

## **Business Associates Agreement**

This Business Associates Agreement is made and executed this the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between The University of Tennessee, 1534 White Avenue, Knoxville, TN 37996-1529, on behalf of The College of SW and the Knoxville HMIS, and \_\_\_\_\_ (hereinafter referred to as "Agency") located at \_\_\_\_\_.

### **1. Purpose:**

Agency is or may be subject to the Standards for Privacy of Individually Identifiable Health Information as found at 45 CFR Parts 160 and 164 (the "Privacy Rule"), which provides certain federal regulations for the purpose of protecting certain individually identifiable health information ("PHI"). Pursuant to the Agreement, Knoxville HMIS will provide, for or on behalf of Agency, the products and/or services described in the Agreement ("Covered Services") and, in the process, may from time to time use, receive, or have access to PHI that it uses, maintains or discloses for Agency or on Agency's behalf, i.e., as a "business associate" of Agency for purposes of the Privacy Rule. As a result, Agency and Knoxville HMIS enter into this Agreement in order for Agency to comply with the Privacy Rule. The parties agree that Knoxville HMIS' services as a business associate under this Agreement shall specifically limit any research use, maintenance and/or disclosure of information to research based upon specific confidentiality agreements between Tennessee/Knoxville HMIS. These agreements must reflect adequate standards for the protection of confidentiality of data and must comply with the disclosure provisions in Section 4 of the HUD Homeless Management Information Systems (HMIS) Data and Technical Standards Final Notice, July 30, 2004.

### **2. Uses and Disclosures of PHI:**

Except as provided in Paragraph 3, Knoxville HMIS is permitted and required to use and disclose any PHI it obtains pursuant to the Agreement or in the process of furnishing the Covered Services only as described or permitted in the Agreement ("Permitted Uses and Disclosures"). Knoxville HMIS is prohibited from any use or disclosure beyond the Permitted Uses and Disclosures without written permission of Agency.

### **3. Additional Permitted Uses and Disclosures:**

- A. Notwithstanding Paragraph 2, Knoxville HMIS may use PHI to perform any data aggregation services permitted by 45 CFR § 164.504(e)(2)(i)(B) or to create a limited data set as described in and limited by 45 CFR § 164.514(e), if allowed by or necessary under the Permitted Uses and Disclosures.
- B. To report violations of law to appropriate Federal and State authorities, where consistent with 45 CFR § 164.502(j)(1);
- C. For any use or disclosure that is necessary for the proper management and administration of Knoxville HMIS or to carry out any legal responsibilities.

### **4. Additional Obligations of Knoxville HMIS:**

In addition to the foregoing, Knoxville HMIS shall, to the extent required by the Privacy Rule:

- A. Not use or further disclose any PHI other than as permitted or required by the Agreement or as required by law;
- B. Use appropriate and commercially reasonable safeguards to prevent any use or disclosure of PHI other than as provided for by the Agreement or as required by law;
- C. Report to Agency in a reasonably prompt manner any use or disclosure of PHI not provided for by the Agreement or as required by law, of which it becomes aware and take all reasonable steps to mitigate any harmful effects resulting from such use or disclosure of PHI;
- D. Ensure that any agents, including without limitation any vendor, to whom Knoxville HMIS provides any PHI agrees to the same restrictions and conditions that apply to Knoxville HMIS with respect to such PHI;
- E. Promptly make PHI available to Agency upon request in compliance with the access provisions of the Privacy Rule as found at 45 CFR § 164.524;
- F. Promptly make PHI available for amendment and incorporate any amendments to the PHI maintained by Knoxville HMIS as required by the Privacy Rule;
- G. Maintain data on all disclosures of PHI for which accounting is required by 45 CFR 164.528 for at least six years after the date of the last such disclosure, and make that data available to Agency as necessary for Agency to provide accountings of disclosures in accordance with the Rule;
- H. Make its internal practices, books, and records relating to the use and disclosure of PHI available to the

Secretary of the Department of Health and Human Services or his/her designee for purposes of determining the Agency's compliance with the Privacy Rule; and

I. At termination of the Agreement, to the extent feasible, recover all PHI in the possession of its agents and subcontractors and return or destroy all of the PHI that Knoxville HMIS still maintains in any form and retain no copies of such information or, if such return or destruction is not feasible in

the reasonable judgment of Knoxville HMIS, extend the protections of the Agreement to the remaining PHI and limit further uses and disclosures to those purposes that make the return or destruction of the information infeasible.

### 5. Obligations of Agency:

Agency shall notify Knoxville HMIS of:

- A. Any changes in, or revocation of an authorization by an Individual to use or disclose PHI, to the extent that such changes may affect Knoxville HMIS ' use or disclosure of PHI; and
- B. Any restriction to the use or disclosure of PHI that Agency has agreed to in accordance with 45 CFR § 164.522, to the extent that such restriction may affect Knoxville HMIS ' use or disclosure of PHI. If possible, Agency shall notify Knoxville HMIS of proposed restrictions prior to accepting them, so that Knoxville HMIS can determine whether the proposed restriction is administrable. Agency shall cooperate with reasonable determinations of administrability by Knoxville HMIS in determining whether to grant or deny a request for restriction.

### 6. Term:

This Agreement shall become effective immediately upon execution and, except as hereinafter provided, shall remain in force and effect until the last of the PHI is returned to Agency or destroyed.

### 7. Termination of Contract Pursuant to Privacy Rule:

Notwithstanding any provision of the Agreement to the contrary regarding term or termination, Agency is authorized to terminate the Agreement if it determines that Knoxville HMIS has violated a material term of this Agreement or the Privacy Rule (a "Privacy Breach") upon compliance with the following:

- A. Unless Agency reasonably believes that Knoxville HMIS has already cured the Privacy Breach by remedying the condition leading to or causing the Privacy Breach, Agency shall give written notice ("Notice") to Knoxville HMIS , at the address listed at the top of this Agreement, that the Privacy Breach shall be cured as soon as possible and in any event within twenty (20) days.
- B. If it is not possible to cure the Privacy Breach or if Agency has not received satisfactory assurances within twenty (20) days of the date that the Notice is received by Knoxville HMIS that Knoxville HMIS has cured the Privacy Breach, then Agency may terminate the Contract if it determines that termination is reasonable and feasible. If Agency determines that termination is not feasible, it may immediately report the problem to the Secretary of the Department of Health & Human Services.

### 8. Changes to Addendum as required by law:

The parties hereto have acknowledged that this Agreement is entered into in order to comply with the requirements of the Privacy Rule. In the event that the provisions or interpretation of the Privacy Rule are materially changed, or in the event that any other law is enacted or interpreted which materially effects the terms of this Agreement, the parties agree to enter into a mutually acceptable amendment to this Agreement, on or before the effective date of that change, to bring the terms hereof into compliance therewith.

\_\_\_\_\_  
Agency Director Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Agency Director Name (Please print)

\_\_\_\_\_  
Knox HMIS Manager Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Knox HMIS Manager Name (Please print)

\_\_\_\_\_  
Agency Name

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City,

\_\_\_\_\_  
State,

\_\_\_\_\_  
Zip Code