any way for the following, provided that, such Losses are not caused by the negligence or wilful misconduct of OTN or those for whom OTN is responsible at law:
 - a) Any Loss or interruption of business or any Loss or corruption of data or for any Loss of profit or revenue or other economic Loss, or for any indirect, special, incidental or consequential damages or punitive damages of any kind suffered by the Member organization, a User, a patient or any other third-party;
 - b) Without limiting item (a) above, any claims or demands for damages, costs, expenses or Losses of any kind by the Member organization, a User, a patient of the Member organization or of a User, or any other third-party, for or arising out of or in any way related to clinical uses of, clinical outcomes or decision-making processes relating to the use of, or lack of access to the services, the Videoconferencing Equipment or the Videoconferencing Network; and,
 - c) In no event shall OTN be liable for any damages other than reasonable actual direct out of pocket expenses.
2. In no event will you or your directors, officers, employees or agents be held liable for any losses suffered by OTN in any way based upon, occasioned by, attributable to, or arising out of access to OTNhub or OTN Services, whether such claim arises in contract, tort (including negligence) or otherwise, even if it has been advised of the possibility of such damages in advance, except for such losses as are caused by the negligence of you, or your Users, directors, officers, employees, or agents. In no event shall you be liable to OTN for any damages other than reasonable, actual direct out of pocket expenses, unless such damages

are caused by your negligence or by those for whom you are responsible by law.

OTN reserves the right to modify:

3. OTN reserves the right to modify the services or Videoconferencing Network, or both, or any portion thereof, at any time, with or without notice to the Member organization. OTN shall not be liable to the Member organization, or to any third-party should OTN exercise its right to modify the services or Videoconferencing Network.

OTN will notify the Member organization:

4. In the event that it becomes aware of a third-party claim against a Member of OTN of the nature described in item (a) of this section, OTN will notify the Member organization and OTN may, at its sole election, seek to procure or negotiate a license, for the benefit of all of its Member organizations and Members, to perform or use any aspect, element, component, method, process, procedure or mode of operation alleged to infringe in either (i) the performance of the services or any portion thereof; or (ii) the use of the Videoconferencing Equipment.

Insurance

During the term of these Terms of Service, OTN and the Member organization will each maintain in full force and effect general liability insurance for a minimum of \$2,000,000 for any one occurrence. Such insurance will include at least the following:

1. products and completed operations;
2. personal injury;
3. cross liability;
4. contractual liability; and,
5. 30 days prior written notice of material change to, cancellation, or non-renewal of the policy.

Each Party will provide the other Party with evidence of such insurance upon request.

Dispute Resolution

1. All disputes between the Parties concerning any matter arising under these terms shall be submitted for resolution to the Chief Executive Officer of OTN and User;
2. If the Chief Executive Officer of OTN and User cannot resolve the dispute within a period of ten (10) days after submission of the dispute to them for resolution, either Party may notify the other Party in writing that it wishes to refer the matter to arbitration in accordance with the Arbitration Act, 1991 (Ontario) (such act, as amended or replaced, from time to time, the "Act") within a further period of thirty (30) days;
3. If either Party serves a notice pursuant to this section, then such matter shall be determined by binding arbitration by a single arbitrator to be selected by the Parties and failing such selection the arbitrator shall be appointed pursuant to the Act; and,
4. Any arbitration will be held at Toronto, Ontario unless the Parties otherwise agree, and shall be subject to the arbitrator applying the limitation of liability provisions of these Terms of Service.

Termination

Member organization may elect to cease use of the OTN Services at any time, however, to officially terminate the relationship with OTN, Member organization must provide sixty (60) days advance written notice of its intention, at which time these Terms of Service will be at an end, except those which expressly or by their nature are intended to survive termination. OTN will not be liable to the Member organization for costs or Losses arising from termination of these Terms of Service. Notwithstanding the foregoing, OTN will reimburse to the Member organization the balance of its annual membership fee paid to OTN, as applicable, in respect of the year of such termination, if any, calculated on a pro rata basis. Upon the request of OTN, the Member organization will promptly return to OTN in good working order all equipment granted or loaned by OTN at the Member organization's site(s).

OTN hereby reserves its rights to terminate, in whole or in part, all OTN Services by providing at least sixty (60) days advance notice of such change or termination. In such event, OTN will notify you either by email alert or a pop-up notification upon OTNhub sign-in. Further, where OTN determines it to be appropriate in the circumstances, acting reasonably, OTN may suspend the OTN Services, in whole or in part, without notice. Wherever reasonably practicable, OTN will provide a thirty (30) day remedy period for any such breach before suspension and/or termination is implemented.

Revisions to the Terms of Service

OTN may revise and update the Terms of Service in its sole discretion at any time without notice. Please check the Terms of Service frequently for updates by checking the date of the 'Last Update'. If any term, condition or any change thereto is not acceptable to you, you must discontinue your use of the OTN Services through the OTNhub immediately. Your continued use of the OTNhub after any such changes are posted will constitute acceptance of the revised and updated Terms of Service. In the event there are substantial changes to these Terms of Service, OTN will notify you either by email alert or a pop-up notification upon OTNhub sign-in.

Governing Law

These Terms of Service will for all purposes be governed by and interpreted in accordance with the laws in effect in Ontario. The Parties hereby defer to the jurisdiction of the Courts of Ontario.

News Release and Other Public Disclosures

Neither Party may, without the express prior written consent of the other Party, in any manner (including, but not limited to, advertising or marketing literature, customer lists, web sites, press releases, social media, or any other document or communication (in electronic or paper form)): (i) disclose or publish the fact that it has any relationship with the other Party; or, (ii) use or display a trade name, official mark or trademark of the other Party. Notwithstanding the foregoing, if a Party, in the opinion of counsel, is compelled to disclose or publish the fact that it has a relationship with the other Party in order to comply with the requirements of applicable law, the Party shall, to the extent practicable, consult with the other Party prior to making such disclosure or publication and each Party shall use all reasonable efforts, acting in good faith, to agree upon the timing and content of such disclosure or publication. The Party subject to the legal requirement shall have the final determination as to the timing and content

of such disclosure or publication, to the extent that the timing and content are part of the legal requirement.

If a Party provides express written consent to (i) disclose or publish the fact that it has any relationship with the other Party; or, (ii) use or display a trade name, official mark or trademark of the other Party, such consent is subject to all conditions communicated by the consenting Party, and the consenting Party shall have the right to withdraw its consent for any reason, including but not limited to if that Party believes that a use or display of its trade name, official mark or trademark reflects unfavourably upon the reputation of the consenting Party, or the goodwill attaching to its trade name, official mark or trademark.

OTN OBLIGATIONS

OTN will make reasonable efforts, given its available resources and priorities, to provide the Member organization and Member (as applicable) with the following services:

1. Online registration, authentication and provisioning of new Members and services;
2. Provide online training, along with any applicable training materials, for Telemedicine Services;
3. Account management support including adoption support and program development to encourage clinical, educational and administrative utilization of telemedicine;
4. Technical support for Telemedicine Services provided through a toll-free number;
5. Scheduling support to guide new Members and their delegates towards self-scheduling and direct patient management; hands-on scheduling support for exceptions such as complex bridge scheduling and out of province scheduling;
6. Gateway services and certification to provide access to videoconferencing sites across North America at an additional cost;
7. Provide installations, as required, so you or your User(s) can access OTN Services at an additional cost;
8. Provide access to software (including third party software) required to use the OTN Services;
9. As applicable, provide management of the provincial vendor(s) of record for any required equipment, warranty, and maintenance, as applicable, and software;
10. As applicable, act as: (i) the key point of contact with Member sites and any partners; and, (ii) a liaison with the any third-party application vendor(s);
11. As an optional service, and at a fee, new room-based videoconferencing site and system set-up deployment and changes to same;
12. Assurance that the data hosted and processed by OTN is adequately protected from unauthorized disclosure, modification and/or destruction via a combination of administrative, physical and technical security safeguards;
13. Provide guidance and recommendations with regards to Information Security best practices, including but not limited to:
 - a) Selection of strong and secure passwords;
 - b) Protection of stationary (e.g. PCs) and mobile (e.g. laptops, smartphones, tablets) computing equipment; and,
 - c) Secure email handling - recognizing common threats like phishing, spoofed URLs and malicious attachments.

(Please see [Security Information Best Practices](#) for more information)

ONGOING MEMBER ORGANIZATION OBLIGATIONS

The Member organization agrees to comply with the following requirements and obligations relevant to its specific use of the OTN Services. For clarity, as not all OTN Services may be used by you, only those sections that relate to the OTN Services you or your Users access will apply. The provision of the OTN Services and access to and use of the Videoconferencing Network by the Member organization and the Member are subject to the following:

1. *Delegation of Authority*: Member organization acknowledges that it is responsible for its Users and any actions and communications undertaken or transmitted in the course of the User's usage of the OTNhub. OTN will investigate occurrences which may involve violations of such laws, and may involve, and co-operate with, law enforcement authorities in prosecuting Users who are involved in such violations. OTN reserves the right at all times to disclose any information regarding Users' usage of the OTNhub as necessary to satisfy any law, regulation or governmental request. Unless prohibited by law, OTN will notify the Member organization as soon as reasonably able, after any such disclosure is made;
2. *Telemedicine Coordinator*: Designate an individual as the Telemedicine coordinator who will act as the primary OTN contact person, dedicate time to this role where specified; and, meet all of the responsibilities set out herein. Member organization will notify OTN promptly of any changes to such designated Telemedicine coordinator;
3. *Telemedicine Clinicians*: Designate an individual to deliver key components for the delivery of Telemedicine services. For clarity, the designated individual must at all times remain in good standing with their respective college;
4. *Administrative and technical staff*: Assign an administrative and technical contact to interact with OTN in the event that the Telemedicine coordinator is not responsible for overseeing administrative matters in addition to technical matters related to the Videoconferencing Network. Member organization will notify OTN promptly of any changes to such designated administrative and technical staff;
5. *User information and communications*: Ensure all Users understand they must: (i) promptly update their professional profile and site profile on the OTNhub under 'My Account' or notify Customer Care with any changes to their contact information and ensure the email address on file is a valid email address; and, (ii) log into their account on a regular basis, to monitor communications in their inbox, and respond to such communications within a timely manner;
6. *Site Readiness*: As applicable, participate in one or more site readiness assessments to enable OTN to review various processes and ensure that staffing, training, connectivity and room space for providing Telemedicine Services is appropriate;
7. *Health related telemedicine use only*: Ensure that the Videoconferencing Network and the services are only used for the purpose of delivering Telemedicine Services for health related clinical, educational and administrative events unless mutually agreed upon in writing with OTN;
8. *Integrating Scheduling into your Practice*: Ensure that your organization invests in training staff to schedule telemedicine events either through OTN's tools or by other means mutually agreed upon. Member organization and Users will contact and manage their own patients. OTN's scheduling team will support complex exception scheduling. **Please click [here](#)** for further details on scheduling telemedicine events;
9. *Assuming Cost of Videoconferencing outside of OTN's network*: Assuming sole and exclusive responsibility for any applicable costs related to videoconferencing calls made by the Member organization and/or Users through OTN's gateway(s) to connect to sites outside OTN's network;

