**HMIS Partner Agreement between [HMIS Lead Agency] and [VA Medical Center]— Homeless Program**

This HMIS Partner Agreement (the "Agreement") is entered into on [dd/mm/yy] (the "Effective Date") between the [HMIS Lead Agency], a nonprofit organization established under the laws of [State Name] ("HMIS LEAD AGENCY") and [VA Medical Center] (agency name), a government agency established under the laws of the United States of America ("AGENCY") regarding AGENCY's access to and use of [HMIS LEAD AGENCY]'s Homeless Management Information System (the "HMIS").

I. INTRODUCTION

1. The HMIS is a shared computerized data collection tool that allows authorized personnel at homeless and human service provider agencies: (i) in the northeastern Illinois region that have entered into an HMIS Partner Agreement, or (ii) in other continuums of care with which [HMIS LEAD AGENCY] has entered into agreements regarding access to the HMIS (each, an "HMIS Participating Agency") with [HMIS LEAD AGENCY] to enter, track, and report on information concerning its own clients (the "Clients") and to share information, subject to appropriate interagency agreements, on clients common with one or more other agencies (such information, the "HMIS Data"). [HMIS LEAD AGENCY] manages the HMIS on behalf of HMIS Participating Agencies.

2. The HMIS is designed to collect and deliver data about services and homeless persons or persons at risk for being homeless and meet the reporting requirements of the U.S. Department of Housing and Urban Development, and other funders as needed. [HMIS LEAD AGENCY] contracts with a third-party software provider (the "HMIS Provider") for use of the HMIS, and [HMIS LEAD AGENCY] is permitted to offer to HMIS Participating Agencies access to the HMIS subject to [HMIS LEAD AGENCY]'s license agreement with the HMIS Provider (the "HMIS License").

II. [HMIS LEAD AGENCY] RESPONSIBILITIES

1. [HMIS LEAD AGENCY] will use reasonable efforts to facilitate AGENCY's access to the HMIS provided by the HMIS Provider on substantially the same availability terms and services levels as [HMIS LEAD AGENCY] receives from the HMIS Provider. Availability of the HMIS may be subject to routine system maintenance, scheduled system upgrades, unexpected system failures, and other interruptions.

2. [HMIS LEAD AGENCY] will provide to AGENCY model privacy notices, client consent forms and other template form agreements that may be adopted or adapted in local implementation of HMIS functions.

3. [HMIS LEAD AGENCY] will use reasonable efforts to provide initial training and periodic updates to that training for all AGENCY end users regarding the use of the HMIS.

4. [HMIS LEAD AGENCY] will use reasonable efforts to provide basic user support and technical assistance (i.e., general trouble-shooting and assistance with standard report generation) subject to the training, user support, and technical assistance [HMIS LEAD AGENCY] receives from HMIS Provider.

III. AGENCY RESPONSIBILITIES

1. AGENCY will abide by all applicable federal, state, and local laws and regulations (collectively, "Laws") including, but not limited to: (i) Laws related to the collection, storage and use of personal information; (ii) the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations; and (iii) and the Health Information Technology for Economic and Clinical Health Act and its implementing regulations. AGENCY will abide by the most current HMIS Policies and Procedures Manual (the "Policy") approved and adopted by [HMIS LEAD AGENCY], which is incorporated into this Agreement by reference and may be modified from time to time at [HMIS LEAD AGENCY]'s sole discretion. The Policy includes privacy, security, client consent, and data entry requirements. In the event of any conflict or ambiguity between or among applicable Law, this Agreement, and the Policy (other than an exception expressly set forth as such therein), the following order of precedence shall govern: (a) first, applicable Law; (b) second, the Policy; and (c) third, this Agreement (excluding the Policy). The Policy can be obtained online at [insert URL link].

2. AGENCY will execute the form Assurance attached to this Agreement as Exhibit A, incorporated herein by this reference.

3. AGENCY will ensure that all of its employees and agents comply with the Policy.

4. AGENCY will provide all staffing and equipment necessary for AGENCY's use of the HMIS.

5. AGENCY acknowledges and agrees that it may be required to agree to a separate end user license agreement with the HMIS Provider (the "EULA") before AGENCY or any of its end users may access the HMIS. AGENCY and all of its end users will comply with any such EULA.

IV. PRIVACY AND CONFIDENTIALITY

1. The Agency Responsibilities

A. AGENCY will comply with all policies and procedures established by [HMIS LEAD AGENCY] pertaining to protection of client privacy including, without limitation, the Policy.

B. AGENCY will implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the HMIS Data in AGENCY's control.

C. AGENCY will make available to each of its Clients a copy of the HMIS Notice of Privacy Practices (or an equivalent AGENCY-specific alternative) before adding any such Client's personal information into the HMIS. AGENCY will provide to each Client an oral explanation of the HMIS and arrange for a qualified interpreter or other reasonable accommodation if a Client is not literate in English or has difficulty understanding the HMIS Notice of Privacy Practices and/or associated consent form(s).

D. AGENCY will solicit or enter information about a Client into the HMIS only in order to provide services or conduct evaluation or research as permitted by Law, and AGENCY will not use any HMIS Data except to provide such services or to conduct such evaluation or research. AGENCY management, in consultation with [HMIS LEAD AGENCY], will make a determination of what HMIS Data is necessary for AGENCY to provide such services or to conduct such evaluations or research.

E. AGENCY will not disclose any HMIS Data to any entity, organization, or individual except: (i) with prior written consent or, solely as expressly permitted in the Policy, prior oral consent, from the Client who initially provided such information and to the extent permitted in the Policy; or (ii) as otherwise required by applicable Law.

F. AGENCY will ensure that all of its employees, agents, representatives, volunteers, and other individuals associated with AGENCY who are end users of the HMIS (or who are otherwise issued a user identification and password for the HMIS) abide by this Agreement, including all associated confidentiality provisions, and the EULA.

G. AGENCY acknowledges that maintaining the confidentiality, security, and privacy of HMIS Data that AGENCY downloads from the HMIS is strictly the responsibility of AGENCY.

2. Inter-Agency Sharing of Information

A. AGENCY acknowledges that all forms provided by [HMIS LEAD AGENCY] regarding client privacy and confidentiality are shared with AGENCY as generally applicable models that may require specific modification in accord with AGENCY specific rules. AGENCY will review and revise (as necessary) all forms provided by [HMIS LEAD AGENCY] to assure that they are in compliance with the laws (including bylaws), rules, and regulations that govern AGENCY's organization. [HMIS LEAD AGENCY] makes no representation or warranty regarding the sufficiency or fitness of such forms for the intended use of AGENCY.

B. AGENCY will not share or disclose any "Protected Information," (as that term is used in the Policy) through the HMIS except as described in this Section IV(2)(B) and in compliance with all applicable Laws. Sharing of Protected Information is not

 covered under the general HMIS Client Consent to Release Information form. If AGENCY collects any Protected Information from a Client, AGENCY will: (i) obtain written consent from such Client before so sharing or disclosing such Client's Protected Information, (ii) enter into a written HMIS data sharing agreement with each entity with which the Protected Information is to be shared, and (iii) ensure that the HMIS settings are configured to permit sharing of such Protected Information solely with those agencies which have entered into such HMIS data sharing agreement with AGENCY.

C. AGENCY acknowledges that, as between AGENCY and [HMIS LEAD AGENCY], AGENCY bears sole responsibility for oversight of all data AGENCY inputs into the HMIS.

V. TERM AND TERMINATION

1. Term. The term of this Agreement commences as of the Effective Date and continues perpetually unless terminated pursuant to any of its express provisions.

2. Suspension and Termination.

A. [HMIS LEAD AGENCY] may immediately suspend AGENCY's access to the HMIS in the event of an actual or reasonably-suspected breach of this Agreement or the EULA by AGENCY. [HMIS LEAD AGENCY] will, as soon as reasonably practicable, restore AGENCY's access to the HMIS: (i) if there is an actual breach of this Agreement or the EULA by the Agency, upon AGENCY's cure of such actual breach; or (ii) upon [HMIS LEAD AGENCY] determining that AGENCY has not breached this Agreement or the EULA if, despite [HMIS LEAD AGENCY]'s reasonable belief that AGENCY has breached this Agreement or the EULA, [HMIS LEAD AGENCY] determines that AGENCY has not breached this AGREEMENT or the EULA.

B. [HMIS LEAD AGENCY] may terminate this Agreement immediately upon: (i) the expiration or termination of [HMIS LEAD AGENCY]'s agreement with the HMIS Provider; or (ii) written notice to AGENCY if the AGENCY materially breaches this Agreement or the EULA.

C. Each of [HMIS LEAD AGENCY] and AGENCY may terminate this Agreement upon thirty (30) days written notice to the other party.

3. Effect of Termination. Unless otherwise expressly agreed in this Agreement, upon the termination or expiration of this Agreement for any reason, [HMIS LEAD AGENCY] may terminate AGENCY's access to the HMIS, and AGENCY will immediately cease all use of the HMIS and related materials provided by [HMIS LEAD AGENCY] under this Agreement. Upon expiration or termination of this Agreement, [HMIS LEAD AGENCY] will use reasonable efforts to assist AGENCY to export AGENCY's data from the HMIS in an industry-standard format. Any costs associated with exporting the data will be the sole responsibility of AGENCY.

VI. DISCLAIMER OF REPRESENTATIONS AND WARRANTIES, INDEMNIFICATION, AND LIMITATION OF LIABILITY

1. [HMIS LEAD AGENCY] DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHER, UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ANY SUBJECT MATTER HEREOF.

