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# 1. Participation Agreement

## Participation Agreement Between Montgomery County Department of Health and Human Services and

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[AGENCY NAME]

This agreement is entered into on \_\_\_\_\_ (dd/mm/yy) between the HMIS Lead Agency Montgomery County Department of Health and Human Services, hereafter known as "HLA," and \_\_\_\_\_ (agency name), hereafter known as "Agency," regarding access and use of the Homeless Management Information System, hereafter known as "HMIS."

### I. Introduction

The HMIS, a shared human services database, allows authorized personnel at homeless and human service provider agencies throughout Montgomery County Homeless Continuum of Care (MC CoC), to enter, track, and report on information concerning their own clients and to share information, subject to appropriate inter-agency agreements, on common clients.

HMIS's objectives are to:

- Improve coordinated care for and services to homeless persons in the MC CoC,
- Provide a user-friendly and high quality automated records system that expedites client intake procedures, improves referral accuracy, and supports the collection of quality information that can be used for program improvement and service-planning, and
- Meet the reporting requirements of the U.S. Department of Housing and Urban Development (HUD), and other funders as needed.

In compliance with all state and federal requirements regarding client/consumer confidentiality and data security, the HMIS is designed to collect and deliver quality data about services and homeless persons or persons at risk for being homeless. The Montgomery County Department of Health and Human Services (MCDHHS) administers the HMIS.

### II. HLA Responsibilities

1. HLA will make a best effort to provide the Agency 24 hour access to the HMIS database system, except during routine system maintenance, scheduled system upgrades and unexpected system failures.
2. HLA will provide model Privacy Notices, Client Release forms and other templates for agreements that may be adopted or adapted in local implementation of HMIS functions.
3. HLA will provide both initial training and periodic updates to that training for all end users regarding the use of the HMIS.
4. HLA will provide basic user support and technical assistance (i.e., general troubleshooting and assistance with standard report generation). Access to this basic technical

assistance will normally be available from 8:30 AM. to 5:00 PM. on Monday through Friday (with the exclusion of holidays).

### **III. Privacy and Confidentiality**

#### **A. Protection of Client Privacy**

1. The Agency will comply with all applicable federal and state laws regarding protection of client privacy.
2. The Agency will comply specifically with Federal confidentiality regulations as contained in the *Code of Federal Regulations, 42 CFR Part 2*, regarding disclosure of alcohol and/or drug abuse records where applicable. Users should be aware that the Lead Agency will give notice when specific portions of a client record should be locked.
3. The Agency will comply specifically with the *Health Insurance Portability and Accountability Act of 1996, 45 C.F.R., Parts 160 & 164*, and corresponding regulations established by the U.S. Department of Health and Human Services.
4. The Agency will comply with all policies and procedures established by HLA pertaining to protection of client privacy.

#### **B. Client Confidentiality**

1. The Agency agrees to provide a copy of HMIS' *Privacy Notice* (or an equivalent Agency-specific alternative) to each consumer. The Agency will provide a verbal explanation of the HMIS and arrange for a qualified interpreter/translator or other reasonable accommodation in the event that an individual is not literate in English or has difficulty understanding the *Privacy Notice* or associated Consent Form(s).
2. The Agency will not solicit or enter information about clients into the HMIS database unless it is essential to provide services or conduct evaluation or research. Agency Management, in consultation with the HLA will make a determination of what qualifies as essential for services or research.
3. The Agency will not divulge any information received from the HMIS to any organization or individual without proper written consent by the client, unless otherwise permitted by applicable regulations or laws.
4. The Agency will ensure that all persons who are issued a User Identification and Password to the HMIS abide by this *Participation Agreement*, including all associated confidentiality provisions. The Agency will be responsible for oversight of its own related confidentiality requirements.
5. The Agency agrees that it will ensure that all persons issued a User ID and Password will complete a formal training on privacy and confidentiality and demonstrate mastery of that information, prior to activation of their User License. The privacy

and confidentiality training must be consistent with HLA training or otherwise meet all required state and federal standards.

6. The Agency acknowledges that maintaining the confidentiality, security and privacy of information such as that described in Part III, downloaded from the system by the Agency is strictly the responsibility of the Agency.
7. Agency Participants are prohibited from altering information in databases without first obtaining express written permission of the HLA.

### **C. Inter-Agency Sharing of Information**

1. The Agency acknowledges that all forms provided by the HLA regarding client privacy and confidentiality are shared with the Agency as generally applicable models that may require specific modification in accord with Agency-specific rules. The Agency will review and revise (as necessary) all forms provided by the HLA to assure that they are in compliance with the laws, rules and regulations that govern its organization.
2. The Agency acknowledges that informed written client consent (verbal consent for outreach providers) is required before any basic identifying client information is shared with other Agency's in the System; unless sharing is otherwise permitted by applicable regulations or laws. The Agency will document client consent on the *HMIS Client Authorization Form*. In the event that a client refuses to give consent to share their information, the client and the HLA will be notified that Agency will enter data in HMIS with the visibility of the client demographic restricted to that Agency.
3. The Agency will incorporate an HMIS release clause into its existing *Agency Authorization for Release of Information Form(s)* if the Agency intends to share restricted client data within the HMIS. Restricted information, including psychotherapy notes, treatment, victims of domestic violence, dating violence, sexual assault and stalking concerns shall be not be shared with other participating Agencies without a specific written *Agency Client Release of Information*. Sharing of restricted information is **not** covered under the general *HMIS Client Authorization Form*. Agencies with whom information is shared are each responsible for obtaining appropriate consent(s) before allowing further sharing of client records.
4. The Agency acknowledges that the Agency, itself, bears primary responsibility for oversight for all sharing of data it has collected via the HMIS. The HLA will hold the Agency responsible only for information that the Agency shares. The HLA however, will not hold the Agency responsible for the actions of the Entity that receives and misappropriates the shared data; unless the Agency knew or should have known that the Entity would misappropriate or were otherwise not entitled to receive the shared information.
5. The Agency agrees to place all *Client Authorization* forms related to the HMIS in a file to be located at the Agency's business address and that such forms will be made

available to the HLA for periodic audits. The Agency will retain these HMIS related authorization for Release of Information forms for a minimum of five years or longer if appropriate.

6. The Agency acknowledges that clients who choose not to authorize sharing of information cannot be denied services for which they would otherwise be eligible. The Agency does not have to qualify a client to be eligible for a service if the Agency does not have enough information to qualify the client for the program.

#### **D. Custody of Data**

1. The Agency acknowledges, and HLA agrees, that the Agency retains responsibility for all information it enters into the HMIS but the HLA owns the records that are created as a result of the development of the database.

#### **IV. Data Entry and Regular Use of HMIS**

1. The Agency will not permit User ID's and Passwords to be shared among users in compliance with the *HMIS User Agreement Form*.

The Agency will complete *the HMIS Deactivation User Agreement* form regarding employee status change and forward to the HMIS Administrator when an HMIS User is no longer employed by the Agency.

2. If a client has previously given the Agency permission to share information with multiple agencies, beyond basic identifying information and non-restricted service transactions, and then chooses to revoke that permission with regard to one or more of these agencies, the Agency will contact its partner agency/agencies and explain that, at the client's request, portions of that client record will no longer be shared. The Agency will then "lock" those portions of the record, impacted by the revocation, to the other agency or agencies. Agency Users will be notified by the HLA to lock specific portions of a client record when applicable.
3. If the Agency receives information that necessitates a client's information be entirely removed from the HMIS, the Agency will work with the client to complete a *HMIS Client Delete Request Form* which will be sent to the HLA for de-activation of the client record. This provision only applies to reporting that is not required by State or Federal mandates.
4. The Agency will enter all minimum required data elements as published by the most recent U.S. Department of Housing and Urban Development (HUD) HMIS Data Standards and required local community elements specified for all persons who are participating in services funded by the HUD Supportive Housing Program, State of Maryland Emergency Transitional Housing Services (ETHS), and Montgomery County, Maryland Government.
5. The Agency will enter data in a consistent manner, and will strive for real-time, or close to real-time, data entry.

6. The Agency will routinely review records it has entered in the HMIS for completeness and data accuracy. The review and data correction process will be made according to HMIS' published *Policies and Procedures*.
7. The Agency will not knowingly enter inaccurate information into HMIS.
8. The Agency acknowledges that once the *Client Authorization Form* expires, a new *Client Authorization Form* must be obtained or no new information can be added to the database. Information entered before the date of the expired release will continue to be available to the sharing partners.
9. The Agency acknowledges that an adapted *Agency Authorization to Release Information* form must include an HMIS clause which permits the Agency to share restricted client information with select agencies (as specified on the Client Authorization Form) in compliance with the Agency's approved Confidentiality Policies and Procedures.
10. The Agency will prohibit anyone with an Agency-assigned User ID and Password from entering offensive language, profanity, or discriminatory comments based on race, color, religion, national origin, ancestry, handicap, age, sex, sexual orientation and gender identity. These prohibited actions are not limited to those listed above and include all other requirements found in the HUD provisions found at the Federal Register Part III Department of HUD HMIS provisions.
11. The Agency will utilize the HMIS for business purposes only.
12. The Agency will keep updated virus protection software and appropriate firewall protection on Agency computers that access the HMIS.
13. Nothing in this Agreement authorizes any party to collect, maintain, use, or disclose information in violation of any laws.
14. The Agency agrees that the HLA or the local Continuum of Care Committee may meet to discuss procedures, updates, policy and practice guidelines, data analysis, and software/hardware upgrades. The HLA will request the Agency to designate at least one specific Staff member to regularly attend the meetings.
15. Notwithstanding any other provision of this *Participation Agreement*, the Agency agrees to abide by all policies and procedures relevant to the use of HMIS that HLA publishes from time to time. The Agency will have a reasonable time to comply with new policies and procedures to be set by HLA. Non-compliance with this *Participation Agreement* and the HMIS's published *Policies and Procedures* could result in disciplinary action, including but not limited to:
  - Restricted access to HMIS until the Agency comes into compliance
  - Delay in invoice payment until the Agency comes into compliance
  - Negative impact on CoC ranking due to continued HMIS non-compliance.