10. *Fees Charged by Non Member Organizations:* For any fees charged by persons or entities that are not Member organizations of OTN, that the Member organization and/or Users connect to through OTN's gateway(s);
11. *Retention of Utilization Records:* Maintaining all of its records in respect of its utilization of OTN Services for the maximum period of time required by all applicable laws and ensuring maintenance of such records by Users and submitting the Member organization's and User's de-identified records to OTN, if so requested, for the purpose of conducting utilization studies and developing mutually agreed utilization targets and for clarity, nothing in the preceding permits or requires Member organizations or Users to provide OTN with PHI;
12. *Purchased Equipment:* Maintain, at your cost, up-to-date warranty coverage on purchased equipment, parts and software on such equipment, in accordance with the TSLA;
13. *Rental Equipment:* Sign any applicable rental agreement and be bound by same;
14. *TSLA Compliance:* Comply with the technical service standards guidelines, obligations, processes and policies as set out in these Terms of Service and under the TSLA and ensuring such compliance by Users;
15. *Determine requirement for HCP attendance in clinical events:* Without limitation, determine the extent to which a health professional is required to attend a clinical telemedicine event at a site with a patient attending;
16. *Secure Configuration of Computing Equipment:* Member organization will make best effort to ensure that the computing systems used by its users to access OTN services, whether stationary (PC) or mobile (tablet, smartphone), are securely configured and sufficiently protected from malware; and,
17. *User Security Awareness:* Member organizations will take efforts to ensure that its users are aware of their responsibility to protect Personal Health Information and encourage the users to follow Security Best Practices when using OTN systems. (Please see [Security Information Best Practices](#) for more information)

JOINT RESPONSIBILITIES

1. *Promotion of Telemedicine*

The Member organization agrees to reasonably, and only in accordance with their professional and legal obligations, promote and support the role of telemedicine in clinical, educational, and administrative events in its organization and, where applicable, in its community and to collaborate with OTN in its efforts related thereto in Member organization's discretion;

2. *Telemedicine Signage*

Upon OTN's request, and to the extent that it does not conflict with any professional or legal obligations, the Member organization shall post such signage as OTN may reasonably request and provide, and shall ensure that such signage is visible to each User and/or patient who receives Telemedicine Services;

3. *Network and Studio Rental and Revenue-Sharing*

- a) At the Member organization's discretion, the Videoconferencing Network may from time to time be made available for Third Party use provided that this activity does not interfere with the core mandate of the Videoconferencing Network, i.e., the delivery of Telemedicine Services, health professional education and administrative functions. Excessive use by Third Parties that interferes with the core mandate is prohibited;

- b) In the event the Member organization agrees to Third Party requests for use of the Videoconferencing Network, including its ISDN gateway, Internet Protocol gateway, point to point or bridging services, the Member organization shall refer the Third Party to OTN. OTN will invoice the Third Party for use of the Videoconferencing Network, using its standard rental rates. The fees collected from such rentals shall be shared with the Member organization and other OTN members involved in the event as follows:
 - i. OTN will retain the scheduling, network connectivity and bridging component of the fee charged for such event;
 - ii. OTN shall distribute the studio rental fee charged for such event to the Member organization and, to the extent applicable, such other OTN Member organizations involved in the event; and,
 - c) If required, OTN will invoice Third Party users for the Member organization's on-site technical support where required and reimburse the Member organization for such amounts as per OTN's policies and procedures then in effect.
4. *Protection of Personal Health Information (PHI)*
The Member organization understands that protection of PHI is a joint responsibility between the organization and OTN. While OTN is responsible for the protection of patient data on its network and premises, the Member organizations are similarly expected to protect the PHI in their possession.

FEES FOR USE OF OTN SERVICES

OTN sets fees for use of its Services, as applicable. Information on these fees can be found in [OTN's Resource Library](#). You acknowledge and agree that OTN can determine at its sole discretion that such fees may change, and in the event of any such change, OTN will provide you with ninety (90) days prior written notice with a fee change posted online on the OTNhub. You agree to pay such fees upon receipt of invoices from OTN. You acknowledge and agree that OTN is not and shall not be responsible for any costs related to your equipment or Internet service.

POLICIES AND BEST PRACTICES

1. *Policies for using the Videoconferencing Network:* OTN has developed and made available policies for using the Videoconferencing Network and will continue to further develop them over time. The Member organization will adhere to these policies when using the Videoconferencing Network and recognize that such policies provide greater specificity than is set out in these Terms of Service;
2. *The Member organization abides by policies and amendments:* the Member organization agrees to abide by all such policies as they currently exist and any additional policies and any amendments of any previously provided policies from and after the 60th day on which the Member organization has been provided with a copy of any such additional policies or amendments or notice that a copy of such additional policies or amendments may be obtained at a specified website;
3. The Member organization agrees to make all reasonable efforts to review and, where feasible, to follow any guidelines, best practices and processes posted on the OTNhub and as they may be developed and posted by OTN from time to time and make all reasonable efforts to ensure that all Users are aware of and comply with them;
4. Nothing in this section will relieve the Member organization of its own duties and obligations in the provision of Telemedicine Services;

5. The Member organization agrees to maintain policies and procedures required to ensure compliance with the Terms of Service and OTN policies; and,
6. *OTN and its Policies*: OTN will cause its employees and agents, and those for whom it is responsible at law, to comply with OTN's internal policies related to the provision of OTN Services.

C. OTNHUB AND OTN SERVICES

OTNHUB

The OTNhub is designed to give Members access to the OTN Services (available at otnhub.ca) to provide patient care, conduct educational events and for administrative purposes.

Limited License

When using OTNhub and the OTN Services, Users are granted a Canadian, non-exclusive, non-transferable, non-sub-licensable, revocable, limited license, in object code form only, for the provision of healthcare related services. No other rights are granted to you, your Users, and/or patients. Any grants not expressly granted herein are reserved.

Changes to the OTNhub

OTN may, at any time without notice or liability, and for any reason whatsoever, terminate, change, suspend or discontinue any aspect of the OTNhub, including (i) changing the availability of, restricting access to, or imposing limits on any or all features on, or links to, the OTNhub, or (ii) removing, adding, modifying or otherwise changing any content on the OTNhub. OTN reserves the right, in its sole discretion, to correct any errors or omissions in any portion of the OTNhub at any time without notice.

OTN SERVICES

Through the OTNhub, OTN offers an integrated suite of services that support telemedicine activity for clinical, education and administrative purposes for use by the healthcare community in Ontario. These services include videoconferencing (via room based systems, personal computer or on mobile devices), eConsult (please click [here](#) for further details on the Provincial eConsult Program), Directory access to healthcare professionals and sites, scheduling, secure messaging plus other services (the "OTN Services"). Where OTN leverages third-party software and services to provide OTN Services to you, OTN has executed all required contracts with such third-party providers.

OTN Services are offered through various mediums - room based systems, personal computers or on mobile devices. In order to use the OTN Services, you or your delegate (User) will require either a room based system, a mobile device or personal computer, appropriate Internet bandwidth, a webcam, audio device that includes a headset or speakers and microphone that all meet the minimum standards as set out in OTN's [Technical Readiness Guides](#). Member organization acknowledges and agrees that it is responsible for the provision of computer hardware or portable devices, camera, peripherals and internet connectivity for any of its Users.

AS A MEMBER ORGANIZATION YOU AGREE THAT YOU WILL:

1. *Register with OTN and with OHIP:* You will register individual Members of your organization with OTN, completing the security process of validating with ONE ID through eHealth Ontario; and register with OHIP for telemedicine billing;
2. *Ensure Liability Protection:* Ensure all Users are members of the Canadian Medical Protective Association or otherwise have adequate professional liability protection;
3. *Pilot:* you acknowledge that some of OTN Services provided to you are pilot programs. Such services are identified upon registration and may require a memorandum of understanding to be executed by the Parties. The use of such services are limited in scope and may be terminated by OTN, at its discretion, and may not evolve into permanent services;
4. *Operational Costs:* OTN is not and shall not be responsible for any costs related to your equipment or Internet service, or any other costs in respect of the OTN Services;
5. *Telemedicine Coordinator:* You will ensure the Telemedicine Coordinator (or such designated administrative staff) is accountable to work with OTN to identify prospective Members of the OTN Services within your organization, complete any service account requests and confirm the accuracy and completeness of Member registration information;
6. *User Feedback:* You acknowledge and agree that OTN, or a third-party retained for this purpose, may collect Users' feedback on their use of the OTN Services via the application, interviews, or surveys and to record and use this feedback in its evaluation of current and future service offerings;
7. *User Account Management:* You acknowledge that OTN reserves the right to lock inactive User accounts when activity has not taken place in a twelve (12) month period;
8. *Disclaimer:* You acknowledge and agree that, in each case without limitation:
 - a) OTN will provide OTN Services (including but not limited to any applicable software) on an "as is" and "as available" basis and you agree that the use of OTN Services at your own discretion and sole risk;
 - b) OTN makes no warranty that OTN Services will meet your requirements, or will be uninterrupted, timely, secure or error-free; nor does OTN make any warranty as to the results that may be obtained from the use of OTN Services;
 - c) OTN does not guarantee any level of service availability, service quality or problem resolution time. OTN will use commercially reasonable efforts to proactively anticipate and prevent system failures, promptly respond to service outages, expedite problem resolution, communicate problem resolution plans and recommend and support alternative service provision modes;
 - d) As applicable, the availability, capability and use of the OTN Services the eHealth Ontario Network, or any other network, by you or a User is subject to the availability, capacity and capabilities of the network made available to you or a User by eHealth Ontario or any other network;
 - e) Any material and/or data downloaded (including but not limited to any software) or otherwise obtained through the use of the OTN Services or otherwise from OTN for use in connection with the OTN Services is done at your own discretion and risk, and OTN will not be responsible for any damage or loss of data that may result from the download of such material and/or data;
 - f) OTN expressly disclaims all warranties and conditions, whether express or implied or statutory or otherwise, including but not limited to, implied warranties of title, merchantability, fitness for a particular purpose and non-infringement of any third-party intellectual property right and no advice or information, whether oral or written, obtained by you through use of the OTN Services (including but not limited to any software) will create any such warranty on the part of OTN; and,

9. *Additional Agreements and Obligations:* You hereby agree that in order to access certain OTN Services, you, your User, and/or patients may be required to accept additional service-offering terms and/or enter into agreements with third-party service providers before access to such OTN Service will become available to you.

SYSTEMS, NETWORKS AND EQUIPMENT

As a Member organization you acknowledge, understand and agree that:

1. *Site Certifications:* In the event that the Member organization wishes to receive the services and access the Videoconferencing Network at more than one of its sites, the Member organization shall ensure that each site is certified by OTN as having met all relevant OTN criteria and passed OTN standard testing, in addition to paying any fees as may be applicable and determined by OTN for each additional site;
2. *Access to Premises and Remote Access:* In the event you require installations on-site at your premises, you will ensure that OTN technicians, or certified VOR, have appropriate access to your premises as required to install and support the equipment and any applicable applications. OTN will ensure that all of its staff members have signed any required confidentiality agreements regarding their responsibilities with respect to PHI and other Confidential Information. The Member organization will provide OTN with remote access and, during normal business hours, on-site access, to all Videoconferencing Equipment on the OTN network, as may be required by OTN from time to time. OTN will make all reasonable efforts to provide the Member organization with advance notice prior to accessing such equipment;
3. *Equipment:* OTN is not responsible for equipment purchased from other suppliers who do not have a signed vendor of record (“VOR”) agreement with OTN and cannot guarantee that equipment purchased from non-VOR supplier(s) will function and operate as required in connection with the applicable OTN Service. In such cases, where you choose to purchase equipment from a non-VOR supplier, you will be responsible for all costs incurred to make this equipment function and operate as required with the OTN Service;
4. *Loaning and Granting of Equipment:* At the discretion of OTN, devices/equipment for conducting telemedicine activity may be:
 - a) Granted or loaned to the Member organization pursuant to a separate agreement to be entered into between the Member organization and OTN; or,
 - b) Purchased directly by the Member organization from the vendor and/or integrator. Once the devices/equipment have been delivered, installed and are operational, the Member organization is deemed to have accepted the applicable agreement. OTN is not responsible for warranty extensions or renewals and not responsible for the replacement of granted/loaned equipment;
5. *Non-standard or incompatible equipment:* In the event that the Member organization:
 - a) Utilizes non-standard equipment and systems or connects standard equipment and systems other than as authorized or advised by OTN;
 - b) Directly acquires one or more videoconferencing units, related medical and educational peripheral equipment and such other Videoconferencing Equipment as required by the Member organization from time to time, the Member organization is responsible for ensuring that such equipment is compatible with OTN’s standard equipment and systems;
 - c) Does not:
 - i. enable OTN to monitor the Videoconferencing Equipment and related Network Equipment; or,
 - ii. provide network access to the Videoconferencing Equipment and related Network

Equipment then OTN cannot guarantee that the service will be fully functional. The Member organization will be responsible for providing its own support as may be required from time to time;

6. *Bandwidth and Technical Readiness:* For optimal performance, you will ensure appropriate Internet bandwidth, firewall access and all necessary equipment for Users in order that they can meet the technical specifications described in the **Technical Readiness Guides** (here you may also test your readiness for Internet bandwidth and firewall ports using OTN's tools available);
7. *Network Equipment:* OTN will loan the Member organization standard Network Equipment for new or modified installations when necessary. Such equipment will be selected, configured and installed by or on behalf of OTN in its sole discretion; provided that where the Member organization employs technical staff OTN will, where possible, consult with such staff as appropriate. The Network Equipment will be owned, operated and maintained by OTN and, at OTN's option, will be returned by the Member organization to OTN, upon the termination of these Terms of Service in the same condition as when received except for reasonable wear and tear;
8. *Third Party networks:* The availability, capability and use of the Videoconferencing Network by the Member organization is subject to the availability, capacity and capabilities of the electronic network made available to the Member organization by eHealth Ontario or any other network, as applicable, and OTN disclaims all responsibility for such third-party networks;
9. *Connectivity:* The Member organization will provide the appropriate broadband IP connectivity or alternative as identified in the TSLA and will make all reasonable efforts to ensure that such connectivity is compatible with standard equipment and systems. At the sole discretion of OTN, OTN may, at the request of the Member organization, act as an agent of the Member organization to specify and order an appropriate network connection on the OTN private network for the exclusive use of Telemedicine. Such a connection is subject to a cost recovery fee which will be paid to OTN by the Member organization;
10. *Extended Service and Maintenance:* To benefit from enhanced technical services, to reduce potential downtime and to remain compliant with standard devices/equipment and systems, OTN strongly recommends that Member organizations purchase extended service or maintenance contracts for devices/equipment;
11. *Warranty in Good Standing:* The Member organization is solely responsible for having a good standing warranty on equipment, renewals of warranty services and claims. Member organizations must comply with **OTN's TSLA**.
12. *Removal of EOS systems:* If a Member organization has systems beyond EOS with unsupported software or hardware, OTN reserves the right to remove these systems, as they can negatively impact other Member organizations using the network;
13. *OTN as an Agent of the Member organization:* At the request of the Member organization, OTN may act as an agent of the Member organization with the applicable vendor and/or integrators in matters relating to extended service and/or support of videoconferencing devices/equipment. This is at the sole discretion of OTN. Such an agreement may be subject to a reasonable cost recovery fee which will be paid to OTN by the Member organization; and,
14. *OTN Managed Service:* In the event that OTN is acting as an agent of the Member organization in matters relating to extended service and/or support of Videoconferencing Equipment, OTN will carry out its responsibilities related to managing extended service and/or support. This includes, without limitation, managing first and second tier support for such devices/equipment, generating service requests, and taking other actions as OTN may deem necessary for the due and proper performance of equipment and systems.

D. PROTECTING THE PRIVACY OF YOUR MEMBERS

INTRODUCTION TO PROTECTING PRIVACY

OTN collects personal information including names, phone numbers, OHIP billing numbers and email addresses of all individuals who use OTN Services for the purpose of creating user profiles, enabling OHIP billing and validating the identity of Users and for other purposes as set out in **OTN's Privacy Statement**. OTN collects User personal information through various means, including through its website at otn.ca and through the OTNhub. The Privacy Statement describes OTN's personal information practices, regardless of the source or manner in which personal information is collected. You are strongly encouraged to review the Privacy Statement prior to registering.

OTN will use transactional and record level data created in connection with and through the use of OTN programs, products and services to generate reports and may share this utilization information with local health integration networks (LHINs), OntarioMD, the eConsult Centre of Excellence, eConsult regional and deliver partners other OTN partners, customers and to report to the Ministry and others as required under agreements or the law. This information may contain the personal information of users but will not contain personal health information.

USER AUTHENTICATION AND AUTHORIZATION

When registering new Members for the OTNhub and OTN Services, security and privacy are high priorities for OTN. New users are validated and credentialed through eHealth Ontario's One ID service as the primary Identify Provider and through other identify providers. eHealth allows other organizations to act as local registration authorities (LRAs) to support the ONE ID process to improve OTN's ability to validate, authenticate and on-board users, as well as train users. Other methods also include validation against professional college or association listings with healthcare regulatory bodies, or through attestation by a user's employer. Individuals applying to use OTN Services consent to the collection, use and disclosure of their personal information as required for authentication or in relation to setting up and maintaining their account. For clarity, OTN has no control over the requirements for and any collection, use and disclosure of information by eHealth Ontario in connection with the ONEID service. In order to register, you must comply with eHealth Ontario's One ID authentication rules. Individuals are responsible for determining whether they are prepared to comply with those requirements. If a User's account with OTN and/or eHealth Ontario is suspended or terminated for any reason, access to OTN's services and/or programs will automatically be suspended and/or terminated.

If you are a Member using Federated Credentials established by an Identity Provider you agree that:

- i. Your users have been explicitly authorized to register for and use the OTNhub and OTN Services;
- ii. For the purposes of Federated Credentials OTN is a Distribution Channel;
- iii. OTN will automatically provision users registering for the OTNhub and OTN services using Federated Credentials from a recognized Identity Provider;

- iv. OTN will notify the primary contact or an individual acting in the role of the primary contact when a user is provisioned for the OTNhub and OTN Services;
- v. The Identity Provider is the service provider responsible for the integrity of your users' Federated Credentials;
- vi. That you are responsible for your users' acceptable use of any Federated Credentials;
- vii. That you will appropriately limit access of your users to OTNhub based on a "need-to-know" principle;
- viii. That your designated Telemedicine Coordinator will review all messages from OTN regarding newly provisioned OTNhub accounts;
- ix. That you are responsible for revoking the Federated Credentials of any user who:
 - a) has left the organization; or,
 - b) no longer meets the eligibility criteria to access to the OTNhub or OTN Services; or,
 - c) No longer requires access to the OTNhub or OTN Services.

For clarity, OTN has no control over the requirements for and any collection, use and disclosure of information by eHealth Ontario in connection with the ONEID service or by other Identity Providers in connection with Federated Credentials. In order to register, you must comply with eHealth Ontario's One ID or with other Identity Providers' authentication rules. Individuals are responsible for determining whether they are prepared to comply with those requirements. If a User's account with OTN, eHealth Ontario or with another Identity Provider is suspended or terminated for any reason, access to the OTNhub and OTN's services and/or programs will automatically be suspended and/or terminated.

SECURITY BREACHES RELATED TO YOUR CREDENTIALS AND ACCESS TO THE OTNHUB

You must contact OTN to advise of any security breaches, if you and/or your Users experience any of the following as it relates to the OTNhub or OTN Services:

1. Credentials, therefor user identification or password is compromised;
2. Have breached the One ID Authorized Use Policy ("AUP");
3. Are aware of any security or privacy incident involving a One ID or other Identity Provider Federated account;
4. A provision of any privacy laws has been or is about to be contravened;
5. Any other circumstances where there is an unauthorized or inappropriate access, collection, use, disclosure, copying, modification, retention, or disposal or personal information including theft or accidental or theft of data; or,
6. A situation arises where you anticipate that you will not be able to comply with these Terms of Services.

DIRECTORY LISTINGS

The Telemedicine directory (the "Directory") is an important collaboration tool on the OTNhub for healthcare professionals. As an OTN organization, your Members' professional profiles, your Member organization's site profile and related clinical programs will be published and available to other OTN Members to facilitate professional collaboration in support of patient care. You are encouraged to customize your settings to indicate whether you accept referrals or other requests. You and your Users will only access the Directory for communication in conjunction with the use of OTN Services. By registering to use OTN's Services you and your Users consent to publish this profile information.

OTN may be required to provide information about you, including your name and other information in connection with your enrolment for, use of the OTNhub or a breach of the AUP,

to eHealth Ontario and you consent to the disclosure of such information to the extent that it is required by eHealth Ontario in relation to your Account.

E. PERSONAL HEALTH INFORMATION

MEMBER ORGANIZATION'S OBLIGATIONS REGARDING PERSONAL HEALTH INFORMATION

You agree to comply with all applicable laws pertaining to the protection and confidentiality of personal health information, and to OTN's privacy policies, including:

Accessing Personal Health Information, Obtaining Consent and Delegating to Others

1. To access personal health information only as necessary for the purpose of providing health care to individuals in your care or for providing services which will facilitate, support or assist in the provision of health care to those individuals or otherwise as permitted or required by law;
2. To not access or contribute to personal health information for any individual who has exercised his or her right under PHIPA to withdraw consent to the collection, use or disclosure of his/her personal health information except as permitted by law;
3. To securely transfer sufficient information from OTN's applications to meet all legal requirements for storing and retaining patient records;
4. To be responsible for obtaining and managing patient consent and/or limits/withdrawal of consent in accordance with applicable legislation, regulations or standards;
5. To be responsible for your delegates and/or users and their delegates identified by you as acting on your behalf and under your authority when accessing personal health information using OTNhub Services;

Policies, Procedures and Training

6. To follow policies and procedures required to ensure your compliance with privacy of personal health information;
7. To complete privacy and security training as required by OTN in advance of using OTN Services;
8. To read and implement, as applicable, OTN policies, procedures, user guides, best practices or other documentation available on the OTNhub, concerning OTN's Services;

Contact OTN's Privacy Office with Potential Breach

9. To promptly contact both OTN's privacy officer at privacy@otn.ca and your organization's privacy officer upon first learning of the possibility of unauthorized use or disclosure of any personal health information related to the use of the OTN Services; and,
10. OTN may suspend or terminate your right, in accordance with the termination provisions set out above, to use the OTNhub and the OTN Services if it determines you have caused a threat, through your acts or omissions, to the security and integrity of confidential information, personal information and/or PHI. Wherever reasonably practicable, OTN will provide a thirty (30) day remedy period for any such breach before suspension and/or termination is implemented.

OTN'S OBLIGATIONS REGARDING PERSONAL HEALTH INFORMATION

1. OTN will comply with all applicable laws including those pertaining to the protection and confidentiality of personal health information;
2. OTN may, in the course of providing OTNhub and other Services and Programs, act as an “agent”, a “Health Information Network Provider (HINP)”, a Service Provider (as such terms are defined in PHIPA), and/or an electronic service provider (“ESP”). For further details please see [OTN PHIPA Roles](#);
3. OTN will notify you at the first reasonable opportunity (with all efforts to do so within two (2) business days) of becoming aware of any unauthorized access, use, disclosure or disposal of PHI provided by the User through the use of the OTNhub products and the OTN Program and Services. OTN will use all reasonable efforts to support the Member organization in responding to incidents of unauthorized access, use, disclosure or disposal of PHI;
4. Except as otherwise required by law, OTN will not use or disclose any PHI which it may host on your behalf or to which it has access in the course of providing OTN Services except as necessary in the course of providing these Services;
5. Notwithstanding section 4 above, OTN will adhere to its’ retention policy in a manner that strives to ensure you can adhere to your retention requirements;
6. Except as otherwise required by law, OTN will ensure that its’ employees, or any person acting on its behalf, comply with the restrictions on collection, use and disclosure of PHI set out in this User Agreement, in relation to using OTN Services;
7. OTN is only responsible for providing the technology and support to access and use OTNhub Services and cannot be responsible for the privacy practices of Users;
8. OTN will provide to the User upon request a plain language description of OTN Services that is appropriate for sharing with the patients of the Member organization to whom the PHI relates, including but not limited to a general description of the safeguards in place to protect against unauthorized use and disclosure, and to protect the integrity of the PHI;
9. OTN will provide to the User upon request a written copy of the results of an assessment of OTN Services with respect to:
 - (i) threats, vulnerabilities and risks to the security and integrity of the PHI;
 - (ii) how OTN Services may affect the privacy of the individuals who are the subjects of the PHI;

OTN's Administrative, Technical and Physical Safeguards

10. OTN will ensure that it has:
 - (i) a Privacy Program responsible for governance and oversight; and,
 - (ii) an Information Security Department responsible for information security throughout the organization.
11. OTN is committed to the protection of PHI processed, transmitted, and/or stored on its premises through a combination of Administrative, Technical and Physical Safeguards, including but not limited to the following:
 - (i) Administrative Safeguards:
 - a) Information Security Policies, Standards and Procedures;
 - b) Employee Security Training and Awareness;
 - c) Background checks prior to providing employment;
 - d) Confidentiality and Non-Disclosure Agreements;

- (ii) Technical Safeguards:
 - a) Network Access Controls;
 - b) Anti-Malware Protection;
 - c) Encryption Technologies;
 - d) Logging and Monitoring;
 - e) System Patching;

- (ii) Physical Safeguards:
 - a) Redundant and highly secure data centres with restricted access privileges; and,
 - b) Proximity card enabled access to OTN offices.

For the purposes of this ‘Personal Health Information’ section, access has the same meaning as ascribed to ‘collection’ under PHIPA.

F. PHYSICIAN CORPORATIONS AND PHYSICIAN BILLING

Physician Corporations

If these terms are being agreed to by a Physician Corporation (as that term is defined in Ontario Regulation 665/05 Health Profession Corporations to the Business Corporations Act, R.S.O. 1990, c. B. 16), then by agreeing to these terms, the Physician Corporation and the physician agree that all references herein to the User or to you shall mean both the Physician Corporation and the physician. Further, the Physician Corporation and the physician agree that the Physician Corporation and the physician shall be jointly and severally liable for the obligations set out herein, provided that those obligations which at law or in all practicality can only be met by a physician will be deemed to be obligations of the physician only (including by way of example only, the obligations pertaining to CPSO registration and OHIP billing numbers).

Physician Billing

If you are a physician using OTN’s Services to provide patient care, then:

- You represent and warrant that you are in good standing with the College of Physicians and Surgeons of Ontario licensed to practice in Ontario;
- You will comply with OHIP consent registration for telemedicine providers to enable you through OTN to bill through OHIP for your professional services;
- Upon OTN forwarding such documentation, each physician’s billing and payment arrangements with respect to the Telemedicine Services provided will be carried on between the physician and OHIP directly, which will include the requirement that each physician submit bills regarding Telemedicine Services directly to OHIP; and,
- You must inform OTN immediately if your medical license is suspended or terminated.

G. REMOTE PATIENT MONITORING

If you are participating in OTN's remote patient monitoring program ("RPM"), you are also governed by the following terms (the "RPM Terms"). In the event of an inconsistency or conflict between the RPM Terms and the Terms of Service, the RPM Terms shall be paramount, but only as it relates to RPM. You hereby agree and acknowledge that:

1. OTN provides RPM using a third-party software solution (the "Third-Party Solution") through a third-party vendor ("Third-Party Provider") and its subcontractors (the "Third-Party Subcontractors");
2. You shall indemnify, defend and hold OTN, the Third-Party Provider, and the Third-Party Subcontractors, their partners, licensors, affiliates, contractors, officers, directors, employees and agents harmless from all damages, losses and expenses arising directly or indirectly from:
 - i. any negligent acts, omissions or willful misconduct of your organization;
 - ii. your or your users' (including patients) use of the Solution in a manner not permitted by these Terms of Service or in a manner other than is apparently allowed by the Solution;
 - iii. any breach of or failure to comply with these Terms of Service by your organization;
 - iv. any claim by a patient alleging medical malpractice or an error, misjudgment, deficiency or defect in any medical advice, diagnosis or treatment related to or connected with use of the Solution and/or the associated services;
 - v. your violation of any law; and,
 - vi. any claim alleging the unauthorized practice of medicine in connection with your, your users' or your patients' use of the Solution.

H. CUSTOMER CARE SUPPORT

Please [check here](#) for current contact information and hours of operation.

I. DEFINITIONS & ACRONYMS

1. **Act:** the *Arbitration Act, 1991 (Ontario)*, as amended or replaced, from time to time
2. **AUP:** authorized use policy
3. **Confidential Information:** all confidential, secret or proprietary information relating to the Member organization or any of its Affiliates (as such term is defined in the Business Corporations Act (Ontario)), including, without limitation, information which is designated as confidential or proprietary or that should be considered as such from its nature or from the circumstances surrounding its collection, use or disclosure. Confidential Information shall not include information that: (i) is or becomes generally known or available to the public at large other than as a result of a breach by OTN of any obligation to the Member organization; (ii) was known to OTN free of any obligation of confidence prior to disclosure by the Member organization; (iii) is disclosed

to OTN on a non-confidential basis by a third party who did not owe an obligation of confidence to the Member organization; or (iv) is developed by OTN independently of and without reference to any part of the Confidential Information

4. **Distribution Channel:** a computer system operated by OTN that is accessed by Member organizations approved by OTN
5. **COE:** eConsult Centre of Excellence (econsultCOE), housed at The Ottawa Hospital in partnership with the Bruyère Research Institute leads the Provincial eConsult Program
6. **eHealth Ontario Federation:** a network managed by eHealth Ontario whose members either provide or access a service over a technology infrastructure consisting of applications, systems, registries, databases, portal applications and tools
7. **eHealth Ontario Network:** a virtually private TCP/IP network supported by an agency of the Provincial Crown or any successor thereto
8. **EOS:** End of Service
9. **Federated Credentials:** credentials (user name and password) provided by an Identity Provider that is trusted across multiple identity and access management systems in the eHealth Ontario Federation
10. **Identity Provider:** an organization that validates a user's real identity and assigns them a set of credentials
11. **Including:** "including without limitation" and the term "including" shall not be construed to limit any general statement which it follows to the specific or similar items or matters immediately following it
12. **Loss and Losses:** (without limitation) any expenses, costs, damages or liabilities or any cause of action, actions, claims, demands, lawsuits, inquiries, investigations or other proceedings, court costs, arbitration fees, penalties, fines, amounts paid in settlement of claims, legal fees and expenses of investigation
13. **Member(s):** the individual user(s) or independent practitioner(s) using the OTNhub and governed by the OTNhub User Agreement
14. **Member organization(s):** the organization(s) or independent practitioner(s) that is/are governed by these Terms of Service
15. **Ministry:** the Ministry of Health and Long-Term Care (Ontario) or any successor Ministry having responsibilities for OHIP
16. **Network Equipment:** data communications hardware and networking equipment, including routers and switches, access to which is provided by OTN to the Member organization pursuant to these Terms of Service
17. **OHIP:** the Ontario Health Insurance Plan
18. **OTNhub:** an online platform owned and operated by OTN, through which it offers Telemedicine Services
19. **OTNhub User Agreement:** the terms by which a User of the OTNhub and OTN Services will be governed
20. **OTN Service(s):** the integrated suite of services that support telemedicine activity for clinical, education and administrative purposes for use by the healthcare community in Ontario, including, but not limited to, videoconferencing (via room based systems, personal computer or on a mobile devices), the eConsult Blended Service Directory access to healthcare professionals and sites, scheduling, secure messaging. **Please click [here](#)** for a full listing of the OTN Services
21. **Party:** OTN or the Member organization; **Parties** means both of them
22. **PHI:** personal health information
23. **PHIPA:** the *Personal Health Information Protection Act, 2004*, S.O. 2004, c.3, Sched. A and the regulations thereunder, as may be amended or replaced, from time to time
24. **RPM:** remote patient monitoring program

25. **RPM Terms:** those additional terms related solely to RPM
26. **Telemedicine Services:** the use of videoconferencing and other information and communication technology to connect health care providers and patients in ways that enable them to overcome the barriers created by time and distance
27. **Terms of Service:** these Terms of Service, including all attached schedules and appendices and all documents specifically referred to herein as forming part hereof and available at www.otn.ca, as the same may be supplemented, amended, restated or replaced from time to time
28. **Third Party and Third Parties:** any individual, organization or entity that is not directly associated with a Member organization of OTN and that the Member organization permits to access and use the Videoconferencing Network
29. **Third Party Provider:** The third-party vendor used to provide the Third-Party Solution to OTN for RPM
30. **Third-Party Solution:** the third-party software solution provided by the Third-Party Provider for RPM
31. **Third Party Subcontractors:** The Third-Party Provider's subcontractors used to provide the Third-Party Solution to OTN for RPM
32. **TSLA:** the technical service level agreement (**TSLA**) which forms a part of these Terms of Service and which outlines the technical services available to the Member organization and Members and delineates the mutual roles, responsibilities, performance targets and constraints associated with the provision of these technical services by OTN to the Member organization and Members
33. **User or Users:** (a) an individual affiliated with the Member organization (including, without limitation, independent practitioner, employees, volunteers, students, agents or independent contractors of the Member organization) that the Member organization permits to access and use the OTNhub and OTN Services, or (b) a Third Party, as applicable
34. **Videoconferencing Equipment:** all hardware and, as applicable, software (including videoconferencing platforms, codecs, medical devices, but excluding all Network Equipment) that facilitates the ability of the Member organization to use OTN Services for the provision of Telemedicine Services
35. **Videoconferencing Network:** the point-to-point and multi-point electronic technologies operated by OTN that enable the Member organization to provide the Telemedicine Services through videoconferencing and which may also be used by the Member organization for educational, administrative or other clinical purposes
36. **VOR:** vendor of record