2. AGENCY will indemnify and hold harmless [HMIS LEAD AGENCY], its affiliates, and its and their respective officers, directors, employees, agents, volunteers, and contractors (collectively, the "[HMIS LEAD AGENCY] Indemnitees"), from and against any damages, liabilities, claims, and expenses (including attorneys' fees) incurred by [HMIS LEAD AGENCY] Indemnitees arising out of or relating to any claim by a third party arising out of or related to any of the following (each, an "Indemnified Claim"):

A. AGENCY's participation in the HMIS;

B. any acts or omissions of AGENCY, its affiliates, or any of its or their respective officers, directors, agents, employees, volunteers, licensees, contractors, end-users, or Clients; or

C. AGENCY's breach of this Agreement or the EULA.

3. [HMIS LEAD AGENCY] may, at its sole option, assume sole control of the defense, appeal, settlement, and compromise of any Indemnified Claim by sending written notice of such assumption to AGENCY. If [HMIS LEAD AGENCY] notifies AGENCY of [HMIS LEAD AGENCY]'s determination not to assume control of such defense, appeal, settlement, and compromise of an Indemnified Claim, then: (i) AGENCY will undertake, conduct and control the defense, appeal, settlement, and compromise thereof at AGENCY's sole cost and expense and through reputable independent counsel of its own choosing and that is acceptable to [HMIS LEAD AGENCY] in its reasonable discretion; (ii) [HMIS LEAD AGENCY] may employ, at any time, separate counsel to represent it; and (iii) AGENCY shall give prompt written notice to [HMIS LEAD AGENCY] of any proposed settlement or compromise of a Indemnified Claim and AGENCY may not, without [HMIS LEAD AGENCY]'s prior written consent, settle or compromise any claim or consent to the entry of any judgment regarding which indemnification is being sought hereunder.

4. IN NO EVENT WILL [HMIS LEAD AGENCY] BE LIABLE TO AGENCY FOR ANY INCIDENTAL, INDIRECT, PUNITIVE, EXEMPLARY, CONSEQUENTIAL, OR SPECIAL DAMAGES (INCLUDING ANY LOSS OF USE, LOSS OF DATA, LOSS OF GOODWILL, LOST SAVINGS, DELAYS, OR SERVICE INTERRUPTIONS) CONNECTED WITH OR ARISING OUT OF THIS AGREEMENT, EVEN IF SUCH DAMAGES WERE FORESEEABLE OR [HMIS LEAD AGENCY] WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND REGARDLESS OF WHETHER A CLAIM IS BASED ON CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), OR ANY OTHER LEGAL OR EQUITABLE PRINCIPLE. EXCEPT IN CONNECTION WITH A PARTY'S INDEMNIFICATION OBLIGATIONS UNDER THIS AGREEMENT, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER UNDER THIS AGREEMENT EXCEPT TO THE EXTENT SUCH LIABILITY ARISES OUT OF THE LIABLE PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

VII. GENERAL TERMS AND CONDITIONS

1. Survival. The provisions set forth in the following Sections, and any other right or obligation of the parties in this Agreement that, by its nature, should survive termination or expiration of this Agreement, will survive any expiration or termination of this Agreement: Section IV, Section VI, and Section VII.

2. Force Majeure. [HMIS LEAD AGENCY] will not be liable to AGENCY or be deemed to have breached this Agreement for any failure or delay in fulfilling or performing any term of this Agreement that is outside the reasonable control of [HMIS Lead Agency] including when and to the extent such failure or delay is caused by any: failure of the HMIS Provider, acts of God, flood, fire, earthquake or explosion; war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; embargoes or blockades in effect on or after the date of this Agreement; national or regional emergency; or any action taken by a governmental or public authority; (each of the foregoing, a "Force Majeure Event").

3. Entire Agreement. 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.

4. Assignment. AGENCY may not transfer or assign this Agreement or any rights or obligations under this Agreement without the prior written consent of [HMIS LEAD AGENCY]. Any transfer or assignment in violation of this provision will be null and void.

5. Notices. All notices, requests, consents, claims, demands, waivers, and other communications under this Agreement have binding legal effect only if in writing and addressed to a party as follows (or to such other address or such other person that such party may designate from time to time upon written notice to the other party):

If to [HMIS LEAD AGENCY]: Name of Point of Contact, Title of Point of Contact, HMIS Lead Agency Address, fax number, e-mail address.

If to AGENCY: Name of Point of Contact, Title of Point of Contact, VA Medical Center Agency Address, fax number, e-mail address.

6. Modification and Waiver. No amendment to or modification of this Agreement is effective unless it is in writing and signed by each party. No waiver by either party of any of the provisions hereof will be effective unless explicitly set forth in writing and signed by the waiving party.

7. Severability. If any provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such Willi or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

8. Relationship of the Parties. The relationship between the parties under this Agreement is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

9. Headings. The headings in this Agreement are for reference only and do not affect the interpretation of this Agreement.

10. Governing Law. This Agreement is governed by and construed in accordance with the internal Laws of the State of Illinois without giving effect to any choice or conflict of Law provision or rule that would require or permit the application of the Laws of any other jurisdiction.

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

AGENCY:

[VA Medical Center] — Homeless Program Representative Name/Signature

Title:

Date:

[HMIS LEAD AGENCY] Representative Name/Signature:

Title:

Date: