KING COUNTY HMIS
PARTNER AGENCY PRIVACY AND DATA SHARING AGREEMENT

The King County Homeless Management Information System ("HMIS") is a shared database and software application that confidentially collects, uses, and shares client-level information related to homelessness in King County. On behalf of the Seattle/King County Continuum of Care ("CoC"), HMIS is administered by King County ("County") in a software application called Clarity Human Services ("Clarity"), a product of Bitfocus, Inc. ("Bitfocus"). The County has also contracted with Bitfocus to serve as the System Administrator for the HMIS.

This Partner Agency Privacy and Data Sharing Agreement (the "Agreement"), dated _____, (the "Effective Date"), is entered into by and between the County and_____ ("Partner Agency," or "Agency") (collectively "the Parties"), in order to further clarify the rights and responsibilities of the Parties regarding access to and use of the HMIS data by the Partner Agency.

I. Introduction

A. Client information is collected in the HMIS, and shared with housing and services providers (each, a "Partner Agency," and collectively, the "Partner Agencies"), which include community based organizations and government agencies. Partner Agencies use the information in HMIS to: improve housing and services quality; identify patterns and monitor trends over time; conduct needs assessments and prioritize services for certain homeless and low-income subpopulations; enhance inter-agency coordination; and monitor and report on the delivery, impact, and quality of housing and services.

B. Subject to the direction of the County, in its role as HMIS Lead, Bitfocus will act as the HMIS System Administrator and Software as a Service ("SaaS") provider, and will assume responsibility for overall project administration; hosting of the HMIS technical infrastructure; and restricting or allowing access to the HMIS to the Partner Agencies in accordance with the direction of the County.

II. Confidentiality

A. The Agency will comply with all applicable Federal and State confidentiality laws and regulations that protect client records, and the Agency will only enter information into the HMIS and/or release confidential client records to authorized agents and representatives and with informed consent in a writing signed by the client, or the client's guardian, unless otherwise provided for in the regulations or laws. "Client" refers to anyone who receives services from the Agency. "Guardian" refers to one legally in charge of the affairs of a minor or of a person deemed incompetent. Future references in this Agreement to a "client" include reference to any "guardians" of a client.

B. Agency Representations

1. Agency represents that: *(check applicable items)*

   a) □ it is; □ is not; a "covered entity" whose disclosures are restricted under HIPAA (45 CFR 160 and 164); More information about "covered entities" can be found here: http://www.hhs.gov/ocr/privacy/hipaa/understanding/covered entities/index.html

      (1) *(If a "covered entity")* □ it is; □ is not; a "hybrid entity" whose designated health care components □ are; □ are not; participating in HMIS.

   b) □ it is; □ is not; a program whose disclosures are restricted under Federal Drug and Alcohol Confidentiality Regulations: 42 CFR Part 2;

   c) If Agency is subject to HIPAA, (45 CFR 160 and 164) or 42 CFR Part 2, a fully executed Business Associate or Business Associate/Qualified Service Organization Agreement must be attached to this agreement before information may be entered. Sharing of information will not be permitted otherwise.

   d) If Agency is subject to any laws or requirements which restrict Agency's ability to either enter or authorize sharing of information, Agency will ensure that any entry it makes and all designations for sharing fully comply with all applicable laws or other restrictions.

2. Agency shall comply with the Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA) and Washington State RCW 43.185C.030. No Identified Information may be entered into HMIS for Clients in licensed domestic violence programs or for Clients currently fleeing domestic violence situations.

3. Agency shall not enter confidential information regarding HIV/AIDS status, in accordance with RCW 70.02.220. If funding (i.e., HOPWA) requires HMIS use, those clients' data shall be entered without Identifying Information.

4. To the extent that information entered by Agency into HMIS is or becomes subject to additional restrictions, Agency will immediately inform King County in writing of such restrictions.

C. The Agency will provide a written explanation of the HMIS to all clients and will provide all forms in English and any other languages provided by the County.

D. The Agency will not enter client information into the HMIS unless it is necessary to effect the purposes described in Section I of this Agreement.

E. The Agency will not disclose any confidential information contained in the HMIS to any participating Partner Agency, outside organization, or individual without (i) obtaining informed consent in a writing signed by the client and (ii) taking reasonable steps to ensure that Partner Agency authorized agents and representatives (each, an " HMIS End User," or simply an "End User") have signed and executed applicable End User Agreements, unless otherwise permitted by relevant regulations or laws.

F. The Agency is encouraged to seek its own legal advice in the event that a non-participating agency (i.e., an agency that is not a participating Partner Agency) requests identifying confidential client information.

G. The Agency must maintain appropriate documentation of informed client consent, in writing and signed by each client, to participate in the HMIS. Only the standard, County-issued Client Consent to Data Collection and Release of Information form may be used. All documentation must be provided to the County within ten (10) days upon request.

H. If a client does not consent in writing to the inclusion of basic identifying client information into HMIS then the identifying information cannot be entered into the HMIS. Instead, the Agency will follow King County's policies for creating anonymous clients and all non-identifying information for the client shall be entered into the HMIS.

I. The Agency will use the Client Consent to Data Collection and Release of Information form, describing how client information may be collected, used, and released by the County and the CoC in the administration of the HMIS. The County, Bitfocus or their contractors may conduct periodic audits to monitor compliance with informed consent standards. However, Partner Agencies bear the primary responsibility for monitoring compliance with these standards.

J. The Agency will adopt the HMIS Client Grievance Procedures provided by the County, or add them as an addendum to its existing client grievance procedures.

K. The Agency will adhere to the King County HMIS Standard Operating Policies and Procedures ("SOPs") and adopt an HMIS Privacy Statement as required by the SOPs or add the relevant terms to its existing privacy notice or statement, which describes policies and procedures for safeguarding confidential client information.

L. The Agency understands that provision of services by the Agency is not and cannot be contingent upon a client's participation in the HMIS, and that nothing in the County's policies, procedures, forms, agreements, or other documentation shall be construed to require or imply otherwise.

M. Agency shall be responsible for complying with all HMIS policies and procedures, and for establishing and maintaining an information security program that complies with the HMIS Security Plan, and that is designed to ensure the security and confidentiality of the data from HMIS to which Agency has access. This includes protection against any anticipated threats or hazards to the security or integrity of HMIS data, and protection against unauthorized access to or use of HMIS Data that could result in substantial harm or inconvenience to the County or any client or HMIS user.

N. Agency shall take appropriate action to address any incident of unauthorized access to HMIS, including addressing and/or remedying the

issue that resulted in such unauthorized access, notifying County immediately of any incident of unauthorized access to County Data, or any other breach in the Agency's security that materially affects County or HMIS; and be responsible for ensuring compliance by its officers, employees, agents, and subcontractors with the confidentiality provisions hereof. Should confidential and/or legally protected County Data be divulged to unauthorized third parties, Agency shall be responsible for complying with all applicable federal and state laws and regulations and shall be solely responsible for the costs associated with any and all activities and actions required.

O. The Agency and Bitfocus, as the HMIS System Administrator, understand that they are custodians of data and not owners of data.

P. If this Agreement is terminated, the County and all participating Partner Agencies maintain their rights to the use of all client information previously entered into the HMIS, subject to the terms of this Agreement and other applicable rules, regulations, and agreements.

Q. Upon any such termination of this Agreement, the Agency may request and receive one export copy of all data entered by it into the HMIS from the Effective Date up to the date of termination. If such a copy is requested, the Partner Agency will be responsible for reimbursing the County for the costs associated with producing the report.

III. **Data Entry and/or Use**

A. The Agency will adopt and comply with the most recent versions of the HMIS Standard Operating Procedures and the HMIS Governance Charter recommended by the County.

B. If a client has previously provided written consent in a signed writing to one or more Partner Agencies to collect, use, and release her or his information, and the client subsequently chooses to revoke such consent from one or more such Agencies, the Agency to which such choice is expressed will immediately provide the written revocation of consent to Bitfocus at the following address:

    Bitfocus, Inc.
    ATTN: King County HMIS

548 Market St #60866
San Francisco, CA 94104

Consent may be revoked verbally for records pertaining to drug/alcohol treatment.. If consent is revoked verbally to the Agency, the Agency will inform Bitfocus of such revocation immediately.

Partner Agencies understand that they are prohibited from penalizing or threatening to penalize clients for either revoking their previously provided written consent or requesting that their information be held in the strictest confidence.

C. The Agency will avoid any misrepresentations related to client information in the HMIS (including, without limitation, that the Agency will ensure that its authorized agents and representatives will not purposefully enter inaccurate information on any records).

D. The Agency will enter data into the HMIS in a consistent and timely manner.

E. Discriminatory comments based on race, ethnicity, ancestry, skin color, religion, sex, gender identity, sexual orientation, national origin, age, familial status, or disability are not permitted in the HMIS and will subject a user or Agency to immediate suspension.

F. Precise recording of profanity in the HMIS is strongly discouraged.

G. The Agency will utilize the HMIS for business purposes only, and specifically, to effect the purposes described in Section I of this Agreement.

H. The Agency will utilize the HMIS as part of the CoC's Coordinated Entry for All system in accordance with the CoC's Policies and Procedures. Use of HMIS for Coordinated Assessment includes, but is not limited to, entering data from the triage assessment survey recommended by the County in order to place clients into the community queue for prioritization in housing programs, and accepting referrals for clients from the community queue.

I. The Agency recognizes the County as the HMIS Lead to be the decision-making and direction-setting authority regarding the HMIS,

including, without limitation, with regard to process updates, policy and practice guidelines, data analysis, and software or hardware upgrades.

J. The Agency will designate a staff member to attend HMIS Agency Administrators meetings regularly, and the Agency understands that Bitfocus, as the agent of the County, will be responsible for coordinating HMIS Agency Administrator activities subject to the direction of the County as the HMIS Lead.

K. The Agency may use non-identifying client information from HMIS regarding the services provided by the Agency for funding, auditing, or planning purposes. If the Agency wishes to provide information from HMIS beyond information related solely to services provided by the Agency, it must first inform and receive approval from the County as the HMIS lead.

