



## MEMORANDUM

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**TO:** DISABILITY AND AGING SERVICES COMMISSION

**THROUGH:** KELLY DEARMAN, EXECUTIVE DIRECTOR

**FROM:** CINDY KAUFFMAN, DEPUTY DIRECTOR

**DATE:** JULY 3, 2024

**SUBJECT:** REVIEW AND APPROVAL OF CONTRACT WITH SAN FRANCISCO HEALTH PLAN (SFHP) FOR THE PROVISION OF COMMUNITY SUPPORTS SERVICES TO SFHP MEMBERS

**AGREEMENT TERM:** ONE (1) YEAR BEGINNING JULY 1, 2024 WITH THE AUTOMATIC OPTION OF RENEWING FOR AN ADDITIONAL THREE (3) ONE (1) YEAR RENEWALS FOR A MAXIMUM DURATION OF FOUR (4) YEARS



**London Breed**  
Mayor

**Kelly Dearman**  
Executive Director

The Department of Disability and Aging Services (DAS) requests approval to enter into a new contract with San Francisco Health Plan (SFHP) for the provision of Community Supports services. The purpose of the contract is to use the funds from SFHP to support its members in transitioning from nursing facilities to living in the community as an alternative to institutional settings.

### Background

DAS administers the Community Living Fund (CLF), which is used to subsidize services and/or goods, that help individuals who are currently in or at imminent risk of being institutionalized. Institute on Aging is currently funded to provide the CLF Program (CLFP) aimed to reduce unnecessary institutionalization for those who are willing and able to remain living in the community with appropriate supports. The design of the CLFP includes a two-pronged approach: (1) coordinated case management and (2) purchase of services.



DAS has been leveraging funding from SFHP through the California Advancing and Innovating Medi-Cal (CalAIM) State initiative to extend CLFP-like services to SFHP members. CalAIM is an initiative by the California Department of Health Care Services (DHCS) to transform and improve Medi-Cal. It aims to enhance the quality of care provided to Medi-Cal beneficiaries, with the focus on the holistic needs of individuals, addressing social determinants of health through coordinated care. Enhanced Care Management (ECM) and Community Supports (CS) services are two of the key components of CalAIM.

In 2023, DAS contracted with SFHP to provide ECM services through CLFP for members of SFHP. ECM employs a whole-person approach to provide intensive care coordination services to high-need and high-cost Medi-Cal beneficiaries to address their clinical and non-clinical circumstances. ECM is a collaborative and interdisciplinary approach to improve health outcomes and reduce healthcare costs. DAS ECM program serves two populations of focus: (1) individuals living in the community at risk of institutionalization and eligible for long-term care services; (2) skilled nursing facility residents who want to transition to the community. The program aims to foster aging in the community as an alternative to institutionalization.

In addition to DAS ECM, this proposed contract with SFHP will provide CS services through CLFP as part of the CalAIM initiative. CS services are aimed at improving overall health outcomes by addressing factors outside of traditional medical care that significantly impact health. There are 14 different focuses of CS services statewide which include helping with housing placement, nursing facility transition/diversion, community transition, medically tailored meals, and personal care to name a few.

### **Planned Use of Funds**

DAS CS services in this contract are for eligible SFHP members and will continue to center on the same two populations of focus as CLFP - adults at risk of institutionalization and adults in skilled



nursing facilities transitioning to community living. Furthermore, this contract will focus on the following two CS areas, which align with the goals of CLFP and DAS ECM services.

1. Community Transition Services / Nursing Facility Transition to a Home

The services are designed to help individuals transition from institutional settings, such as nursing facilities, to community-based living arrangements. This support aims to enhance the quality of life for individuals by enabling them to live more independently and participate more fully in community life.

2. Nursing Facility Transition/Diversion to Assisted Living Facilities Services

The services are designed to help individuals either move from nursing facilities to assisted living facilities or avoid nursing facility placement for members with an imminent need for nursing facility level of care. This support aims to provide a less restrictive and more home-like environment while ensuring the necessary care and support are available.

Both items of focus mentioned above include services such as assessment and planning, housing/facility search and placement, and transition coordination. For details of the services to be provided see Exhibits A-1 and A-2 within the Services Agreement.

Similar to the contract with SFHP for ECM services, SFHP will contract directly with DAS for CS services, and DAS, in turn, will contract with the CLFP provider to administer the services. DAS will then file claims for reimbursement for the CS services provided. Funds received by DAS from SFHP will be used to offset County General Funds.

## **ATTACHMENT**

San Francisco Health Plan Community Supports Program Services Agreement

**SAN FRANCISCO HEALTH PLAN  
COMMUNITY SUPPORTS PROGRAM  
SERVICES AGREEMENT**

This Services Agreement (“Agreement”) is entered into and effective July 1, 2024 (“**Effective Date**”) between **San Francisco Health Authority, a local governmental entity doing business as the San Francisco Health Plan** (hereinafter collectively referred to as, “**Health Plan**” or “**SFHP**”) and the City and County of San Francisco acting by and through the **San Francisco Department of Disability and Aging Services** (hereinafter, “**Community Supports Provider**”). Community Supports Provider and Health Plan are individually and collectively sometimes referred to in this Agreement as the “Party” or “Parties.”

**RECITALS**

Health Plan operates a prepaid health care service plan licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 and provides healthcare benefits to its Members who are entitled to such benefits by contract between the Health Plan and the California Department of Health Care Services (DHCS) for the Medi-Cal program and desires to engage Community Supports Provider to provide Community Supports; and

Community Supports Provider is an entity with experience and/or training in providing Community Supports services as described in Exhibit A (Services and Rates), DHCS-approved Community Supports services (hereinafter, “Community Supports”), and desires to provide Community Supports to Health Plan’s Members; and

Community Supports Provider shall participate in the lines of business indicated in Exhibit A (Services and Rates), pursuant to the terms and conditions of this Agreement; and

Community Supports Provider and Health Plan are duly authorized to execute this Agreement for the services contemplated hereunder, and all required actions have been properly taken by both Parties for its execution and performance.

**Article I.  
Definitions**

- 1.1. **Claims Operations Manual** is the document or series of documents created, maintained, updated and distributed from time to time by Plan that describes Health Plan’s claims policies and procedures and other claims requirements of Community Supports Provider. The Claims Operations Manual is incorporated into this Agreement and made part hereof. The current Claims Operations Manual can be accessed online on Health Plan’s web site at: <https://www.sfhp.org/wp-content/files/providers/COM.pdf>.
- 1.2. **Clean Claim** is a fully completed claim form and any additional information that contains substantially all the required data elements necessary (including any essential documentation) for accurate adjudication without the need for additional information from outside Health Plan’s system or additional review from other entities.
- 1.3. **Community Supports (CS)** are the substitute services or settings, to those required under the California Medicaid State Plan (“State Plan”), that Health Plan may select and offer to Members pursuant to 42 CFR section 438.3(e)(2) when the substitute service or setting is medically appropriate and more cost-effective than the service or setting listed in the State

Plan. The Community Supports provided by Community Supports Provider are the services/settings set forth in Exhibit A (Services and Rates).

- 1.4. **Community Supports Provider** is a contracted provider of DHCS-approved Community Supports. Community Supports Providers are community based entities with experience and/or training in providing one or more of the Community Supports approved by DHCS to individuals with complex physical, behavioral, developmental and social needs.
- 1.5. **Confidential Information** includes but is not limited to: (a) Individually Identifiable Health Information; (b) personal and financial information concerning Health Plan, Members, Health Professionals, hospitals, or other Health Plan providers (including information related to credentialing proceedings, quality reviews, malpractice suits, and peer reviewed determinations); (c) personally-identifiable information subject to federal, state, and local confidentiality laws; and (d) proprietary business information and trade secrets.
- 1.6. **Covered Services** are all medically necessary healthcare and related services which Health Plan is obligated to provide pursuant to the Member's Evidence of Coverage.
- 1.7. **DHCS** means the California Department of Health Care Services.
- 1.8. **DHHS** means the United States Department of Health and Human Services.
- 1.9. **DMHC** means the California Department of Managed Health Care.
- 1.10. **Encounter Data** means the information that describes health care interactions between Members and providers relating to the receipt of any item(s) or service(s) by a Member under this Agreement and subject to the standards of 42 CFR sections 438.242 and 438.818.
- 1.11. **Evidence of Coverage** is the document that describes in detail the benefits, limitations and exclusions of coverage. The Evidence of Coverage can be accessed online on Health Plan's web site at: [https://www.sfhp.org/wp-content/files/programs/medi-cal/MC\\_Handbook\\_ENG.pdf](https://www.sfhp.org/wp-content/files/programs/medi-cal/MC_Handbook_ENG.pdf).
- 1.12. **Health Professional** means a person holding a license or certificate, appropriate to provide health care services in the State of California.
- 1.13. **HIPAA** refers to the federal Health Insurance Portability and Accountability Act of 1996 and attendant privacy and security regulations, as amended from time to time.
- 1.14. **HITECH** refers to the Health Information Technology for Economic Clinical Health Act passed as part of the American Recovery and Reinvestment Act of 2009.
- 1.15. **Individually Identifiable Health Information** means "individually identifiable health information" as defined in 45 CFR 160.103 and includes health information that: (i) is created by or received from a Health Professional, SFHP, or healthcare clearinghouse; and (ii) relates to the past, present or future physical or mental health or condition of an individual, provision of health care to an individual, or payment for the provision of health care to an individual, which identifies or could reasonably be used to identify the individual.
- 1.16. **Member(s)** is an individual who is enrolled in SFHP, who meets all the eligibility requirements for membership on the dates of service. For purposes of Members who receive Services from Community Supports Provider under this Agreement, such Members have been identified by SFHP to receive Services described in Exhibit A (Services and Rates).

- 1.17. **Member Grievance Procedures** are those procedures followed by Health Plan for the processing and resolution of all Member complaints.
- 1.18. **Non-Covered Services** are those services not covered, as determined by Health Plan, under any benefit program in which a Member participates.
- 1.19. **PHI** means protected health information, as that term is defined under 45 CFR 160.103 and is covered under the HIPAA Privacy Rule and HIPAA Security Rule.
- 1.20. **Regulating Agency** means the DHCS, the California Department of Managed Health Care (DMHC), United States Department of Health and Human Services (“DHHS”), the Centers for Medicare and Medicaid Services (“CMS”), United States Department of Justice (“DOJ”), the California Attorney General, and/or any other local, state or federal government agency having jurisdiction over Health Plan activities, and to whom Health Plan or Community Supports Provider has a contractual or legal obligation. Regulating Agency shall also include accreditation organizations under which Community Supports Provider or Health Plan is obligated to comply with accreditation standards.

## **ARTICLE 2. TERM AND TERMINATION**

- 2.1. **Term.** The term of this Agreement is for one (1) year and shall commence on the Effective Date of the Agreement. Thereafter, the Agreement will automatically renew for an additional one (1) year term on the anniversary of the Effective Date if written notice from either Party is not received by thirty (30) days before the anniversary of the Effective Date, up to a total of three (3) additional one (1) year renewals, with the Agreement having a maximum total duration of four (4) years, until terminated by either Party in accordance with this Agreement.
- 2.2. **Termination for Convenience.** Notwithstanding any other provision of this Agreement, after the first year of the term, either Party may terminate this Agreement for convenience at any time by giving at least one hundred eighty (180) calendar days prior written notice to the other Party.
- 2.3. **Termination with Cause.** If either Party defaults in the performance of any material term or condition of this Agreement, and the default is one which may be cured, the non-defaulting Party shall provide written notice to the defaulting Party of the material default. The defaulting Party must then cure that default by a satisfactory performance within thirty (30) calendar days of written notice. If the defaulting Party fails to cure the default and provide evidence of such cure to the non-defaulting Party within that time, then this Agreement shall terminate at the conclusion of the cure period without any further notice being required. Notwithstanding the foregoing, if the default is one which cannot be cured in the sole discretion of Health Plan, Health Plan may terminate this Agreement by providing thirty (30) calendar days advanced written notice to Community Supports Provider. Material defaults shall include, but are not limited to, a failure to uphold professional standards of care, Community Supports Provider’s failure to provide Community Supports at standards specified by Health Plan, a breach of any material term, covenant, or condition of this Agreement, and inability by a Party to pay its debt as it matures.
- 2.4. **Immediate Termination.** Notwithstanding any other provision of this Agreement, Health Plan may immediately terminate this Agreement and transfer Member(s) to another provider, as applicable, by giving notice to Community Supports Provider in the event of any of the following:

- a) Community Supports Provider's license or certificate to render Community Supports is limited, suspended or revoked, or disciplinary proceedings are commenced against Provider by the State licensing authority;
- b) Community Supports Provider is decertified or otherwise withdraws (whether or not voluntary) from the Medi-Cal program;
- c) Community Supports Provider fails to maintain insurance (or self-insurance) required by this Agreement;
- d) Community Supports Provider loses credentialed status;
- e) Community Supports Provider becomes insolvent or files a petition to declare bankruptcy or for reorganization under the bankruptcy laws of the United States, or a trustee in bankruptcy or receiver for Community Supports Provider is appointed by appropriate authority;
- f) Health Plan determines that Community Supports Provider, its facility and/or equipment is insufficient to render Community Supports to Members;
- g) Community Supports Provider is excluded from participation in state health care programs pursuant to Section 1128 of the Social Security Act or otherwise excluded or terminated as a provider by any state or federal health care program;
- h) Community Supports Provider engages in fraud or deception, or knowingly permits fraud or deception by another in connection with Community Supports Provider's obligations under this Agreement;
- i) Health Plan determines that Community Supports are not being properly provided, or arranged for, and that such failure poses a threat to Members' health and safety; or
- j) Community Supports Provider breaches a term of this Agreement, which specifically indicates that a remedy for such breach is immediate termination.

2.5. **Effect of Termination.** As of the date of termination, this Agreement will be considered of no further force or effect whatsoever, and each of the Parties will be relieved and discharged from its obligations, except that:

- a) Termination of this Agreement will not affect any rights or obligations hereunder which have previously accrued, or will hereafter arise with respect to any occurrence prior to termination, and such rights and obligations will continue to be governed by the terms of this Agreement.
- b) The following Sections of this Agreement, which by their nature extend beyond the expiration or termination of this Agreement, will survive the termination of this Agreement: 2.5 (Effect of Termination), 3.9 (Liability Insurance), 5.3 (Confidentiality of Member Health Information), 6.1 (Proprietary and Confidential Information), 6.2 (Confidentiality of PHI), 7.4 (Provider Dispute Resolution), and 9.5 (Mutual Indemnification).
- c) If Community Supports Provider is not able to continue providing Community Supports for any reason, Community Supports Provider shall support transition planning for any affected Members into other programs or services (as available) that meet their needs. Community Supports Provider shall continue providing services to Members who are receiving services

at the time of termination until the services being rendered to the Member are completed, or SFHP has arranged for the reasonable and appropriate transfer of the Member's case to another Community Supports Provider, whichever is sooner. Community Supports Provider shall cooperate and assist Health Plan in arranging for the transfer of Members to another available Community Supports Provider, including the transfer of Members' records, files, or other pertinent information to Health Plan or other Community Supports Provider.

### **ARTICLE 3. REPRESENTATIONS, WARRANTIES, AND OBLIGATIONS OF PROVIDER**

- 3.1. **Services to be Provided.** Community Supports Provider shall provide the Community Supports to Members outlined in Exhibit A (Services and Rates), which require pre-approval by Health Plan, prior to providing services (unless otherwise specifically indicated in Exhibit A). Approvals are based on meeting the specific criteria indicated in Exhibit A of such Community Supports and are contingent upon Member's eligibility. Community Supports Provider shall provide such Community Supports in accordance with the terms and conditions set forth in this Agreement, applicable Health Plan's Quality Improvement (QI) and Utilization Management (UM) programs, applicable regulatory requirements, accreditation organization standards, and applicable law. In the event of a Member requesting services not yet authorized by SFHP, Community Supports Provider shall send prior approval request(s) to SFHP, unless a different agreement is in place (e.g., if SFHP has given the Community Supports Provider authority to authorize Community Supports directly). Community Supports Provider is encouraged to identify additional Community Supports the Member may benefit from and send any additional request(s) for Community Supports to SFHP for approval.
- 3.2. **Eligibility.** Unless other arrangements have been made to allow standing authorizations or retroactive authorizations to occur, or unless otherwise specifically indicated in Exhibit A (Services and Rates), Provider shall verify Member's eligibility prior to rendering Community Supports as described in this Agreement. Community Supports Provider is responsible for verifying a Member's eligibility with Health Plan and Health Plan shall have no responsibility, financial or otherwise, where Community Supports Provider failed to properly verify Member eligibility.
- 3.3. **Standard of Care.** Community Supports Provider shall maintain and cause its subcontractors to maintain duly licensed professional personnel, facilities, equipment, and services at a level and quality that equals or exceeds the generally accepted and professionally recognized standards of practice to perform Community Supports Provider's duties and responsibilities under this Agreement and to meet all (i) applicable federal and state laws, (ii) licensing requirements (including, without limitation, the provisions of California Code of Regulations ("C.C.R.") Title 22, Section 53230 and the accessibility requirements of the Americans with Disabilities Act), (iii) professional practices and standards, and (iv) professional and technical standards set forth in Health Plan QI and UM programs. Community Supports Provider shall have a history of serving Medi-Cal Members in a community-based manner. If the Community Supports Provider subcontracts with other entities to administer functions of the Community Supports, the Community Supports Provider shall ensure agreements with such subcontractors for the provision of Community Supports bind all subcontractors to the terms and conditions enumerated here.
- 3.4. **Licensing and Compliance.** Community Supports Provider represents that it (i) has and shall maintain any necessary license, certification, or government approval required to perform services in the State of California if required; (ii) is certified under Medicare and Medi-Cal if required; and (iii) meets all other regulatory requirements necessary to perform the services



described in this Agreement and Medi-Cal policy. Community Supports Provider represents that neither it nor any of its subcontracting providers who will provide Community Supports to Members have been debarred, excluded, or suspended from participation in any state or federal health care program. Community Supports Provider understands that the moneys used to pay Community Supports Provider under this Agreement are, in whole or in part, federal funds. All federal laws applicable to the use of federal funds apply to this Agreement.

- 3.5. **Interpreter Services.** Community Supports Provider shall provide access to interpreter services for all limited English proficient (LEP) Members at all Community Supports Provider facilities at its own expense.
- 3.6. **Cultural & Linguistic Services.** Community Supports Provider shall provide Community Supports to Members in a culturally, ethnically, and linguistically appropriate manner. Community Supports Provider shall comply with Health Plan's language assistance program standards developed under California Health and Safety Code Section 1367.04 and Title 28 C.C.R. Section 1300.67.04 and shall cooperate with Health Plan by providing any information necessary to assess compliance.
- 3.7. **Equal Treatment.** Community Supports Provider shall not differentiate or discriminate in the scheduling of appointments, the treatment of Members, the quality of services, or in any other respect, against Health Plan Members. Additionally, Community Supports Provider shall not discriminate against Members on the basis of race, color, national origin, ancestry, religion, sex, marital status, health status, sexual orientation, physical, sensory or mental handicap, age, socioeconomic status, participation in publicly financed programs of health care, or because any grievance or complaint has been filed by such Member. Community Supports Provider shall render Community Supports to Members in the same location, in the same manner, in accordance with the same standards, and within the same time availability, regardless of payor.
- 3.8. **Member Grievance Procedures.** Community Supports Provider shall promptly notify Health Plan of receipt of any complaints from or on behalf of Members and any professional liability claims filed or asserted regarding services provided by, or on behalf of, Community Supports Provider. Community Supports Provider shall cooperate with Health Plan's Member Grievance Procedure in resolving Members' complaints regarding Community Supports Provider's provision of Community Supports and/or any other matter related to Community Supports Provider. Community Supports Provider shall cooperate with Health Plan's resolution of any such complaints or grievances.
- 3.9. **Member Consent for Services and Data Sharing.**
  - a) Community Supports Provider will obtain, document and track member consent for Community Supports once a Member has been referred for Community Supports. Community Supports Provider will provide the following to SFHP:
    - i. Consent for service
    - ii. Consent for data sharing between Community Supports Provider, SFHP and all others involved in the member's care as needed to support the Member and to maximize the benefits of Community Supports.
  - b) SFHP will allow Community Supports Providers to initiate service if Member has consented to service but has NOT consented to data sharing between Community Supports Provider, SFHP and all others involved in the Member's care (unless such consent is required by

federal law). Community Supports Providers will document and track signed consent on file for SFHP monitoring and oversight purposes.

- c) Community Supports Provider will communicate Member-level records of any obtained consent for Community Supports-related data sharing, which are required by law, and to facilitate ongoing data sharing with Health Plan.

3.10. **Liability Insurance.** The Parties acknowledge that the City and County of San Francisco is self-insured for many requirements listed below, and such self-insurance meets the applicable coverage requirements. Community Supports Provider shall require its subcontractor to carry insurance at least in the amounts listed below intended to respond to any claims for damages directly or indirectly connected with the performance of this Agreement, including the rendering of any health care service, the use of any Community Supports Provider property or equipment, or any other activities performed by Community Supports Provider or by Community Supports Provider's agents, servants or employees in connection with this Agreement.

The required coverage and related requirements are:

- a) Medical Professional and Liability Insurance or an equivalent program of self-insurance for bodily injury, property damage and personal injury in an amount no less than one million (\$1,000,000) dollars for each occurrence, with a general aggregate of three million (\$3,000,000) dollars applying. If such insurance is written on a commercial claims-made form, following termination of this Agreement, coverage shall survive for the maximum reporting periods available from insurance sources but in no event for less than five years following termination of this Agreement.
- b) Comprehensive or Commercial Form General Liability Insurance (contractual liability included) with limits in an amount no less than one million (\$1,000,000) dollars for each occurrence, with a general aggregate of three million (\$3,000,000) dollars including coverage for Abuse and Molestation. However, if such insurance is written on a claims made form, following termination of this Agreement, coverage shall survive for a period of not less than three years.
- c) Worker's Compensation Insurance in a form and amount covering Community Supports Provider's full liability under the Workers' Compensation Insurance and Safety Act of the State of California, as amended from time to time.
- d) Such other insurance in such amounts which from time to time may be reasonably required by the mutual consent of Community Supports Provider and Health Plan against other insurable risks relating to performance.
- e) If any policy includes an aggregate limit or provides that claims investigation or legal defense costs are included in such aggregate limit, the aggregate limit will be double the occurrence limits specified above. Insurance policies must be provided by insurers licensed to do business in the State of California and who have obtained an A.M. Best rating of A:VIII or better. All insurance policies carried by Community Supports Provider, whether specified herein or otherwise, shall contain endorsements waiving the insurer's rights of subrogation against Health Plan. If the coverage is claims made or reporting, Community Supports Provider agrees to purchase similar "tail" coverage upon termination of the Community Supports Provider's present or subsequent policy. Community Supports Provider shall give Health Plan prompt written notice, but in no event less than fifteen (15) business days' notice, of any claims against Community Supports Provider's coverage by or regarding a Health Plan Member.

- f) Any insurance provided by Community Supports Provider or its subcontractors or drivers shall be primary to any coverage available to Health Plan. Any insurance or self-insurance maintained by Health Plan and its officials, officers, employees, agents or volunteers, shall be in excess of Community Supports Provider's insurance and shall not contribute with it. Procurement of insurance by Community Supports Provider shall not be construed as a limitation of Community Supports Provider's liability or as full performance of Community Supports Provider's duties to indemnify, hold harmless and defend Health Plan under this Agreement.
  - g) Community Supports Provider, upon execution of this Agreement, shall furnish Health Plan with Certificates of Insurance evidencing compliance with all requirements.
  - h) Community Supports Provider shall provide thirty (30) calendar days advance written notice to Health Plan of any modification, change or cancellation of any of the above insurance coverages.
- 3.10. **Public Record.** Community Supports Provider understands that this Agreement and all information received will be public records on file with applicable Regulating Agency, unless specifically exempted by statute. Similarly, the Agreement and related records held by Provider, as part of the City and County of San Francisco, are public records subject to disclosure excepts as exempted by statute or local ordinance.
- 3.11. **Disclosure Form.** Community Supports Provider agrees to complete the Disclosure Form, attached hereto and incorporated herein as Exhibit B.
- 3.12. **Health Plan Name and Logo.** Community Supports Provider shall not use Health Plan's name and/or logo without Health Plan's prior written consent. Health Plan shall not use City's or Provider's name and/or logo without City's prior written consent.
- 3.13. **Provider Directory.** If applicable, Health Plan and Community Supports Provider hereby agree to comply with the requirements of the law in regard to provider directories, including, but not limited to, California Health and Safety Code Section 1367.27. Health Plan will develop a directory to be distributed to Health Plan Members in accordance with such applicable laws.
- a) As applicable, Community Supports Provider shall inform Health Plan within five (5) business days when either of the following occur:
    - i. Community Supports Provider is not accepting new patients.
    - ii. If Community Supports Provider had previously not accepted new patients, Community Supports Provider is currently accepting new patients
  - b) Community Supports Provider shall comply with notifications from Health Plan requesting verification of Community Supports Provider information or the submission of any additions, deletions, or modifications within specified time frames to enable compliance with California Health and Safety Code Section 1367.27.
- 3.14. **Additional Disclosures.** Subject to the terms of this Agreement, Community Supports Provider will immediately notify Health Plan in writing upon gaining knowledge of the occurrence of any of the following events:
- a) The license or accreditation status of Community Supports Provider or any employee or subcontractor of Community Supports Provider is suspended, revoked, terminated, or

subjected to terms of probation or other restriction (including, without limitation, appearance on a state or federal exclusion list; or any citation, charge, complaint, or investigation for failure to meet any required standard or legal obligation);

- b) Community Supports Provider learns that it has become a defendant in a legal action filed by a Member related to services provided under this Agreement or is required to pay damages in any such action by way of judgment or settlement;
- c) A petition is filed under the bankruptcy laws of the United States for bankruptcy or reorganization on behalf of Community Supports Provider, or a receiver is appointed over all or any portion of the Community Supports Provider's assets;
- d) Community Supports Provider's insurance is canceled, terminated, not renewed or materially modified; or
- e) An act of nature or the occurrence of any other event which has a materially adverse effect on Community Supports Provider's ability to perform its obligations hereunder.

3.15. **Medi-Cal Enrollment and Credentialing.** If an applicable State-level enrollment pathway exists, Community Supports Provider shall enroll in the Medi-Cal program, pursuant to DHCS All Plan Letter (APL) 19-004 and any other relevant DHCS APLs. If Medi-Cal enrollment does not apply to Community Supports Provider, Community Supports Provider shall cooperate with Health Plan's credentialing program and comply with Health Plan's process for verifying that Community Supports Provider can meet the capabilities and standards required to be a Community Supports Provider, which extends to individuals employed by or delivering services on behalf of the Community Supports Provider. Community Supports Provider shall demonstrate to Health Plan that it has the experience and/or training in the provision of Community Supports and the capacity to provide Community Supports in a culturally and linguistically competent manner. The Health Plan's verification process includes review of individuals employed by or delivering services on behalf of Community Supports Provider. Community Supports Provider shall disclose to Health Plan information and documents relating to credentials, qualifications, and performance. Community Supports Provider shall immediately notify Health Plan of any legal, ethical, or other actions against Community Supports Provider or his or her license, or any material change in professional liability insurance coverage or premiums as a result of malpractice actions, or any change in hospital privileges including, without limitation, any reduction, suspension, or termination of such privileges. Such actions include, but are not limited to, actions by the applicable Regulating Agency, professional associations, or hospitals. Community Supports Provider authorizes Health Plan to receive reports on demand from the state licensure agencies, professional associations, educational institutions and other agencies who may maintain data relating to the legal status, litigation history, or clinical performance of Community Supports Provider. Community Supports Provider shall comply with Health Plan's credentialing policies, as may be amended from time to time to reflect changing regulatory or contractual obligations of Health Plan including the completion and submission of all necessary documents that Health Plan determines to be necessary for the successful evaluation of Community Supports Provider's ability to meet Health Plan's credentialing standards.

3.16. **Quality Improvement.** Community Supports Provider shall cooperate with Health Plan's Quality Improvement Committee to the extent that specific issues are raised related to health care services delivered to Members. Community Supports Provider agrees to participate in Health Plan's Quality Improvement Program. In addition, Community Supports Provider agrees to allow the Health Plan to use Community Supports Provider's performance data for the Quality Improvement Program.

## ARTICLE 4. RIGHTS, REPRESENTATIONS, WARRANTIES, AND OBLIGATIONS OF HEALTH PLAN

- 4.1. **Administration and Licensure.** Health Plan shall perform the necessary functions for the proper administration of the plan and maintain its licensure in good standing to conduct its business operations within the State of California.
- 4.2. **Approval of Community Supports.** Health Plan shall review requests for Community Supports within required/agreed upon timeframes for the provision of Community Supports to Members using the criteria in Exhibit A (Services and Rates). Community Supports Provider will provide Health Plan access to all records and information systems necessary for Health Plan to determine Member's eligibility for Community Supports.
- 4.3. **Eligibility Information.** Health Plan shall provide access to eligibility verification of Members as set forth in Section 3.2 (Eligibility).
- 4.4. **Referral Process.** As part of the referral process, Health Plan shall, consistent with applicable federal, state, and local privacy and confidentiality laws, provide Community Supports Provider access to: (i) demographic and administrative information confirming the referred Member's eligibility for the requested service; (ii) appropriate administrative, clinical, and social service information, when necessary, for the Community Supports Provider to effectively provide the requested Community Supports, as described in Exhibit A (Services and Rates); and (iii) billing information necessary to support the Community Supports Provider's ability to submit claims or invoices to Health Plan. Health Plan maintains the ability to track and manage referrals relating to Community Supports Provider, and processes to ensure Members do not receive duplicative services.
- 4.5. **Health Plan Determinations.** Health Plan shall have the final decision-making authority between the Parties for payment of claims for Community Supports rendered to Members, determination of approvals, determination of eligibility, and determination of Member's benefits subject to Health Plan's Member Grievance Procedures and to Section 7.45 (Provider Dispute Resolution). Community Supports Provider shall refer Members who have inquiries or disputes regarding such coverage to the Health Plan for response and resolution. In the event a Community Support service is discontinued, Health Plan shall notify affected Members at least thirty (30) calendar days before the discontinuation of the following: (i) the change and timing of discontinuation, and 2) the procedures that will be used to ensure completion of the authorized Community Supports or a transition into other comparable medically necessary services. Community Supports Provider shall cooperate with Health Plan in completing any such necessary notifications, as applicable.
- 4.6. **Directory and Use of Names.** If applicable, Health Plan will develop a provider directory which will be distributed to Members and in compliance with applicable law. Health Plan shall be allowed to use Community Supports Provider's information (including without limitation, name, logo, address(es), telephone number, email address (if available), hours of operation, level of accessibility of facilities, language(s) spoken, national provider identifier number (NPI), California license number and license type, and services provided in Health Plan's provider directory as well as other materials commonly distributed for purposes related to the administration of a benefit program. Health Plan shall otherwise obtain Community Supports Provider's prior written consent for any other use.
- 4.7. **Quality and Oversight.** Health Plan shall provide Community Supports training and technical assistance to Community Supports Provider, including in-person sessions, webinars, and calls,

as necessary, in addition to network provider training requirements. Community Supports Provider acknowledges that Health Plan shall conduct oversight of Community Supports Provider's delivery of Community Supports to ensure the quality of services rendered and assess Community Supports Provider's compliance with legal and contractual obligations related to the provision of Community Supports. Health Plan's oversight shall hold Community Supports Provider accountable to all Community Supports requirements contained in the contract between Health Plan and DHCS, and all applicable DHCS APLs, including, but not limited to the monitoring activities outlined below:

- a) Monthly review of services, utilization, and outcomes data, including the required reports described in Exhibit A (Services and Rates).
- b) Quarterly review of data disaggregated by race/ethnicity, language, medical group and other data, as indicated, to ensure that services provided are equitable and non-discriminatory. If SFHP identifies instances of inequitable and discriminatory decisions, providers will be required to provide re-education and re-training of staff.
- c) Audit activities, including:
  - i. Review and trending of any Community Supports related member grievances; and
  - ii. On-site audits with Community Supports Provider when practical and appropriate.
- d) Health Plan also maintains the right to request for corrective action.

4.8. **Facility Site Review.** If applicable, Health Plan will perform facility site review for Community Supports Provider at all of Community Supports Provider's offices as required by Health Plan pursuant to contractual and regulatory requirements and in compliance with Health Plan's quality improvement programs. Community Supports Provider agrees to abide by the quality improvement program requirements and to provide Health Plan access to facilities as necessary for the performance of complete facility site reviews.

4.9. **Data Sharing.**

- a) Health Plan shall support Community Supports Provider's access to systems and processes by allowing Community Supports Provider to do the following, at minimum: obtain and document Member information including eligibility, authorization status, Member authorization for data sharing (to the extent required by law), and other relevant demographic and administrative information.
- b) Health Plan shall support Community Supports Provider notification to Health Plan and ECM providers and Member's primary care provider, as applicable, when a referral has been fulfilled.
- c) Health Plan shall use defined federal and state standards, specifications, code sets, and terminologies when sharing physical, behavioral, social, and administrative data with Community Supports Provider and with DHCS.

4.10. **Additional Health Plan Rights and Remedies.** In the event that any Regulating Agency requires that Health Plan be able to take a specified action or actions with respect to Community Supports Provider in the event that Community Supports Provider does not satisfy regulatory requirements, then in such event this Agreement will be deemed to include

the right of Health Plan, after providing written notice to Community Supports Provider, to take such required action(s) or utilize such remedy(ies).

## **ARTICLE 5. RECORDS**

- 5.1. **Maintenance of Records.** If applicable, Community Supports Provider shall maintain and require its subcontractors to maintain a record for each Member to whom Community Supports Provider or its subcontractor renders Community Supports. The Member's record shall be in such form and detail as may be required by state and federal law, generally accepted and prevailing professional practice, and any federal, state or local government agency, or by Health Plan. Such records shall be maintained in a current, detailed, organized, and comprehensive manner. Community Supports Provider shall comply with all federal, state and local confidentiality and Member record accuracy requirements.
- 5.2. **Retention of Records.** Community Supports Provider shall retain all records, books, charges and papers relating to Community Supports Provider's provision of Community Supports to Members, the cost of such services, and payment received by Community Supports Provider from Members (or others on their behalf). Community Supports Provider shall retain all such records for at least ten (10) years after rendering Community Supports, and the records of a minor child shall be kept for a period of at least one (1) year after the minor has reached the age of eighteen (18) years, but in no event less than ten (10) years, or such longer time period as may be required by law.
- 5.3. **Confidentiality of Member Health Information.** Each Party shall comply with confidentiality, medical records and/or other applicable state and federal laws and regulations with regard to any and all information directly or indirectly accessed or used by the respective Parties and their personnel, including HIPAA, HITECH, and all regulations promulgated thereunder. This provision shall not affect or limit Community Supports Provider's obligation to make available records, encounter data, and information concerning Member care to Health Plan, any authorized state or federal agency, or other Community Supports Providers of health care upon authorized referral.
- 5.4. **Member Access to Health Information.** Community Supports Provider shall give Members access to Members' health information including, but not limited to, medical records and billing records, in accordance with the requirements of state and federal law.

## **ARTICLE 6. CONFIDENTIALITY**

- 6.1. **Proprietary and Confidential Information.** Each Party acknowledges that it will have access to Confidential Information. The Parties agree to hold Confidential Information in strict confidence and to disclose and use such Confidential Information only as authorized by this Agreement under applicable law or as otherwise required by law. Each Party shall exercise the same standard of care to protect such information as a reasonably prudent business entity would use to protect its own proprietary data.
- 6.2. **Confidentiality of PHI.**
- a) Each Party assures the other that it will appropriately safeguard PHI of Members in its use and/or disclosure of such PHI pursuant to this Agreement, in accordance with confidentiality, medical records and/or other applicable state and federal law or regulation, including HIPAA, HITECH, and all regulations promulgated thereunder. Without limiting the obligations of the Parties otherwise set forth in this Agreement or imposed by applicable

law, the Parties agree to comply with applicable requirements of law relating to PHI and with respect to any task or other activity either Party performs on behalf of the other; specifically the Parties shall:

- 6.2.a.1. Report to the other Party any use or disclosure of PHI not provided for by this Agreement of which either Party becomes aware. Community Supports Provider will let SFHP's Compliance Officer know by telephone call, email or fax of any unauthorized disclosure of PHI or any breach of data security, or intrusion as soon as possible but no later than within twenty-four (24) hours of discovery; and
- 6.2.a.2. Ensure that any subcontractors, vendors or others who may have access to PHI agree to the restrictions and conditions that apply to the Parties with respect to PHI, which includes, but is not limited to, ensuring that Business Associate Agreements are executed with such Parties when legally required.
- 6.2.a.3. Amend this Agreement, from time to time, as required, to remain consistent with the provisions of HIPAA or the HITECH Act.

- b) Community Supports Provider and any subcontractors agree to cooperate and assist SFHP with the investigation of the incident or breach.
- c) Community Supports Provider acknowledges receipt of copy of Exhibit G of Health Plan's contract with DHCS, and Community Supports Provider agrees to the restriction and conditions therein.
- d) Community Supports Provider recognizes that unauthorized release of Confidential Information may make Community Supports Provider subject to civil and criminal sanctions pursuant to the provisions of the California Welfare and Institutions Code Section 14100.2.

6.3. **Enforcement and Injunctive Relief.** Notwithstanding any other provisions of this Agreement, Community Supports Provider and Health Plan agree that if either Party violates any of the provisions of this Article, that the aggrieved Party shall be entitled to any and all applicable remedies at law and/or equity to prevent further breach of this Article, including injunctive relief, without posting bond. Community Supports Provider acknowledges that any unauthorized use or disclosure of Confidential Information and/or PHI would result in damage to Health Plan that may be intangible but nonetheless real, and that is incapable of complete remedy by an award of damages. Accordingly, any such violation shall give Health Plan the right to a court-ordered injunction or other appropriate order to specifically enforce the provisions of this Agreement.

## ARTICLE 7. REIMBURSEMENT

7.1 **Compensation.** SFHP agrees to pay Community Supports Provider for authorized Community Supports provided to Members in accordance with the terms of this Agreement and the attached Exhibit A (Services and Rates). Community Supports Provider agrees to accept such payment in full and final satisfaction for all approved Community Supports rendered to Members. Community Supports Provider will not receive payment from SFHP for any Community Supports not authorized by SFHP. SFHP has the right to determine if Community Supports is not medically appropriate or cost effective as an alternative to State Plan service and may deny the request for service delivery or payment of services previously rendered. SFHP will provide expedited payments to facilitate timely delivery of urgent Community Supports (e.g., recuperative care services for an individual who no longer requires hospitalization, but still needs



to heal from an injury or illness, including behavioral health conditions, and whose condition would be exacerbated by an unstable living environment), pursuant to its contract with DHCS and any other related DHCS guidance.

a) **Anticipated Revenue and Revenue Limit.** SFHP and Community Supports Provider anticipate the total compensation to Community Supports Provider under this Agreement will be less than one million dollars (\$1,000,000). In no event will the total compensation to Community Supports Provider reach or exceed one million dollars (\$1,000,000) without a written amendment to this Agreement. Either Party may immediately terminate this Agreement without prior notice or compliance with other requirements listed in Article 2, above, if the total compensation amount reaches or exceeds the one million dollar not-to-exceed limit.

7.2 **Payment.** SFHP will pay ninety percent (90%) of all clean claims and invoices within thirty (30) calendar days of receipt and ninety-nine (99%) of clean claims and invoices within ninety (90) calendar days of receipt that are the payment responsibility of Health Plan and not its delegated provider/plan. For purposes of determining timeliness, the date of receipt shall be the date Health Plan receives the claim, as indicated by Health Plan's date stamp on the claim. The date of Health Plan's payment shall be the date of Health Plan's check or other form of payment. Community Supports Provider shall record information necessary to generate a claim to SFHP for payment for Community Supports rendered. Community Supports Provider shall submit claim(s) on the appropriate claim form and in accordance with the requirements and guidelines specified in the SFHP Claims Operations Manual. If Community Supports Provider is unable to submit claims to SFHP for Community Supports rendered, Community Supports Provider shall submit invoices with minimum necessary data elements defined by DHCS that will allow SFHP to convert invoice information to DHCS-defined standard specifications and code sets for submission of Encounter Data to DHCS. Any invoices shall include information about the Member, the Community Supports rendered, and Community Supports Provider's information to support payment by SFHP. If applicable, SFHP shall provide Community Supports Provider with the billing information necessary for Community Supports Provider to submit invoices to SFHP. If for any reason it is determined that Health Plan overpaid Community Supports Provider, Health Plan may deduct monies in the amount equal to the overpayment from any future payments to Community Supports Provider after thirty (30) days written notice.

7.3 **Charges for Non-Covered Services.** Community Supports Provider shall not charge a Member for a service which is not an authorized Community Supports under this Agreement unless Community Supports Provider obtains a signed written acknowledgment by Member in advance of performance of the services clearly indicating that the services are not covered, the estimated cost of the services, and that the Member will be financially responsible for the Non-Covered Services. Additionally, Community Supports Provider specifically agrees that Health Plan shall have no liability to compensate Community Supports Provider for the provision of Non-Covered Services. Community Supports Provider shall ensure that its subcontractors, agents, assignees, and trustees comply with this Section.

7.4 **Provider Dispute Resolution.** Community Supports Provider may appeal any denial of authorization or payment, or other adverse action by SFHP, pursuant to SFHP's provider dispute resolution policies as described in the Claims Operations Manual. For complaints regarding Health Plan services, operations or procedures, other than disputes regarding claims payment, authorizations, or member grievances, Community Supports Provider may register a complaint by calling Health Plan's Provider Relations Department or Customer Service Department. Community Supports Provider shall include a description of the problem, all relevant facts, names of people involved, date of occurrence(s), and any supporting documentation regarding

the complaint. Health Plan shall notify Community Supports Provider and acknowledge the complaint within five (5) business days of receipt. Health Plan shall inform Community Supports Provider in writing of the resolution and/or reasonable efforts made by Health Plan toward resolution within thirty (30) calendar days of receipt.

- 7.5 **Third Party Liens.** Health Plan shall reserve its right to receive reimbursement pursuant to third party liens. Community Supports Provider shall provide all information in its possession which is necessary to permit Health Plan to report Workers' Compensation and third party lien information to DHCS.

## ARTICLE 8. DISPUTE RESOLUTION

- 8.1 **Binding Arbitration.** Reserved.
- 8.2 **Small Claims Court.** Subject to the provisions of the California Government Claims Act (Government Code § 900 *et seq.*), if the amount in dispute by the parties is within the jurisdictional limits of the small claims court, then such matter shall be submitted to the small claims court for resolution in lieu of arbitration. Such action shall take place in San Francisco, California.
- 8.3 **Limitation.** Any controversy, disagreement, dispute, or claim arising under this Agreement shall be deemed waived unless an action in small claims court or other legal action is initiated within the timeframe required to commence an action against a public entity under the California Government Claims Act.

## ARTICLE 9. GENERAL PROVISIONS

- 9.1 **Independent Contractors.** In the performance of each Party's work, duties, and obligations pursuant to this Agreement, each of the Parties shall at all times be acting and performing as an independent contractor, and nothing in the Agreement shall be construed or deemed to create a relationship of employer and employee or partner or joint venture or principal and agent.
- 9.2 **No Volume Guarantee.** SFHP does not represent, warrant, or covenant any minimum volume of patients or Members to Community Supports Provider.
- 9.3 **Non-Exclusivity.** This Agreement is non-exclusive and each Party shall have at all times the right to enter into agreements comparable to this Agreement with other persons or entities.
- 9.4 **Third Party Beneficiaries.** Neither Members nor any other third parties are intended by the Parties hereto to be third party beneficiaries under this Agreement, and no action to enforce the terms of this Agreement may be brought against either Party by any person who is not a party hereto.
- 9.5 **Mutual Indemnification.**
- a) Community Supports Provider shall defend, indemnify and hold SFHP, its officers, employees and agents harmless from and against any and all liability, loss, expense (including reasonable attorneys' fees) or claims for injury or damages caused by the acts or omissions of Community Supports Provider, its officers, agents, or employees in the performance of this Agreement.

b) SFHP shall defend, indemnify and hold Community Supports Provider, its officers, employees and agents harmless from and against any and all liability, loss, expense (including reasonable attorneys' fees) or claims for injury or damages caused by the acts or omissions of SFHP, its officers, agents, or employees in the performance of this Agreement.

9.6 **Notices.** Any notice required to be given hereunder shall be sent by: secure electronic mail, certified mail, postage pre-paid to the Parties and their respective copied entities, or in a format pre-determined and mutually agreed to by both Parties. The notice addresses for the Parties are:

**To SFHP:**

Chief Executive Officer  
San Francisco Health Plan  
PO Box 194247  
San Francisco, CA 94119  
[yrichardson@sfhp.org](mailto:yrichardson@sfhp.org)

**To Community Supports Provider:**

Executive Director  
SF Dept. Disability & Aging Services  
PO Box 7988  
San Francisco, 94120-7988  
kelly.dearman@sfgov.org

If Notice is Required to DHCS:

California Department of Health Care Services, Medi-Cal Managed Care Division  
P.O. Box 997413, MS 4401  
Sacramento, CA 95899-7413

9.7 **Partial Invalidity.** If for any reason any provision of this Agreement is held invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect without being impaired or invalidated in any way.

9.8 **Amendments.** No alteration and/or amendment of any terms or conditions of this Agreement shall be binding, unless reduced to writing and signed by the Parties hereto. Amendments may require regulatory approval; in the event a Regulating Agency disapproves either this Agreement or any subsequent amendment, the Parties shall promptly meet and in good faith seek to modify the Agreement or amendment(s) in a manner which will receive approval and achieve the parties' intent. Notwithstanding the foregoing, Health Plan may, without Community Supports Provider's consent, amend this Agreement to maintain consistency and/or compliance with any state or federal law, policy, directive, accreditation requirement, or regulation upon forty-five (45) business days' notice to Community Supports Provider, unless a shorter timeframe is necessary for compliance.

9.9 **Non-Solicitation.** Community Supports Provider will not engage in any activities involving the direct marketing or solicitation for enrollment to Members or eligible beneficiaries without the written approval of Health Plan and DHCS. Nor shall Community Supports Provider solicit or encourage Members to select another health plan for the primary purpose of securing financial gain. During the period of this Agreement and for a period of one (1) year after termination, Community Supports Provider and Community Supports Provider's employees, agents and subcontractors shall not solicit or attempt to persuade any Member not to participate in the Medi-Cal Managed Care Program or any other benefit program for which Community Supports Provider rendered Community Supports to Member. In the event of breach of this Section, in addition to any other of Health Plan's legal rights, Health Plan may, in its sole discretion, immediately terminate this Agreement. Nothing in this provision is intended to limit Community Supports Provider's ability to fully inform Members of all available health care treatment options or modalities.

- 9.10 **Waiver of Breach.** The waiver of any breach of this Agreement by either Party shall not constitute a continuing waiver of any subsequent breach of either the same or any other provisions of this Agreement. No Party will be deemed to have waived any rights hereunder unless the waiver is made in writing and is signed by the waiving Party's duly authorized representative.
- 9.11 **Incorporation.** All exhibits referenced in this Agreement and attached hereto are incorporated herein by reference.
- 9.12 **Governing Law.** This Agreement shall be construed and enforced in accordance with the laws of the State of California, without regard to its conflicts of law provisions.
- 9.13 **Captions.** The captions contained herein are for reference purposes only and shall not affect the meaning of this Agreement.
- 9.14 **Entire Agreement.** This Agreement, including the Exhibits attached hereto, contains the entire agreement of the Parties and as of the Effective Date supersedes any prior contracts, agreements, negotiations, proposals or understandings relating to the subject matter of this Agreement.
- 9.15 **Public Health Plan Requirements.** Community Supports Provider understands and acknowledges that Health Plan is a local public entity of the State of California, which status requires Health Plan contractors to comply with specified requirements, including those requirements specific to its local jurisdiction of the City and County of San Francisco, as well as its status as a Medi-Cal managed care plan. Community Supports Provider thus agrees to the additional terms and conditions set forth on Exhibit C, Compliance with Law (and any attachments thereto), attached hereto and incorporated herein by this reference.
- 9.16 **Assignment.** Neither Party shall assign, delegate or transfer its rights, duties, or obligations under this Agreement without the prior written consent of the other Party and any Regulating Agencies, if applicable. Any subcontracts under this Agreement shall be in writing and shall ensure that subcontractors comply with all applicable terms and conditions of this Agreement. Upon Health Plan's request, such written agreements between Community Supports Provider and subcontractors, and any amendments thereto, shall be submitted to Health Plan for its review. Health Plan shall have the right to terminate a subcontractor's services at any time in the event subcontractor is not providing services in a manner that meets Health Plan's reasonable approval. Community Supports Provider shall be responsible for conduct and performance of each approved subcontractor.
- 9.17 **Force Majeure.** No Party shall, at any time, be deemed to have breached any obligation under this Agreement, or be in default hereunder, or be liable for damages by reason of any circumstance or delay resulting from acts of nature (such as, but not limited to, fires, floods, explosions, earthquakes, hurricane, and drought); terrorism, war, hostilities, invasion, or acts of foreign enemies; rebellion, revolution, insurrection, or military or usurped power; contamination by radioactivity; vandalism, riot, or strikes; acts of governmental authority; or other events that are beyond the reasonable anticipation and control of the Party affected thereby.
- 9.18 **Compliance with Law.** Health Plan and Community Supports Provider agree that each will comply with all applicable requirements of state and federal statutes and regulations, or any amendments or modifications thereto. This includes, without limitation, applicable requirements under the Knox-Keene Act (Cal. Health and Safety Code §§ 1340, *et seq.*, and Title 28 of the California Code of Regulations ("C.C.R.")), Medicaid (Title XIX of the Social Security Act) Medi-Cal ( C.C.R., Title 22), Title VII of the Civil Rights Act of 1964; HIPAA; HITECH, safe harbor

regulations (including 42 C.F.R., § 1001.952(t) and regulatory directives from applicable Regulating Agencies.

- 9.19 **Conflict of Interest.** The Parties hereto and their respective employees or agents shall have no interest or obligation, and shall not acquire any interest or obligation, direct or indirect, which shall conflict in any manner or degree with the performance of services required under this Agreement.
- 9.20 **Counterparts; Signatures.** This Agreement may be executed in separate counterparts, each of which shall be deemed an original, and all of which shall be deemed one and the same instrument. The parties' electronic signatures, and/or signatures scanned into PDF format, shall be effective to bind them to this Agreement.
- 9.21 **Survival.** Unless otherwise provided herein, the rights and obligations of either Party which by their nature extend beyond the expiration or termination of this Agreement, shall continue in full force and effect, notwithstanding the expiration or termination of this Agreement.
- 9.22 **Interpretation of Agreement.** This Agreement shall be interpreted according to its fair intent and not for or against any one Party on the basis of which Party drafted the Agreement. Section headings are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

(Remainder of page intentionally left blank.)

By their signatures below, each of the following represent that they have authority to execute this Agreement and to bind the Parties on whose behalf their execution is made.

**SAN FRANCISCO HEALTH PLAN**

**CITY AND COUNTY OF SAN FRANCISCO,  
THROUGH ITS SAN FRANCISCO  
DEPARTMENT OF DISABILITY AND AGING  
SERVICES**

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Name: \_\_\_\_\_

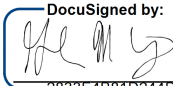
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Date: \_\_\_\_\_

Date: \_\_\_\_\_

Approved as to Form:  
DAVID CHIU  
City Attorney

By:  \_\_\_\_\_  
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Date: 6/19/2024  
Glenn M. Levy  
Deputy City Attorney

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**EXHIBIT A**  
**SERVICES AND RATES**

Community Supports Provider will provide the following DHCS-approved Community Supports to eligible Members. Each Community Supports shall be described in the following exhibits and numbered sequentially as Exhibit A-1, A-2, etc.

[Remainder of page left blank intentionally.]

**EXHIBIT A-1  
SERVICES AND RATES:**

**SERVICES**

**Community Transition Services/Nursing Facility Transition to a Home - effective July 1, 2024**

DHCS defines Community Transition Services/Nursing Facility Transition to a Home (“Community Transition Services”) as non-recurring set-up expenses for individuals who are transitioning from a licensed facility to a living arrangement in a private residence. Allowable expenses include:

1. Assessing the Member’s housing needs and presenting options.
2. Assisting in searching for and securing housing, including the completion of housing applications and securing required documentation (e.g., Social Security card, birth certificate, prior rental history).
3. Communicating with landlord (if applicable) and coordinating the move.
4. Establishing procedures and contacts to retain housing.
5. Identifying, coordinating, securing, or funding non-emergency, non-medical transportation to assist Members’ mobility to ensure reasonable accommodations and access to housing options prior to transition and on move-in day.
6. Identifying the need for and coordinating funding for environmental modifications to install necessary accommodations for accessibility.

**Expected Duration/Frequency of Service:**

Community Transition Services are payable up to a total lifetime maximum amount of \$7,500.00 per Member. The only exception to the \$7,500.00 total maximum is if the Member is compelled to move from a provider-operated living arrangement to a living arrangement in a private residence through circumstances beyond the Member’s control.

**Delivery of Service:**

Community Supports Provider shall:

1. Assess the Member’s housing needs and presenting options.
2. Assist in searching for and securing housing, including the completion of housing applications and securing required documentation.
3. Communicate with landlord (if applicable) and coordinate the move.
4. Establish procedures and contacts to retain housing.
5. Identify, coordinate, secure, or fund non-emergency, non-medical transportation to assist Members’ mobility to ensure reasonable accommodations and access to housing options prior to transition and on move-in day.
6. Identify the need for and coordinate funding for environmental modifications to install necessary accommodations for accessibility.
7. Maintain staffing that allows for timely, high-quality service delivery of the Community Supports that it is contracted to provide.
8. Accept and act upon referrals from SFHP for Community Supports in a timely manner, unless the Community Supports Provider is at pre-determined capacity;



9. Conduct outreach to the referred Member for approved Community Supports upon receiving the referral and begin providing services. Community Supports Provider shall initiate outreach within 24 hours of assignment, if applicable;
10. Be responsive to incoming calls or other outreach from Members, including by maintaining a phone line that is staffed or able to record voicemails 24 hours a day, 7 days a week;
11. Coordinate with other providers in the Member's care team, including Enhanced Care Management (ECM) providers, other Community Supports providers and SFHP.

When federal law requires authorization for data sharing, Community Supports Provider shall obtain and/or document such authorization from each assigned Member, including sharing of PHI, and shall confirm to SFHP it has obtained such authorization. Member authorization for Community Supports-related data sharing is not required for the Community Supports Provider to initiate delivery of Community Supports unless such authorization is required by federal law.

**Eligibility:**

Community Supports Provider is responsible for ensuring Members meet all of the following eligibility criteria for services:

1. Currently receiving medically necessary nursing facility Level of Care (LOC) services and, in lieu of remaining in the nursing facility or Medical Respite setting, is choosing to transition home and continue to receive medically necessary nursing facility LOC services; and
2. Has lived 60+ days in a nursing home and/or Medical Respite setting; and
2. Interested in moving back to the community; and
3. Able to reside safely in the community with appropriate and cost-effective supports and services.

**Requests and Determinations for Community Transition Services:**

When Community Supports Provider identifies that a Member is eligible for Community Transition Services, Community Supports Provider shall submit a referral to SFHP for review. SFHP shall provide a form for Community Supports Provider to present to SFHP the costs to enable the individual to transition from a licensed facility to a living arrangement in a private residence.

**Approval of Community Transition Services:**

SFHP will communicate approvals to Community Supports Provider in response to a submission from Community Supports Provider that (i) identifies an individual as an eligible recipient of Community Transition Services, and (ii) provides costs necessary to enable the individual to transition from a licensed facility to a living arrangement in a private residence, for which Community Supports Provider will seek reimbursement from SFHP.