## **V. Publication of Reports**

1. The Agency agrees that it may only release aggregated information generated by the HMIS that is specific to its own services.
2. The Agency acknowledges that the release of aggregated information will be governed through policies established by relevant committees operating at the Continuum of Care level for community-level analysis. Such information will include qualifiers such as coverage levels or other issues necessary to fully explain the published findings.
3. The HLA will release aggregated information as required by its Federal, State, and Local funding agents; other request for data must be authorized by the HLA.

## **VI. Database Integrity**

1. The Agency will not share assigned User ID's and Passwords to access the HMIS with any other organization, governmental entity, business, or individual.
2. The Agency will not intentionally cause corruption of the HMIS in any manner. Any unauthorized access or unauthorized modification to computer system information, or interference with normal system operations, will result in immediate suspension of services, and, where appropriate, legal action against the offending entities.
3. All Agency participants must obtain and maintain corporate/business e-mail accounts to be eligible to participate in distribution lists.

## **VII. Hold Harmless**

1. The HLA and MCDHHS make no warranties, expressed or implied. The Agency, at all times, will indemnify and hold HLA/MCDHHS harmless from any damages, liabilities, claims, and expenses that may be claimed against the Agency; or for injuries or damages to the Agency or another party arising from participation in the HMIS; or arising from any acts, omissions, neglect, or fault of the Agency or its agents, employees, licensees, or clients; or arising from the Agency's failure to comply with laws, statutes, ordinances, or regulations applicable to it or the conduct of its business. This Agency will also hold HLA/MCDHHS harmless for loss or damage resulting in the loss of data due to delays, non-deliveries, mis-deliveries, or service interruption caused by Bowman Information Systems, by the Agency's or other member agency's negligence or errors or omissions, as well as natural disasters, technological difficulties, and/ or acts of God. HLA/MCDHHS shall not be liable to the Agency for damages, losses, or injuries to the Agency or another party other than if such is the result of gross negligence or willful misconduct of HLA/MCDHHS. HLA and MCDHHS agree to hold the Agency harmless from any damages, liabilities, claims or expenses caused solely by the negligence or misconduct of HLA or MCDHHS
2. The Agency agrees to keep in force a comprehensive general liability insurance policy. Said insurance policy shall include coverage for theft or damage of the Agency's HMIS-

related hardware and software, as well as coverage of Agency's indemnification obligations under this agreement.

3. Provisions of Section VII shall survive any termination of the Participation Agreement. All restrictions on the use and disclosure of client information will also survive any termination of the Participation Agreement.

**VIII. Terms and Conditions**

1. The parties hereto agree that this agreement is the complete and exclusive statement of the agreement between parties and supersedes all prior proposals and understandings, oral and written, relating to the subject matter of this agreement.
2. The Agency shall not transfer or assign any rights or obligations under the *Participation Agreement* without the written consent of HLA.
3. This agreement shall remain in force until revoked in writing by either party, with 30 days advance written notice. The exception to this term is if allegations or actual incidences arise regarding possible or actual breeches of this agreement. Should such situations arise, the HLA may immediately suspend access to the HMIS until the allegations are resolved in order to protect the integrity of the system.
4. This agreement may be modified or amended by written agreement executed by both parties with 30 days advance written notice.

IN WITNESS WHEREOF, the parties have entered into this Agreement:

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
DATE

\_\_\_\_\_  
PRINTED NAME

\_\_\_\_\_  
TITLE

## Homeless Management Information System

### ASSURANCE

\_\_\_\_\_ (Name of Agency) assures that the following fully executed documents will be on file and available for review.

- The Agency's Board Approved Confidentiality Policy.
- The Agency's Grievance Policy, including a procedure for external review.
- The Agency's official *Privacy Notice* for HMIS clients.
- Executed Agency *Authorizations for Release of Information* as needed.
- Certificates of Completion* for required training for all HMIS System Users.
- A fully executed *User Agreement* for all HMIS System Users.
- A current HMIS *Policy and Procedure Manual*

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_  
DATE

\_\_\_\_\_  
PRINTED NAME

\_\_\_\_\_  
TITLE

Finalized: July, 2015