L. The Agency will use only non-identifying information, and only information about services provided by the Agency, in response to requests for data from the HMIS unless otherwise required by law. Any other requests for information from or related to HMIS should be sent to Bitfocus and the County.

M. The Agency will not use the HMIS in violation of any federal or state law, including, but not limited to, copyright, trademark, and trade secret laws, as well as laws prohibiting the transmission of material which is threatening, harassing, or obscene.

N. The Agency will not use the HMIS to defraud federal, state, or local governments, or individuals or agencies, or to conduct illegal activity.

O. The Agency and its staff will not share assigned passwords and access codes for the HMIS with any Partner Agency or other entity or individual.

P. The Agency will exercise due diligence in its use of the HMIS and will not take any action that results in the corruption of the HMIS or the inappropriate release of client information, and the Agency expressly accepts responsibility for any liability and/or other damages its use of the HMIS may cause to the County or clients.

Q. The Agency will not alter or over-write information entered by a Partner Agency with the exception of basic demographic information if that data has not been entered or confirmed as incorrect.

R. The Agency will comply with the requirements of the most recent versions of the HMIS Data Standards Manual, HMIS Data Dictionary, and other HMIS regulations issued by the U.S. Department of Housing and Urban Development ("HUD").

IV. Technical Administrator and Security Officer

A. The Agency will comply with the HMIS Standard Operating Procedures and the HMIS Security Plan. Each HMIS Partner Agency must also designate a technical administrator (the "Partner Agency Technical Administrator") and a security officer (the "Partner Agency Security Officer") to fulfill the responsibilities detailed in the HMIS Partner Agency Technical Administrator and Security Office Agreement.

B. The Partner Agency must perform a background check on any End User:

1. Designated as a Partner Agency Technical Administrator,

2. Designated as a Partner Agency Security Officer, or

3. Granted administrator-level access in HMIS.

Such background check must be completed and the results approved by the Partner Agency Executive Director before the End User is (i) granted with a Technical Administrator or Security Officer title, or both, as applicable, and (ii) granted administrator- level access in HMIS. The results of the background check must be retained by the Partner Agency in the End User's personnel file and must be provided to the County upon request.

V. Reports

A. The Agency understands that it will have full access to all identifying client information and statistical information it has entered into HMIS and may have access to additional information on those clients entered by other Partner Agencies.

B. The Agency understands that access to information on clients it does not serve may be limited or unavailable.

C. The Agency understands that before non-client-identifying system-wide aggregate information collected by the HMIS is released to participating Partner Agencies or to their auditors or funders, it must be authorized by the County as the HMIS Lead.

D. The Agency will annually provide a written report Bitfocus with up-to-date information on all current End Users, as well as the names of former End Users who no longer have access to the HMIS.

VI. Liability and Indemnification

A. It is the intent of the parties that, by entering into this agreement, each party shall remain liable, to the extent provided by law, for its own acts and omissions; and neither party assumes liability for the acts of others.

VII. Standard Terms and Conditions

A. This Agreement is the complete and exclusive statement of agreement between the parties, and it supersedes all prior agreements, oral or written, relating to the subject matter of this Agreement.

B. Neither party shall have the right to assign or transfer any rights or obligations under this Agreement without the prior written consent of the other party.

C. This Agreement shall remain in force until revoked in writing by either party with thirty (30) days' advance written notice. Notwithstanding the foregoing, if there is credible evidence regarding potential or actual breach of this Agreement and the nature of the breach threatens the integrity of the HMIS, the County as the HMIS Lead will have the right to immediately suspend or restrict the access rights of the breaching party to the HMIS pending investigation and resolution of the matter to the extent reasonably required to protect the integrity of the system.

D. This Agreement may be amended or modified only by a written agreement signed and executed by both parties.

E. This Agreement is made for the purpose of defining and setting forth the rights and responsibilities of the County as the HMIS Lead, Bitfocus as an

agent of the County, and the Agency. It is made solely for the protection of the County, Bitfocus, the Agency, and their respective heirs, personal representatives, successors, and assigns. No other individual or entity shall have any rights of any nature under this Agreement or by reason hereof. Without limiting the generality of the preceding sentence, no End User of the HMIS in her or his capacity as such and no current, former, or prospective client of any Partner Agency shall have any rights of any nature under this Agreement or by reason hereof.

F. Unless otherwise prohibited by law or County policy, the parties agree that an electronic copy of a signed contract, or an electronically signed contract, has the same force and legal effect as a contract executed with an original ink signature. The term "electronic copy of a signed contract" refers to a transmission by facsimile, electronic mail, or other electronic means of a copy of an original signed contract in a portable document format. The term "electronically signed contract" means a contract that is executed by applying an electronic signature using technology approved by the County.

PARTNER AGENCY	**KING COUNTY**
BY:	BY:
_____	_____
Executive Director Signature	**Signature of Identified Representative**
_____	_____
Print Executive Director Name	**Printed name of Identified Representative**
_____	_____
Date	**Date**
ADDRESS:	ADDRESS: King County 401 Fifth Avenue Seattle, WA 98104