

End Street Sleeping Collaboration

Confidentiality Deed

This Confidentiality Deed (**Deed**) is made by _____ (Recipient) in favour of End Street Sleeping Collaboration (Organisation) as of () day of () of ().

Recitals

- A The End Street Sleeping Collaboration is building and maintaining a By-Name List of people sleeping rough in New South Wales, and in collaboration with Authorised Partner Agencies and Services is collecting Personal Information (including Sensitive and Health Information) about people's health, demographics, housing and social needs to form an evidence base, from which to better inform and coordinate the provision of services to people experiencing homelessness in NSW (Project).
- B A By-Name-List (BNL) database is set up for the purposes of storing and managing the Project Data.
- C The Recipient is an officer, employee, agent or sub-contractor of the Organisation or of an Authorised Partner Agency or Service.
- D In the course of the Recipient performing certain services for the Organisation or the relevant partner entity, the Recipient may have access to Project Data, Confidential Information and Personal Information stored on the BNL database. Improper use or disclosure of the information could result in irreparable harm to the Organisation and a breach of the law.

OPERATIVE PROVISIONS

1 DEFINITIONS AND INTERPRETATIONS

"Approved Purpose" means any activity, task, work, step, process or measure that is consistent with the purposes for which individuals on the By-Name List have consented, namely:

- to record their housing and support needs;
- to progress their access to housing, health and welfare needs;
- to use the collective findings to inform research, public policy and communication that seek to change the system that leads people into homelessness.

"Associates" means a director, officer, employee, agent or subcontractor of the Recipient.

"Authorised Partner Agency or Service" means an entity that is partnering with the Organisation to help carry out the Project.

"Confidential Information" means information or knowledge provided to or obtained by the Recipient in connection with the provision of services including any document or correspondence that:

- is by its nature confidential;

- is designated as confidential;
- the Recipient knows or ought to know is confidential

Confidential information does not include information which:

- is in the public domain
- is in the lawful possession of the Recipient prior to receipt from the disclosing party
- has been developed or acquired by the Recipient independently of any agreement that the Recipient has with the Organisation.

“Data Breach” means any actual, apparent, suspected or anticipated:

- impairment, damage or compromise to the privacy, confidentiality, reliability or integrity of the Project Data, Confidential Information or Personal Information;
- flaw or vulnerability, of any kind in the security controls or other measures used to protect the Project Data, Confidential Information or Personal Information;
- misuse or loss of, interference with or unauthorised access to, modification of or disclosure of the Project Data, Confidential Information or Personal Information;
- breach of the Privacy Laws;
- collection, use or disclosure of the Project Data, Confidential Information or Personal Information for a purpose other than the Approved Purpose.

“Deed” means this deed.

“Health Information” means “health information” as defined in section 6FA of the Privacy Act and section 6 of the HRIP Act

“HRIP Act” means the *Health Records and Information Privacy Act 2002* (NSW).

“Personal Information” means “personal information” as defined in section 6(1) of the Privacy Act and section 4 of the PPIP Act.

“PIIP Act” means the Privacy and Personal Information Protection Act 1998 (NSW).

“Privacy Act” means the *Privacy Act 1988* (Cth).

“Privacy Laws” means the:

- HRIP Act;
- PPIP Act; and
- Privacy Act.

“Project Data” means any data collected, accessed or obtained by the Recipient in connection with the Project and that is stored on the BNL database.

“Sensitive Information” means “sensitive information” as defined in section 6(1) of the Privacy Act.

2 ACCESS

- (1) The Recipient understands that the Recipient may have access to Project Data, Personal Information and Confidential information in connection with the Project. This Deed sets out the terms on which the Recipient will have access to such information and data.
- (2) The Recipient must strictly only use the Project Data, Personal Information and Confidential Information for the Approved Purpose.
- (3) The Recipient is entering into this Deed on the understanding that the Organisation has obtained the consent of the individuals on the By-Name List to provide their Personal Information and Sensitive Information to third parties such as the Recipient for the Approved Purpose.

