SONOMA COUNTY CONTINUUM OF CARE HOMELESS MANAGEMENT
INFORMATION SYSTEM

Participation Agreement

This Sonoma County Continuum of Care Homeless Management Information System ("**HMIS**") Participation Agreement ("Agreement") by and between the **Sonoma County Department of Health Services ("Administrator" or "DHS")**, with offices located at 1450 Neotomas Avenue, Santa Rosa, CA 95405, and <**Agency Name**>, a California non-profit corporation, ("**Participant**") with principal offices located at <**Agency Address**>

RECITALS

WHEREAS, the parties have a mutual goal to enhance collaborative efforts to improve service delivery to homeless individuals and families; and

WHEREAS, the parties acknowledge that shared information is a key factor in achieving this goal; and

WHEREAS, HMIS Participants and DHS desire to improve services for the benefit of Sonoma County residents; and

WHEREAS, the Homeless Management Information System (HMIS) is designed to assist in achieving this goal; and

WHEREAS, the United States Congress has mandated that all recipients of McKinney-Vento Homelessness Assistance Funding implement an HMIS by October 2004; and

WHEREAS, HMIS Participants have requested and DHS has agreed to function as lead agency for the Sonoma County HMIS.

NOW, THEREFORE in consideration of the mutual provisions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Administrator and Participant hereby agree as follows:

1. *Definitions.*

   a. "Agency Administrator" means the single staff person in each Partner Agency designated by that agency to be the HMIS software administrator for that agency and who, as a result of that designation, has specialized training and a higher level of data access.

   b. "Blind Service Providers" means agencies serving specific protected client populations, which typically have one or more of the following issues: (1) domestic violence; (2) HIV/AIDS; (3) Alcohol and/or substance abuse; or (4) mental health.

   c. "Client" means a consumer of services from a Provider.

   d. "Client records" means Private Personal Information (PPI) about a client, which is collected and stored in a computer system.

   e. "Close to real-time data entry" means data entry within five (5) working days of serving a Client.

   f. "Partner Agencies" means agencies that work together and provide services to homeless and low-income individuals and families and that participate in the HMIS.

    g. "HMIS Administrator" means the DHS employee assigned to manage the HMIS Collaborative Project.

    h. "Non-partner agencies" means those agencies not participating in the HMIS.

2. *Participation Fee.* Each Participant will be charged an annual participation fee to be involved in the HMIS. The annual fee will be invoiced by and payable to the DHS. The amount of the participation fee will be determined by the Sonoma County Continuum of Care ("CoC") Board after recommendation by the CoC Data Group, an advisory committee of the CoC Board.

3. <u>*Confidentiality*</u>. DHS and Participant agree that the data, information and client records, and related documentation, stored electronically in connection with the HMIS is confidential and shall be handled as follows:

    a. The Participant shall comply with all federal, state and local laws and regulations pertaining to the confidentiality of information and records to ensure that client records are protected and not subject to disclosure except as permitted by such laws and regulations. The Participant shall only release client records to Non-partner agencies with written consent by the client, unless otherwise provided in the relevant laws and regulations.

    b. The Participant shall comply with all federal, state and local confidentiality laws and regulations pertaining to:

        1) all medical conditions, including, but not limited to, mental illness, alcohol and/or drug abuse, HIV/AIDS testing, diagnosis and treatment and other such covered conditions; and

        2) a person's status as a victim of domestic violence.

    c. Federal, state and local laws may protect the privacy of, and the confidentiality of information and documents relating to, persons with physical and/or mental illness, persons who have been treated for alcohol and/or substance abuse, persons who have been diagnosed with HIV/AIDS, and persons who have been a victim of domestic violence. The Participant agrees that it shall seek legal advice in the event that a Non-partner agency or other third party requests client records.

    d. The Participant shall provide to each Client a verbal explanation of the HMIS database and the general terms of the consent sought from the Client in connection with the HMIS. The Participant shall arrange for a qualified interpreter or translator in the event that an individual is not fluent in English or has difficulty understanding the consent form.

    e. The Participant agrees not to release any individual client information obtained from the HMIS to any organization or individual without prior written consent of the Client, unless otherwise required or permitted by applicable law or regulation. Such written Client consent shall specify exactly what information the Client allows to be released. Information that is not approved for disclosure, in writing, by the Client shall not be released.   The Participant shall allow a Client to inspect and copy the client's own protected

information within thirty (30) days of the Client's written request to the Participant.

f. The Participant shall ensure that all staff, volunteers and other persons who are issued a User ID and password for the HMIS receive confidentiality training regarding client information and records and have signed a Confidentiality and Security Agreement.

g. If Participant or DHS determines that any staff, volunteer or other person who has been granted a User ID and password has willfully committed a breach of HMIS system security or client confidentiality, Participant or DHS shall immediately revoke his or her access to the HMIS database. The DHS may review Participant's policies, procedures, and records to ensure that individuals found to have willfully committed a breach of HMIS system security or client confidentiality are prohibited from accessing the HMIS system.

h. In the event of a breach of HMIS system security or client confidentiality, the Participant shall notify the HMIS Administrator within 24 hours. If the HMIS Manager determines that a Participant employee or volunteer has breached the HMIS system security or client confidentiality, the Participant shall enter a period of probation. During the probationary period, the HMIS Administrator shall provide technical assistance to help the Participant prevent further breaches. Probation shall remain in effect until the HMIS Administrator Manager has evaluated the Participant's security and confidentiality measures and found them compliant with the policies stated in this Agreement and the Confidentiality and Security Agreement. Subsequent violations of system security or client confidentiality may result in Participant being suspended from the HMIS system. The DHS reserves the right to conduct routine and random audits to monitor HMIS system security and client confidentiality.

i. The HMIS fileserver, which contains all HMIS-entered Client information, shall be located off-site in a physically secure and electronically monitored facility, and client information in the HMIS system shall be backed up and taken off-site daily. The Participant understands that the fileserver containing all HMIS-entered Client information is maintained by a vendor contracting with DHS to provide said services. The contractor vendor has access to client information, said access being necessary to provide technical services to the DHS necessary to operate the HMIS. The contractor has agreed to keep all information confidential and maintained in accordance with HUD privacy standards.

j. The Participant may have access to all Client data entered by the Participant. The Participant shall diligently record in the HMIS all service delivery information pertaining to individual clients served by the Participant. The Participant shall not, under any circumstances, knowingly enter false, misleading or biased data, including any data that would unfairly prejudice a Client's ability to obtain services.

k. If this Agreement is terminated, the remaining Partner Agencies shall maintain their right to the use of all Client data previously entered by the terminating Partner Participant, subject to the guidelines specified in this Agreement.

l. The Participant shall utilize the HMIS Release of Information form for all Clients providing information to the HMIS. The Release of Information form, once agreed to and signed by the Client, authorizes Client data to be shared with Partner Agencies for a period of three (3) years, subject to the restrictions defined by the form.

m. All Participants shall use the common consent form that is in compliance with HUD requirements.

n. The Participant shall keep original signed copies of the Release of Information form for a period of no less than five (5) years.

o. The Participant shall not state or imply to the Client that HMIS requires a Client's participation in the HMIS database. The Participant shall provide services to a Client even if Client declines to participate in HMIS or execute the Client Consent form, provided the Client would otherwise be eligible for the services.

p. The Participant shall have access to identifying and statistical data on all Clients who consent to have their information entered in the HMIS database, except for data input into the database by Blind Service Providers.

q. A Participant that is a Blind Service Provider shall have access to identifying and statistical data that the Participant inputs into the HMIS database only for Clients served by that Participant.

r. A Participant that is a Blind Service Provider shall not have access to identifying and statistical data input into the HMIS database for clients served by other Blind Service Providers.

4. *HMIS Use, Data Entry and System Security*. The Participant agrees to use the HMIS, enter data into the HMIS and operate the HMIS so as to protect the integrity of the HMIS and the confidentiality of the data in the HMIS, and to comply with the following guidelines:

a. The Participant shall comply with and enforce all provisions contained in the Confidentiality and Security Agreement. Modifications to the Confidentiality and Security Agreement shall be established in consultation with Partner Agencies and may be modified as needed for the smooth and efficient operation of the HMIS or to accommodate changes in law or regulation.

b. The Participant shall only enter true and accurate data in the HMIS database relating to actual, existing Clients served by the Participant. The Participant shall not misrepresent its Client base in the HMIS database by knowingly entering inaccurate information. The Participant shall not use the HMIS database with the intent to defraud federal, state or local governments, individuals or entities, or to conduct any illegal activity.

c. The Participant shall use Client information in the HMIS, as provided to the Participant or the Partner Agencies, solely to assist the Participant in providing adequate and appropriate services to the Client and in meeting required reporting obligations.

d. The Participant shall promptly and consistently enter information into the HMIS database and shall strive for real-time data entry or close to real-time data entry.

e. When a Client revokes his or her consent to share information in the HMIS database, the User shall immediately notify the Agency Administrator of the revocation. When the Agency Administrator is notified of a client revocation, the Agency Administrator shall immediately remove access to all personally identifying information about that client.

f. The Participant shall not include profanity or offensive language in the HMIS database.

g. The Participant shall utilize the HMIS for client services and mandated reporting purposes only.

h. The HMIS Administrator shall provide or arrange for introductory training to Participant staff on the use of the HMIS software. The HMIS Administrator shall provide or arrange for supplemental training regularly to accommodate changes in Participant staff, and address modifications to the software when needed.

i. The HMIS Administrator shall be available to provide or arrange for technical assistance to Participant staff.

j. The Participant shall ensure that all staff, volunteers and other persons who are issued a User ID and password for HMIS receive client and system security training that covers established user policies, standards, responsibilities and ethics.

k. The Participant shall take the following additional steps to ensure the security of the HMIS database system and the confidentiality of Client data:

1. Escort all visitors and Clients to ensure that they do not access staff areas, record storage areas, or other areas potentially containing Client information. Persons not recognized as staff, visitors and Clients will be asked for identification.

2. Store hard copies of Client records in locking filing cabinets or in rooms that can be locked.

3. Locate photocopiers, printers and fax machines to minimize access by visitors and unauthorized persons to confidential data and information.

4. Make sure that directors and other management or supervisory personnel are familiar with and enforce security and confidentiality policies to ensure the security and confidentiality of the HMIS database and of Client information.

5. Require and encourage the Participant staff to report security breaches and misuse of the HMIS database system.

6. Encourage Clients to report any breaches of confidentiality that they observe in the Participant.

7. Maintain the necessary software and updates on the Participant's computer systems to prevent viruses, worms and unauthorized access to the Participant's computer systems and networks that could compromise the integrity of the HMIS system.

5. *HUD HMIS – Privacy and Security Standards*

   a. If required by one or more funding agreements, participant shall review and comply with all standards for privacy and security in the Health Insurance Portability and Accountability Act (HIPAA) of 1996. If Participant is not required to comply with HIPAA standards, then Participant shall comply with all standards for privacy and security as set forth in the *Department of Housing and Urban Development Homeless Management Information System (HMIS); Data and Technical Standards Final Notice*, as found in the Federal Register dated July 30, 2004 Volume 69, Number 146.

   b. All Participants are required to submit a copy of their privacy notices to the DHS for review and confirmation that each is in compliance with HUD requirements. Participants shall use common consent forms.

   c. Participants agree that the Participant is solely responsible for making sure their notices, forms and other HMIS documentation meets HUD standards. Participants shall not rely upon the DHS's review and shall indemnify and hold the DHS, its staff, officers, members and affiliates, harmless from and against any and all claims for damages, losses, liabilities, costs or reasonable expenses related to privacy and confidentiality issues and HUD requirements related to the HMIS database under this Agreement.

6. *Reports*.

   a. Participant Reports

      1. The Participant may use the HMIS to report on identifying and statistical data on the Clients it serves, subject to the terms of this Agreement regarding Client confidentiality and applicable laws and regulations.

      2. The Participant may not use the HMIS to report on identifying and statistical data on Clients it does not serve.

   b. Aggregate Reports

   The Participant may make aggregate data available to other entities outside of the system for funding or planning purposes pertaining to providing services to homeless persons. However, such aggregate data shall not contain information that could be used to personally identify individual Clients.

   Participants shall use only aggregate HMIS data that does not contain information that could be used to personally identify individual Clients for homeless policy

and planning activities, in preparing federal, state or local applications for homelessness funding, to demonstrate the need for and effectiveness of programs and to obtain a system-wide view of program utilization in the State.

7. *Termination*.

a. DHS may terminate this agreement, for cause, upon five (5) days written notice, if it determines that the Participant has violated any material term of this agreement. The Participant may appeal this decision to the HMIS Policy Committee at the next scheduled meeting of that committee.

b. This agreement may be terminated by either party, without cause, upon thirty (30) days written notice.

c. Upon termination of this agreement, the Participant shall cease using the HMIS Program, and shall return to the DHS, or destroy, all confidential information received by Participant from the HMIS Program and all information created by the Participant on behalf of the HMIS Program. This provision shall apply to protected information that is in the possession of subcontractors or agents of the Participant. The Participant shall retain no documents containing private, protected health information. Notwithstanding the foregoing, the Participant may retain any document constituting the Participant's own business records, provided that those business records contain only information that would have been collected by Participant even if Participant had not participated in the HMIS Program.

d. In the event that the Participant determines that returning or destroying the protected information is infeasible, the Participant shall notify the HMIS Administrator of the conditions that make return or destruction infeasible within five (5) business days of termination. Upon notification that the return or destruction of the protected information is infeasible, the Participant shall continue to keep the protected information confidential as required by this agreement and applicable laws and regulations, and shall limit further uses and disclosures of the information to those purposes that make the return or destruction infeasible.

8. *Assignability*. Participant may not assign this Agreement or any of its obligations hereunder without the prior written consent of the DHS.

9. *Modifications*. Any modifications to this Agreement shall be in writing and agreed upon by the DHS and Participants.

10. *Availability of Funding*. Participant understands and agrees that the DHS's obligations under this agreement are contingent upon the DHS receiving McKinney-Vento funding from the US Department of Housing and Urban Development (HUD). The DHS's obligations hereunder shall cease immediately, without liability to the DHS, if such funding is no longer available.

11. *Participant's Representations and Warranties*. Participant represents and warrants as follows:

a. It has all necessary power and authority to enter this Agreement and to perform all of its obligations hereunder, and to manage, control and ensure that each individual or entity that Participant authorizes, permits or allows to access the HMIS (or related services and equipment or facilities) also complies with the terms of this agreement.

b. This Agreement has been duly and validly authorized, executed and delivered by Participant and constitutes its valid and binding obligation.

c. In performing its obligations hereunder, Participant will comply with all laws, rules and regulations of all governmental bodies having jurisdiction.

d. Participant holds all required regulatory authorizations to perform this Agreement according to its terms.

e. Participant's obligations under this Agreement do not conflict with any other agreement.

12. *DHS's Representations and Warranties.* DHS represents and warrants as follows:

a. DHS has all the necessary power and authority to enter this Agreement and to perform all of its obligations hereunder.

b. This Agreement has been duly and validly authorized, executed and delivered by DHS and constitutes its valid and binding obligation.

c. In performing its obligations hereunder, DHS will comply with all laws, rules and regulations or all governmental bodies having jurisdiction.

d. DHS holds all required regulatory authorizations and permits to provide the Services identified herein.

e. DHS obligations under this Agreement do not conflict with any other agreement.

13. Term: Unless otherwise terminated per Section 7, this Agreement shall be in effect from July 1, 2023 to July 1, 2024. Any extensions shall be executed in writing by all parties.

14. *Choice of laws*. This Agreement is governed by the laws of the State of California and, where applicable to the HMIS, federal laws and regulations.

15. *Captions.* Captions in this Agreement are asserted for convenience of reference only and do not define, describe or limit the scope or intent of this Agreement or any of the terms of this Agreement.

16. *Entire Agreement*. This Agreement contains the entire agreement between the Parties and supersedes all prior or contemporaneous agreements, understandings, representations, and statements, oral or written, between the Parties with respect to the subject matter of this Agreement and the transactions contemplated by this Agreement.

17. *Successors and Assigns*. All terms of this Agreement shall be binding upon, inure to the benefit of, and be enforceable by the Parties and their respective legal representatives, successors and assigns.

18. *Further Assurances*. The Parties shall cooperate with each other and execute any documents reasonably necessary to carry out the intent and purpose of this Agreement.

19. *Severability*. If any provision of this Agreement is declared or found to be illegal, unenforceable, or void by a court of competent jurisdiction, the provision shall in no way affect any other provision, covenant or condition of this Agreement.

20. *Authorizing the Action*.   This Agreement shall become effective, and a HMIS account established for the Participant, only upon the occurrence of both: (a) the execution of this document by an authorized representative of the Participant; and (b) the execution of this Agreement by the Executive Director of the DHS, or her designee.

Executed this _____ day of _____, 2023.

_____   _____
Participant Director Name   Participant Director Signature   Date

_____
Participant Name

_____
Street Address

_____, CA   _____
City   Zip Code

Participant Contact E-mail Address: _____ Telephone Number: _____

_____
Mailing Address (leave blank if same as above)

_____, CA _____
City   Zip Code

_____   _____ _____
Ending Homelessness Program Manager   Signature   Date
Sonoma County Department of Health Services
Homelessness Services Division