



Ontario Health
OTN

VIRTUAL VISITS VERIFICATION PROCESS VENDOR TERMS AND CONDITIONS

Please note these Terms may be subject to change without notice.

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In support of the Ministry of Health's Digital First for Health Strategy, Virtual Care Program and Digital Health Information Exchange Policy, and pursuant to the *Connecting Care Act*, Ontario Health ("OH") will administer the virtual visits verification process to facilitate a greater selection of digital health assets anchored in a patient first, standards and principles-based framework, that can be leveraged for the delivery of virtual care to Ontarians (the "Virtual Visits Verification Process").

The Virtual Visits Verification Process enables vendors and, if used and procured, the healthcare community, to affirm and demonstrate that their solutions and services are designed to support safe, privacy and security enhanced virtual visits (videoconferencing and secure messaging) enabled for interoperable health information exchange.

To that end, OH will maintain and make available through its otn.ca website (otn.ca/providers/verified-solutions), a list of participating vendors that can affirm, on an annual basis, their readiness and commitment to continuously ensure that they meet the mandatory Virtual Visits Solution Requirements. For the purposes of these Terms, "Virtual Visits Solution Requirements" refers to the framework and mandatory requirements that virtual visits solutions must meet in order for those solutions to be available for use by healthcare organizations and clinicians to support virtual clinical encounters with patients as part of the Virtual Visits Verification Process.

These terms and conditions govern the overarching relationship between OH and the vendor (referred to herein as "you" or "your"), outline the conditions for submissions and vendor solution verification, and publishing of same and inclusion on the Solutions Site (if same occurs) (the "Terms"). A current version of the Terms is always available online at otn.ca/verification for your reference. You are responsible for reading any revised Terms and complying with same. In the event of a conflict between these Terms and the Website Terms and Conditions, these Terms shall govern, but only as it relates to the Virtual Visits Verification Process.

The process and solution requirements framework were developed in consultation with the Ministry of Health ("Ministry"), OntarioMD and other healthcare stakeholders across the province and are available at otn.ca/verification. The Office of the Information and Privacy Commissioner of Ontario was consulted with respect to the verification process in general.

Your participation in the Virtual Visits Verification Process is completely voluntary. Use of your verified vendor solution by clinicians and healthcare organizations is also completely voluntary, however, may impact clinician and healthcare organization eligibility for provincial programs.

The Submission Process

Further to the authority granted to OH under the *Connecting Care Act*, OH is leading this Virtual Visits Verification Process to improve Ontario's access to virtual care. The process and submission criteria are

described on the Submission Site (otn.ca/verification). The submission package includes: (i) Attestation Letter; (ii) Schedule A: Organization and Solution Information; (iii) Schedule B: Solution Requirements; (iv) Schedule C: Privacy Impact Assessment (PIA) Summary; and, (v) Schedule D: Threat Risk Assessment (TRA) Summary.

Included in the submission criteria is a Virtual Visits Solution Requirements document that is part of a standards and principles-based framework. As part of your submission, you must include an attestation letter that is provided to vendors that confirms interest in participating in the Virtual Visits Verification Process. Confirmation of interest may be submitted through the Virtual Visits Verification Process Site (otn.ca/verification) or sent directly to verification@ontariohealth.ca. Only the variables identified in open text fields may be modified; any other modifications to the letter will result in your submission being rejected. It is your responsibility to ensure that you obtain the most recent version of the Virtual Visits Solution Requirements.

In cases where all submission criteria are not included in your submission, OH will notify you of same and you may re-submit provided you meet all criteria as specified in the re-submission. Provision of all submission criteria does not guarantee that your submission will be accepted or successful or that your solution will be published on the Solutions Site.

There are no fees applicable to the Virtual Visits Verification Process. Notwithstanding the foregoing, you hereby understand, acknowledge, and agree that you shall remain responsible at all times for all costs associated with the preparation of your submission, and for ensuring that your solution and services meet the mandatory solution requirements as specified in the Virtual Visits Solution Requirements.

The Virtual Visits Verification Process

OH will manage and oversee the Virtual Visits Verification Process which includes the following:

- a) establishing, operating, and updating the Virtual Visits Verification Process;
- b) receiving and reviewing vendor submissions;
- c) assessing vendor attestations to meeting all mandatory requirements;
- d) through services performed on OH's behalf by Third Parties (as hereinafter defined), performing validation tests whereby vendor solution compliance with select Virtual Visits Solution Requirements will be validated;
- e) publishing verified vendor solutions for public consumption on the Solutions Site and removing vendor solutions that are determined to be non-compliant with the mandatory requirements within the Virtual Visits Solution Requirements;
- f) reporting to the Ministry and system partners on virtual care activity in Ontario;
- g) managing service partnerships where OH designates other organizations as responsible for certain activities and functions; and,
- h) marketing, communication and ongoing engagement with the vendor and innovation community.

You hereby agree and acknowledge that: (i) the OH verification team will include key external stakeholders, with whom Confidential Information (as hereinafter defined) is shared to facilitate its involvement in the process ("Third Parties"); and, (ii) you have all rights, and have obtained all necessary consents, to provide the Confidential Information in your submission and to be shared with the OH verification team.

You agree to cooperate with any additional reviews and provide all necessary information as requested by OH,

or its Third Parties, to ensure OH's comprehension of your solution and validation of your submission to assist with the successful completion of the Virtual Visits Verification Process.

OH will accept and review submissions as they are received; no priority will be extended to any vendor through the process. Further, OH provides no guarantee on the length of time to complete the lifecycle of the Virtual Visits Verification Process or to publish successfully verified solutions on the Solutions Site. Vendors are welcome to approach OH with questions or comments by sending an email to verification@ontariohealth.ca.

There are two phases in the Virtual Visits Verification Process:

1. Attestation

- a) Based on the templates provided by OH, vendors will complete the submission, including attestation (the "Submission") and submit this to OH.
- a) The Submission will be complete with all mandatory business and solution information as required and signed by the CEO, or other individual who holds the authority to bind the organization.
- b) Completion and provision of the Submission will mean vendor acknowledgement and acceptance of the Terms, disclaimers, and solution requirements.
- c) In the Submission, vendors must attest to meeting the mandatory solution requirements
- d) OH will review the Submission and follow up with the vendor as necessary for clarity and/or missing information.
- e) Passing the attestation step will allow vendors to progress to the validation phase
- f) After successful completion of the verification phase and before the validation phase, status on the Solutions Site is denoted as 'Verified (Attested)'.

2. Validation

- a) After attestation has been successfully completed, solutions will undergo validation testing by OH, either directly or through the use of Third Parties.
- b) This phase may be undertaken immediately after attestation or scheduled for a later point, but in no event will this phase occur beyond one year of the Submission date.
- c) Within one year of verification, vendors are required to demonstrate compliance to select requirements through participation in scenario tests.
- d) Should OH identify any issues, OH will notify you of same and you may remediate and re-submit.
- e) Successful completion of the validation step will allow OH to publish the solution on the Solutions Site (otn.ca/providers/verified-solutions) as having been validated through testing with a status denoted as 'Verified (Tested)'.

As stated in the PIA and TRA requirements, attestation will be required on a yearly basis and PIAs and TRAs must be refreshed every three years from the date the PIA and TRA were conducted, or sooner should there be a change to the solution or service that impacts PHI, including but not limited to secure handling, collection, use or disclosure of PHI. Vendors should approach OH should they identify any solution changes, such as software version upgrades and cybersecurity events, that may impact compliance with mandatory requirements. Virtual Visits Solution Requirements will be updated periodically and where changes may impact compliance with mandatory requirements, vendors must notify OH. OH will send change notifications to vendors via the email address(es) provided in Schedule "A". It is your obligation to ensure you notify OH should the notification information included in Schedule "A" change.

Dispute Resolution

Any disagreement, dispute, or inquiry regarding the inclusion, suspension or removal from the Solutions Site (“Dispute”) that arises through the Virtual Visits Verification Process must follow the dispute resolution process detailed below. At all times the parties will make all reasonable efforts to resolve the Dispute.

Any Dispute may be escalated in writing to OH’s Virtual Visits Verification Process team at verification@ontariohealth.ca.

The Virtual Visits Verification Process business lead will assess the Dispute and engage with you to ensure understanding by both parties of the issue in dispute, to ensure that the Dispute is appropriately documented and to discover whether the Dispute may be resolved by you and OH’s business lead.

If resolution is not achieved, the Dispute will be escalated to the Virtual Visits Verification Process’ executive lead and a senior representative of your organization for review and to recommend a course of action to OH’s Virtual Visits Verification Process governance committee. OH’s Virtual Verification Process governance committee will review the Dispute resolution recommendation and if in agreement provide the recommended resolution to OH’s Chief Executive Officer (CEO), or the CEO’s delegate, who will provide a final communication regarding the Dispute to your identified senior representative.

Ongoing Vendor Obligations and Yearly Attestation

Once published on the Solutions Site, in order to maintain your solution listing, you will make best efforts to comply with the then-current mandatory solution requirements. You will be required to submit a yearly attestation to this effect. Should there be changes or enhancements to your solution or services that impact governance, accountability, privacy and/or security, you may be required to update your risk assessments (PIA and TRA) and provide a summary of same to OH for review for on-going verification. Notwithstanding any changes, you will be required to submit new PIA and TRA Summaries to OH every three (3) years in accordance with stated requirements (otn.ca/verification).

You acknowledge and understand that you must immediately notify OH if you are no longer able to meet any mandatory requirement(s) and that your solution listing status may change to reflect ‘under review’ or may be temporarily removed. A remediation plan will be reviewed, and then if deemed satisfactory to address any gaps, will be accepted by OH to maintain the solution on the Solutions Site on a temporary basis, denoted as ‘Under Review’, until such time that the solution has been successfully resubmitted and verified as meeting all mandatory requirements.

Healthcare organizations and providers may have other obligations under the *Personal Health Information Protection Act, 2004* (PHIPA) or may as a best practice have additional requirements for vendors to meet and/or require additional implementation risk assessments or testing to be conducted. Your organization is responsible for ensuring your solution complies with all applicable legislative and regulatory requirements. The submission of a PIA and TRA summary and participation in the solution Virtual Visits Verification Process does not constitute compliance with PHIPA or that if a clinician or healthcare provider uses the solution that they are in compliance.

OH Obligations

OH is the process administrator, responsible for establishing, revising, approving and publishing provincial Virtual Visits Solution Requirements, receiving and assessing vendor application submissions on the Submission Site (otn.ca/verification), publishing verified vendors on the Solutions Site (<https://otn.ca/providers/verified-solutions/>) and for ongoing governance and oversight of the process. In furtherance of this obligation, OH may conduct market scans from time to time and may contact you to participate in same; your participation is completely voluntary.

No vendor will be extended preferential treatment or promoted in favour of another as a result of participating in the process. For clarity, OH will in no way be involved in any healthcare organization's or providers' procurement selection process.

OH will administer the process and maintain the Submission Site and Solutions Site in so long as the Ministry determines it is of value to the healthcare community within Ontario. OH has no obligation to the vendor beyond those expressly stated in these Terms.

Reserved Rights

In addition to any other reserved rights detailed herein, whether express or implied, OH hereby reserves its rights to alter, augment, and change the Virtual Visits Verification Process or supporting documentation and requirements, in order to ensure alignment with government priorities and offer the most advantageous information and resources to the Ontario healthcare sector. In such event, you may be asked to submit additional documents and partake in additional assessments, reviews, or validation in order to maintain inclusion on the Solutions Site; additionally, this could require the execution of additional legal documents. You acknowledge and understand that failure to do so could result in your solution status being changed or your solution being removed from the Solutions Site.

In the event that any such change requires the sharing of data captured by your solution, the parties will enter into separate legal agreements, as necessary, to govern such activity.

OH hereby reserves its rights to remove a solution listing at any time, for any reason, including but not limited to, if issues with your solution are identified, either by OH or through the Office of the Information and Privacy Commissioner or Ontario (or from other jurisdictions), healthcare organizations, providers within Ontario, that may put into question or refute the attestations made through the process.

Privacy and Confidentiality

OH is designated as an 'institution' within the meaning of the *Freedom of Information and Protection of Privacy Act* ("FIPPA") and as a result, all persons may have a legal right of access to information in the custody and/or control of OH, subject to a limited set of exemptions. Notwithstanding any provision in these Terms, you acknowledge and agree that these Terms and any records or information related to the Virtual Visits Verification Process, or any portion thereof, may be disclosed in accordance with the provisions of FIPPA, based on an access request to a party, an order of the Information and Privacy Commissioner or as otherwise required under applicable law. In the event that your organization is designated as an 'institution' within the meaning of FIPPA, OH acknowledges and agrees that these Terms and any records or information related to the Virtual Visits Verification Process, or any portion thereof, may be disclosed in accordance with the provisions of FIPPA,

based on an access request to a party, an order of the Information and Privacy Commissioner or as otherwise required under applicable law. In the event OH receives a Freedom of Information request through FIPPA, notice will be provided to any individual wherein their personal information, records (both as defined by FIPPA), Confidential Information or any eligible information will be disclosed through this process. Such notice will provide the following information: (i) the legal authority for the collection; (ii) the reason for the collection; and, (iii) who to contact for more information.

OH will only collect personal information where the collection is specifically authorized by law, used for the purposes of law enforcement or necessary for the administration of a lawfully authorized activity. OH will only use and disclose personal information as allowed or required by law.

In the context of this process, OH's authority to collect personal information is generally taken from the *Connecting Care Act*, and OH's Memorandum of Understanding and Accountability Agreement with the Ministry.

In order to administer the Virtual Visits Verification Process OH will maintain and operate the Solutions Site and collect, use and retain information as it is obtained through interaction with the site. This may include IP address.

The Submission Site, Solutions Site, and related webpages will be available in the public domain. You hereby understand, acknowledge, and agree that, if the verification process for your proposal is successful, that your organization's name will be published on the Solutions Site.

"Confidential Information" means all information or data disclosed by you in connection with your submission and any subsequent discussion related to the Virtual Visits Verification Process and/or the Virtual Visits Solution Requirements, that you clearly identify, mark and note as confidential, including, but not limited to, programs, codes, methods, techniques or process, formula, design, prototype, device, equipment or machine, financial information, PIA and TRA summaries, PIA and TRA table of contents, intellectual property, and research and development. For clarity, Confidential Information does not include the information identified herein that will be posted on the Solutions Site or any information or data that is or becomes publicly known.

For clarity, names of solutions and/or vendors are not published or otherwise made available publicly by OH during the review stage of the Virtual Visits Verification Process. The Virtual Visits Verification Process team (which will include Third Parties) is bound by strict confidentiality and/or non-disclosure agreements and will be bound by the same confidentiality obligations as detailed in these Terms. Outside of the uses detailed herein, OH will use reasonable efforts to maintain the confidentiality of submissions but only so far as the Virtual Visits Verification Process allows, having regard to the involvement of Third Parties in such processes. Once a solution has been verified and approved for publishing it will be listed on the Solutions Site.

Limitation of Liability and Indemnity

Under no circumstances will OH and its directors, employees, agents and independent contractors have any responsibility or liability for any loss or damage whatsoever (including without limitation direct, indirect, special, incidental, consequential, punitive, exemplary or other damages, and including without limitation to any loss of profit, costs, expenses, harm to business, business interruption, reputation, loss of information or programs or data, loss of savings, loss of revenue, loss of goodwill, loss of tangible or intangible property, legal

fees or legal costs, wasted management or office time or damages of any kind whatsoever), whether based in contract, tort, negligence or any other legal basis, arising out of or in connection with the Virtual Visits Verification Process , the Submission Site, or the Solutions Site (including without limitation any damages suffered as a result of the use, inability to use, failure of, or any omissions or inaccuracies in, this website, any linked websites or linked social media platforms, or any of the services or content of the foregoing), even if OH has been specifically advised of the possibility of such damage or loss, or if such damage or loss was foreseeable.

Furthermore you warrant that your organization and the solution is compliant with all relevant laws (including, but not limited to, PHIPA) and with the mandatory privacy and security requirements referenced in the Virtual Visits Solution Requirements document published and updated by OH and that you accept all risks and liabilities in the event of a breach or complaint related to same.

You agree at all times to indemnify, defend and hold harmless OH, its directors, employees, agents and independent contractors against all actions, proceedings, costs, claims, damages, demands, liabilities and expenses whatsoever (including legal and other fees and disbursements) sustained, incurred or paid by OH directly or indirectly in respect of any breach of these Terms or any information related to your solution and submission.

Changes, Suspension and Termination

OH may, at any time without notice or liability, and for any reason whatsoever, terminate, change, suspend or discontinue any aspect of the Virtual Visits Verification Process and supporting processes, Submission Site and Solutions Site.

Should you wish to have your organization's name and solution removed from the Solutions Site, please provide notice to OH in accordance with the instructions detailed on the Submission Site. Please allow up to ten (10) business days for the removal from the Solutions Site.

Intellectual Property

Each party shall retain all rights in all intellectual property rights owned or controlled by such party. Except as may be otherwise permitted through these Terms, neither party grants any ownership or license rights to its intellectual property to the other party.

Public Disclosures

Should your solution be published on the Solutions Site, you may provide the link to the site in general correspondence with clients and potential clients, along with including same in proposals in response to tenders posted by provincial agencies or government entities within the healthcare sector.

Except as may be otherwise permitted herein, you may not, without the express prior written consent of OH, 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 you have any relationship with OH; or, (ii) use or display a trade name, official mark or trademark of OH.

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

Governing Law

These Terms will for all purposes be governed by and interpreted in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. The parties hereby defer to the exclusive jurisdiction of the Courts of the Province of Ontario.

Assignment

You may not transfer or assign any rights granted to you hereunder without the prior written consent of OH, and any transfer or assignment made without that consent is void and of no effect.