3 ACKNOWLEDGEMENTS

The Recipient acknowledges and agrees that:

- (1) privacy and the protection of Project Data, Personal Information and Confidential Information is paramount to the Project;
- (2) this Deed is required to protect the Project Data, Personal Information and Confidential Information from unauthorised use and disclosure to ensure that the Recipient complies to all applicable laws, including the Privacy Laws.

4 RESPONSIBILITIES IN RELATION TO PRIVACY AND DATA PROTECTION

- (1) the Recipient agrees to adhere to the Organisation's Privacy Policy;
- (2) the Recipient agrees to use the Confidential Information for the Approved Purpose;
- (3) the Recipient agrees not to disclose any information, directly or indirectly, to any person except for the Approved Purpose and consistent with the individuals' consent
- (4) the Recipient agrees not to use or circulate the Project Data, Personal Information and Confidential Information to any other person except for the Approved Purpose and consistent with the individuals' consent;
- (5) without prejudice to any other provision of this Deed, the Recipient may disclose Project Data, Personal Information and Confidential Information to its Associates to the extent necessary for the Approved Purpose, provided the relevant Associates are subject to an obligation of confidentiality in favour of the Organisation on terms no less onerous than the terms of this Deed;
- (6) the Recipient agrees not to copy or make record of the Confidential Information in whole or in part;
- (7) the Recipient agrees to commit to protecting the Project Data, Personal Information and Confidential Information.
- (8) Where data is made available to the Recipient, the Recipient agrees to store the data in a secure location accessible only to those who have been authorised to carry out the Approved Purpose.

5 DATA BREACH

- (1) The Recipient must comply with the Project data breach policy, [Data Breach Response Plan](#) and any other policies (including security policies, procedures, plans or directions regarding the any aspect of the security of or access to the Project Data, Personal Information or Confidential Information on the BNL database) communicated to the Recipient by the Organisation from time to time.
- (2) The Recipient must immediately notify the Organisation in writing of any:
 - a. Data Breach;
 - b. breach of any of the privacy, security or confidential provisions of this Deed;which come to the attention of the Recipient and regardless of the cause or impact of the breach.

6 CONFIDENTIAL INFORMATION

6.1 Duty of Confidentiality

The Recipient must

- (1) only access, use and disclose Confidential Information for the Approved Purpose and no other purpose; and
- (2) take all reasonable steps to ensure that Confidential Information is kept confidential and protected from unauthorised access, use and disclosure and must comply with any direction given by the Organisation regarding the safekeeping, use and protection of Confidential Information.

6.2 Limited exemption

Notwithstanding clause 6.1, where the Recipient is required by law to disclose Confidential Information, he or she may do so strictly in accordance with such law.

7 SECURITY

7.1 General

The Recipient will not do or omit to do anything that may compromise the privacy, security or integrity of the Project Data, Personal Information and Confidential Information.

8 POST TERMINATION

Unless otherwise directed by the Organisation in writing, upon the expiry or termination of the contract or the conclusion of the Recipient's role in connection with the Project, the Recipient must:

- (1) not retain any Project Data, Personal Information or Confidential Information;
- (2) sign an attestation that no Project Data, Personal Information or Confidential Information are stored in their systems; and
- (3) ensure that such information and data is securely transferred, migrated or otherwise dealt with in accordance with the Organisation's requirements.

9 GENERAL

- (1) The rights and remedies provided under this Deed are cumulative and not exclusive of any rights or remedies provided by law or any other such right or remedy.
- (2) This Deed will be governed by and construed with reference to the laws for the time being in force in New South Wales.
- (3) The Recipient must not assign, novate or otherwise transfer any right or obligation under this Deed without the Organisation's prior consent, which may be given or withheld at the Organisation's absolute discretion.

10 UNDERSTANDING

In signing this Deed, the Recipient:

- (1) fully understands all of the Recipient's obligations under this Deed and the consequences of non-compliance with such obligations; and
- (2) agrees that this Deed is made for the benefit of the Organisation and the people it is seeking to help.

Executed as a deed poll

Name of Recipient:

Name of Witness:

Signature of Recipient:

Signature of Witness:

Date:
