Meck Homeless Management Information System

Participation Agreement
between
Mecklenburg County Community Support Services
and

Participating Agency: _____

This agreement is entered into on _____(dd/mm/yy) between the Mecklenburg County Community Support Services, hereafter known as "CSS," and

_____
(agency name), hereafter known as "Agency," regarding access and use of the Charlotte Mecklenburg Homeless Management Information System, hereafter known as "MeckHMIS."

I. Introduction

The MeckHMIS, a shared human services database, allows authorized personnel at homeless and human service provider agencies throughout Mecklenburg County to enter, track, and report on information concerning their own clients and to share information on common clients.

MeckHMIS' goals are to:
- Improve coordinated care for and services to homeless persons in Mecklenburg County,
- 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 funding organizations as needed.

In compliance with applicable state and federal requirements regarding client/consumer confidentiality and data security, the MeckHMIS is designed to collect and deliver timely, credible, quality data about services and homeless persons or persons at risk for being homeless. The Mecklenburg County Community Support Services administers the MeckHMIS through a Memorandum of Understanding with the Charlotte Mecklenburg Continuum of Care.

II. License

1. Mecklenburg County Community Support Services hereby grants to the Agency and the Agency hereby accepts a non-exclusive, non-transferable, non-assignable, non-sublicensable limited license (the "License") to use the CLARITY-BITFOCUS in accordance with the terms and conditions of this Participation Agreement.
2. The Agency acknowledges and agrees that the CLARITY-BITFOCUS is being licensed, not sold or otherwise transferred, to the Agency by CSS. The Agency further acknowledges and agrees that it shall not acquire any ownership interest in the CLARITY-BITFOCUS under this Agreement, and that CSS reserves and shall retain its entire right, title and interest in and to the CLARITY-BITFOCUS and all intellectual property arising out of or relating to the CLARITY-BITFOCUS except as expressly granted to the Agency in this Agreement. To the extent any of the services performed by the Agency, its employees, contractors or agents pursuant to this Agreement result in the creation of any new intellectual property related to the CLARITY-

BITFOCUS, the Agency acknowledges that it will not have any ownership interest in such new intellectual property.

3. As a condition to the Agency's right to use the CLARITY-BITFOCUS, the Agency agrees as follows:

   a. The License is non-exclusive, non-assignable and non-transferable.

   b. No rights or licenses to the CLARITY-BITFOCUS other than those expressly granted to the Agency are hereby granted to the Agency, regardless of whether by implication, estoppel or otherwise. No title to the underlying intellectual property comprising the CLARITY-BITFOCUS, including any and all copyrights therein are hereby transferred to the Agency.

   c. The Agency shall not reverse engineer, decode, decompile, disassemble, re-engineer, or adapt any part of the CLARITY-BITFOCUS, or otherwise create, gain access, attempt to create or gain access, or permit, allow, use, or assist others to create or gain access to the source code or its structural framework of the CLARITY-BITFOCUS for any purpose whatsoever, except as and only to the extent this restriction is prohibited by law or, with respect to open-source components included in the CLARITY-BITFOCUS, under the applicable open-source software license agreements governing the use of these components.

   d. The Agency must not modify, alter, amend, fix, translate, enhance, or otherwise create derivative works of the CLARITY-BITFOCUS.

   e. The Agency shall not remove, disable, or otherwise create or implement any workaround to any security features contained in the CLARITY-BITFOCUS.

   f. The Agency shall not modify, delete, or remove any trademarks, copyrights or other property right notices on or in the CLARITY-BITFOCUS.

II. CSS Responsibilities

1. CSS will provide the Agency 24-hour access to the MeckHMIS data-gathering system, via internet connection, exclusive of outages due to maintenance conducted by Clarity-Bitfocus or to outages resulting from factors out of CSS's reasonable control, such as interruptions in service from third-party providers.

2. CSS will provide model Privacy Notices, Client Release forms and other templates for agreements that will be adopted and may be expanded by MeckHMIS participating agencies.

3. CSS provides direct training and support for Agency Administrators.

4. Through a mix of recorded and in-person trainings, CSS will provide both initial training and periodic updates to that training for all aspects of the System as well as specific HUD initiatives. Training Libraries are established so that Agency Staff may access training as they need information.

5. CSS will provide support and technical assistance through the HMIS Help Desk. Access to this technical assistance will normally be available from 8:00 AM. to 5:00 PM. on Monday through Friday (with the exclusion of holidays). CSS will also use its best efforts to respond to System outages and other emergencies during non-standard hours.

6. CSS will routinely communicate Systems issues to Agency Admins through the HMIS Listserv. Users are expected to read those communications and share information with their agency's end users as relevant.

7. CSS will not make public reports on client data that identify specific persons, without prior necessary client written permission. Public reports published will be limited to presentation of aggregated data within the MeckHMIS database.

8. CSS's publication practice will be in accordance with applicable law, be governed by policies established by relevant committees, and will include qualifiers such as coverage levels or other issues necessary to clarify the meaning of published findings.

9. CSS's Responsibilities may change from time to time resulting from the Annual Review process. All changes must be approved by the MeckHMIS Governing Committee.

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.
3. If a covered entity under HIPAA, 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 privacy rules specified in *North Carolina General Statutes Chapter 75, the Identity Theft Protection Act, North Carolina General Statutes Chapter 122C, Article 3, North Carolina General Statutes Chapter 130A, North Carolina General Statutes Chapter 7B, North Carolina General Statutes Chapter 108A.*
5. The Agency will comply with all policies and procedures established by NC-505 HMIS pertaining to protection of client privacy.

B. Client Confidentiality

1. The Agency agrees to provide a copy of MeckHMIS' *Privacy Notice* (or an acceptable Agency-specific alternative) to each consumer. The Agency will provide a verbal explanation of the MeckHMIS and arrange for a qualified interpreter/translator 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 from clients into the Meck HMIS database unless it is essential to provide services or conduct evaluation or research.
3. The Agency will not divulge any confidential information received from the MeckHMIS 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 MeckHMIS 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 have demonstrated mastery by passing all currently required Certification Tests for Meck HMIS training prior to activation of their User License. A refresher training session must be attended annually.
6. The Agency agrees that those granted Agency Administrator systems access must first become a Certified NC HMIS Agency Administrator through training provided by MeckHMIS designated trainers.

7. The Agency acknowledges that ensuring the confidentiality, security and privacy of any information downloaded from the system by the Agency is strictly the responsibility of the Agency. Agencies should be especially vigilant about data that includes personally identifying information.
8.

C. Inter-Agency Sharing of Information

1. The Agency acknowledges that all forms provided by MeckHMIS 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 NC HMIS to assure that they are in compliance with the laws, rules and regulations that govern its organization.
2. The Agency agrees to share data with partnering Agencies for the purposes of care coordination. The plan for sharing is documented through a *Qualified Service Organization Business Associate Agreement*, hereafter known as a *Sharing QSOBAA(s).*
3. The Agency acknowledges that informed client written consent is required before any identified client information is shared with other Agency's in the System. The Agency will document client consent on the MeckHMIS *Client Release of Information & Sharing Plan form*.
4. If the client has given approval through a completed MeckHMIS *Client Release of Information*, the Agency may elect to share information according to *Sharing QSOBAA(s)* that the Agency has negotiated with other partnering agencies in MeckHMIS.
5. Agencies with whom information is shared are each responsible for obtaining appropriate consent(s) before allowing further sharing of client records.
6. The Agency acknowledges that the Agency, itself, bears primary responsibility for oversight for all sharing of data it has collected via the MeckHMIS.
7. The Agency acknowledges that the individual record of clients who choose not to authorize sharing of information must be closed by following Meck HMIS procedures for "Securing Client Records".
8. The Agency acknowledges that clients who choose not to authorize sharing of information cannot be denied services for which they would otherwise be eligible.

D. Custody of Data

1. The Agency acknowledges, and CSS agrees, that the Agency retains ownership over all information it enters into the Meck HMIS.
2. In the event that CSS ceases to be the HMIS Lead, the custodianship of the data within MeckHMIS will be transferred by Charlotte-Mecklenburg Continuum of Care to another organization for continuing administration, and all MeckHMIS member Agencies will be informed in a timely manner.

IV. Data Entry and Regular Use of MeckHMIS

1. The Agency will not permit User ID's and Passwords to be shared among users.
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.

3. If the Agency receives information that necessitates a client's information be entirely removed from the MeckHMIS, the Agency will notify CSS. CSS will work with the Agency, sharing partners, and Clarity-BitFocus to remove the record from the data set. Agencies are asked to explore a variety of options for closing records and that they will only request actual removal of a record as a last resort.

4. The Agency will enter all minimum required data elements as defined for all persons whose data is captured on the System by the U.S. Department of Housing and Urban Development (HUD). Beyond basic HUD requirements (known as the UDEs), other funding sources may also issue minimum data entry standards.

5. The Agency will enter data in a consistent manner, and will strive for real-time, or close to real-time, data entry. All data entry must be complete within 3 days of collection from the client.

6. The Agency will maintain at least one active project in compliance with the Data Quality and Management Plan Requirements.

7. The Agency will not knowingly enter inaccurate information into Meck HMIS and shall be solely responsible for any claims or damages relating to the provision of inaccurate information.

8. The Agency acknowledges that once the *Client Release of Information* is revoked, any new information entered into the database will be closed to sharing. Information entered before the date of the revoked release will continue to be available to the sharing partners.

9. The Agency acknowledges that a fully executed Client Release of Information, permits it to share restricted client information with select agencies in compliance with the MeckHMIS 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, and sexual orientation.

11. The Agency will utilize the Meck HMIS for business purposes only.

12. The Agency will keep updated virus protection software on Agency computers that access the MeckHMIS.

13. Transmission of material in violation of any United States Federal or State regulations is prohibited.

14. The Agency will not use the MeckHMIS with intent to defraud the Federal, State, or local government, or an individual entity, or to conduct any illegal activity.

15. The Agency agrees that MeckHMIS may convene local User Meetings to discuss procedures, updates, policy and practice guidelines, data analysis, and software/ hardware upgrades. The Agency will designate at least one specific Staff member to regularly attend User Meetings.

16. The Agency agrees to review at least quarterly its usage of the HMIS and report to the local System Administrator, any concerns with data quality (data is accurate), data completeness (all the clients are entered and data is complete on the required forms), reporting (reports reflect accurately the data entered), system performance (speed), and security and/or privacy set-up and compliance.

17. The Agency will incorporate procedures for responding to client concerns regarding use of MeckHMIS into its existing Grievance Policy. While appeals to the MeckHMIS should not be considered part of the formal process, a copy of any HMIS-related grievance, and the Agency's response, must be submitted to the Continuum of Care Manager within 5 days of completion of the agencies response. Any complaint that involves a breach of information must be reported the MeckHMIS System Administrator immediately to insure the recorded has been closed. A full report must be made to the Continuum of Care Manager within 5 working days. The Continuum of Care Manager will work with staff to confirm any breaches and to implement corrective action. Any confirmed privacy breaches of information will be reported to the MeckHMIS Governing Committee.

18. Notwithstanding any other provision of this *Participation Agreement*, the Agency agrees to abide by all policies and procedures relevant to the use of MeckHMIS that CSS publishes annually. Policies and Procedures are posted on the MeckHMIS WEB Site at insert link. CSS will notify Agency Admins of updates in the Policies and Procedures as well as publish an "Alert" to all users via Clarity-BitFocus. Agencies should maintain a copy of the current Policies and Procedures in the agency binders.

V. Publication of Reports

1. The Agency agrees that it may only release aggregated information generated by the MeckHMIS 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 MeckHMIS level. Such information will include qualifiers such as coverage levels or other issues necessary to fully explain the published findings.

VI. Database Integrity

1. The Agency will not share assigned User ID's and Passwords to access the MeckHMIS with any other organization, governmental entity, business, or individual.
2. The Agency will not intentionally cause corruption of the MeckHMIS 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.

VII.   Indemnity and Hold Harmless

1. CSS and the CHARLOTTE MECKLENBURG CONTINUIM OF CARE (COC), make no warranties, expressed or implied. The Agency, at all times, will indemnify and hold CSS/CHARLOTTE MECKLENBURG COC and their respective directors, officers, shareholders, members, managers, partners, employees, contractors and agents harmless from any damages, liabilities, claims, and expenses (including costs and reasonable attorneys' fees) asserted by any third party against any of the foregoing and resulting from or related to the Agency's (including its directors, officers, shareholders, members, managers, partners, employees, contractors and agents) or client's use of the MeckHMIS; 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; or arising from any the breach by the Agency, its its agents, employees, licensees of any covenant or obligation under this Agreement.
2. The Agency specifically agrees that the Agency will defend, indemnify and hold CSS/ CHARLOTTE MECKLENBURG COC and their respective directors, officers, shareholders, members, managers, partners, employees, contractors and agents harmless from and against any claims that clients' privacy has been violated in some respect, directly or indirectly, through the Agency's use or misuse of the MeckHMIS
3. The Agency agrees that it will restrict the use of any and all client information as provided in applicable laws and the Agency assumes full responsibility for ensuring the appropriateness of

using and relying upon the client information stored in, generated or provided by the MeckHMIS in view of all attendant circumstances, indications, and contraindications. Accordingly, the Agency specifically agrees that the Agency will defend, indemnify and hold CSS/CHARLOTTE MECKLENBURG COC and their respective directors, officers, shareholders, members, managers, partners, employees, contractors and agents harmless from and against any claims arising out of or related to client information stored in, generated or provided by the MeckHMIS, to the extent such claims arise from the Agency's actions or inactions, intentional or otherwise.

4. This Agency will also hold CSS/CHARLOTTE MECKLENBURG COC and their respective directors, officers, shareholders, members, managers, partners, employees, contractors and agents harmless for loss or damage resulting in the loss of data due to delays, nondeliveries, mis-deliveries, or service interruption caused by Clarity-BitFocus, 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.

5. The Agency agrees to keep in force a comprehensive general liability insurance policy with combined single limit coverage of not less than five hundred thousand dollars ($500,000). Said insurance policy shall include coverage for theft or damage of the Agency's MeckHMIS-related hardware and software, as well as coverage of Agency's indemnification obligations under this agreement. The Agency, if self-insured, may provide a letter stating such coverage in lieu of providing a commercial policy.

6. The CSS/CHARLOTTE MECKLENBURG COC shall indemnify and hold harmless the Agency, its directors, officers, shareholders, members, managers, partners, employees, contractors , elected officials and agents from any and all damages, liabilities, claims, and expenses (including costs and reasonable attorneys' fees) asserted by any third party against the Agency arising out of or resulting, directly or indirectly, from or related to the acts, omissions, negligence, fault of CSS/CHARLOTTE MECKLENBURG COC (including its directors, officers, shareholders, members, managers, partners, employees, contractors and agents) including any acts or omissions arising out of the Agency's adherence to any training or guidance provided by CSS to the Agency.

7. Provisions of Section VII shall survive any termination of the Participation Agreement.

VIII. Limitation of Liability

CSS, with approval of CoC Governing Board has purchased the rights to use the Clarity-BitFocus Software wholly owned by Clarity Human Services which shall be delegated through the use of individual licenses, Clarity-BitFocus Server Hosting services, and Clarity-BitFocus Software Support Services. EXCEPT AS EXPRESSLY STATED HEREIN, CSS/ CHARLOTTE MECKLENBURG COC **DISCLAIMS ALL WARRANTIES AND CONDITIONS, EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THE Clarity-BitFocus SOFTWARE IS PROVIDED "AS IS".**

IX. 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 the License or any rights or obligations under the *Participation Agreement* without the written consent of CSS.
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 breaches of this agreement. Should such situations arise, the MeckHMIS may immediately suspend the License, including access to the MeckHMIS 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.
5. CSS may assign this *Participation Agreement*, upon due 10 day notice to the Agency.

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

AGENCY: **CSS**:

_____   Mecklenburg County CSS

By:_____   By:_____

Title:_____   Title: _____

Date: _____   Date:_____

Meck 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 Script/Notice* for MeckHMIS clients.
- ❑ Executed MeckHMIS *Client Release of Information & Sharing Plan* forms.
- ❑ *Certificates of Completion* for required training for all MeckHMIS System Users.
- ❑ A fully executed *User Agreement* for all MeckHMIS System Users.
- ❑ A copy of any MeckHMIS *Sharing Qualified Service Organization Business Associate Agreement* -- or Coordinated Services Agreements -- that define sharing agreements between partnering agencies.
- ❑ A copy of the *Administrative QSOBAA Data Use Agreement* between Agency and MeckHMIS.
- ❑ A current Agency-Specific MeckHMIS *Policy and Procedure Manual*.

By: _____

Title:_____

Signature:_____

Date:_____