**Authorization for Services and Data Sharing:**

SFHP will issue authorizations to Community Supports Provider in response to Community Supports Provider's communication to SFHP of services delivered, or planned for delivery, to qualified SFHP Members (see "Eligibility"), in accordance with DHCS service definitions and requirements (see "Delivery of Service"). Such authorizations shall be transmitted and made available to Community Services Provider within 30 days and shall be retrospective so as to authorize services delivered, or costs funded, up to two months prior to Community Services Provider's communication of such services-delivery to SFHP.

**Monitoring and Oversight**

SFHP will conduct oversight of Community Supports Provider to monitor delivery and utilization of services as outlined below:

SFHP will conduct the following monitoring activities:

- a. Present a monthly review of agreed upon data regarding services, utilization and outcomes.
  
- b. Present a quarterly review and disaggregation of services, utilization and outcome data by race/ethnicity, language, medical group and other data as indicated to ensure that services provided are equitable and non-discriminatory. If SFHP identifies instances of inequitable and discriminatory decisions, SFHP and Community Supports Provider shall meet to review data and identify areas for improvement and/or remediation.

SFHP will conduct the following audit activities:

- a. Review and trending of any Community Supports related member grievances; and
  
- b. Scheduled audits with Community Supports Provider to ensure Community Transition Services are provided consistent with DHCS service definitions and requirements and according to the Eligibility Criteria.

**RATES:**

SFHP will reimburse Community Supports Provider up to a total lifetime maximum of \$7,500 per individual, for Community Supports Provider's incurred costs of providing Community Transition Services with authorization by SFHP. For reimbursement, Community Supports Provider shall document to SFHP Community Supports Provider's incurred costs, as well as documentation of any criteria for services established by the California Department of Health Care Services in the "Medi-Cal Community Supports, or In Lieu of Services (ILOS), Policy Guide" (July 2023), or as amended by DHCS in any successor Policy Guide pertaining to Community Transition Services. If the individual is also enrolled in ECM with the same provider, the Community Supports Provider shall document costs for all services related to assessing housing needs and facilitating the transition home within ECM; and document costs for the related goods up to the \$7,500 lifetime maximum per individual within Community Supports.

At the written request of either party, SFHP and Community Supports Provider will, on an annual basis, meet and confer in good faith regarding the rates payable hereunder for the Community Supports Provider's provision of Housing Deposits. However, nothing contained in this Section will obligate either SFHP or Community Supports Provider to agree to a modification or any particular modification of the rates payable hereunder. In the event the Parties mutually agree to modify such rate, such modification will be set forth in an amendment to this Agreement, executed by each of the Parties.

Line(s) of business covered under this Agreement include:

**Medi-Cal (including dual-eligible Medi-Medi)**

**REPORTING:**

Community Supports Provider shall submit to SFHP written reports about Community Supports rendered pursuant to the due dates and frequency described in the table below. Subject to the requirements of all applicable privacy laws, Community Supports Provider agrees to provide SFHP with additional data and reporting, when requested, to demonstrate program performance, effectiveness and patient outcomes.

Community Supports Provider agrees to provide SFHP with data and/or reporting consistent with DHCS requirements, to demonstrate program performance, effectiveness and patient outcomes.

| <u>Report Title</u>                      | <u>Report Description</u>  | <u>Due Date(s)</u>             | <u>From (Origin)</u> | <u>To (Recipient)</u> |
|--|--|--------------------------------|----------------------|-----------------------|
| CS Return Transmission File*             | DHCS required reporting that provides updates on member activity in Community Supports services.                                   | 5 <sup>th</sup> calendar day   | CS Provider          | SFHP                  |
| CS Return Transmission File Error Report | Report outlining any errors in the Return Transmission File submitted by the Provider to SFHP.                                     | 5 <sup>th</sup> calendar day + | SFHP                 | CS Provider           |
| CS Authorization Status File             | DHCS required reporting that SFHP will send to the Provider with updates on member authorizations for Community Supports services. | 9 <sup>th</sup> calendar day   | SFHP                 | CS Provider           |
| CS Authorization Status File             | DHCS required reporting that SFHP will send to the Provider with updates on member authorizations for Community Supports services. | 23 <sup>rd</sup> calendar day  | SFHP                 | CS Provider           |

## **EXHIBIT A-2 SERVICES AND RATES**

Community Supports shall supplement and not supplant services received by the Medi-Cal beneficiary through other State, local, or federally-funded programs, in accordance with the CalAIM Standard Terms and Conditions and federal and DHCS guidance.

### **SERVICES**

#### **Nursing Facility Transition/Diversion to Assisted Living Facilities Services – Effective July 1, 2024**

Nursing Facility Transition/Diversion services assist individuals to live in the community and/or avoid institutionalization when possible.

The goal is to both facilitate nursing facility transition back into a home-like, community setting and/or prevent skilled nursing admissions for Members with an imminent need for nursing facility level of care (LOC). Individuals have a choice of residing in an assisted living setting as an alternative to long-term placement in a nursing facility when they meet eligibility requirements.

Allowable expenses are those necessary to enable a person to establish a community facility residence (except room and board). SFHP members are required to pay for room and board. The required member contribution for the Community Support will be based on income and will align with the state's individual contribution requirements under the Assisted Living Waiver, which is adjusted annually.

#### **Assisted Living Provider**

The assisted living provider is responsible for meeting the needs of the Member, including Activities of Daily Living (ADLs), Instrumental ADLs (IADLs), meals, transportation, and medication administration, as needed.

For individuals who are transitioning from a licensed health care facility to a living arrangement in a Residential Care Facilities for Elderly (RCFE) and Adult Residential Facilities (ARF) as well as individuals at imminent risk nursing facility level of care, services must include:

- a. Wrap-around services: assistance w/ ADLs and IADLs as needed, companion services, medication oversight, and therapeutic social and recreational programming provided in a home-like environment. If companion services are needed, the Community Supports provider shall work with the facility to coordinate.
- b. 24-hour direct care staff on-site to meet scheduled unpredictable needs in a way that promotes maximum dignity and independence, and to provide supervision, safety, and security.

#### **Community Support Provider**

The Community Support Provider must ensure the Assisted Living Provider services, listed above, are available prior to coordinating placement of the Member.

In addition, the Community Support Provider shall:

1. Assess the Member's housing needs and present options.
2. Assess the service needs of the Member to determine if the Member needs enhanced onsite services at the RCFE/ARF so the Member can be safely and stably housed in an RCFE/ARF.

3. Assist in securing a facility residence, including the completion of facility applications and securing required documentation (e.g., Social Security card, birth certificate, prior rental history, Member acknowledgement of paying the room and board portion of the facility rate).
4. Communicate with facility administration and coordinate the move.
5. Establish procedures and contacts to retain facility housing.
6. Coordinate with the Medi-Cal managed care plan to ensure that the needs of Members who need enhanced services to be safely and stably housed in RCFE/ ARF settings have Community Supports and/or Enhanced Care Management services that provide the necessary enhanced services. (Managed care plans may also fund RCFE/ARF operators directly to provide these enhanced services.)
7. Deliver Nursing Facility Transition/Diversion to Assisted Living Facilities in accordance with DHCS service definitions and requirements.
8. Maintain staffing that allows for timely, high-quality service delivery of the Community Supports that it is contracted to provide.
9. Accept and act upon referrals from SFHP for Community Supports in a timely manner, unless the Community Supports Provider is at pre-determined capacity;
10. Conduct outreach to the referred Member for approved Community Supports upon receiving the referral and begin providing services. Community Supports Provider shall initiate outreach within 24 hours of assignment, if applicable;
11. Be responsive to incoming calls or other outreach from Members, including by maintaining a phone line that is staffed or able to record voicemails 24 hours a day, 7 days a week;
12. Coordinate with other providers in the Member's care team, including Enhanced Care Management (ECM) providers, other Community Supports providers and SFHP;
13. Assess eligibility for the Assisted Living Waiver and assist with required assessments and ALW placement, if approved. If ALW placement occurs out of county, the member may be disenrolled from SFHP and enroll with another Medi-Cal plan in the area. The Community Supports provider will work with SFHP and the new Medi-Cal plan to ensure continuity of care.

When federal law requires authorization for data sharing, Community Supports Provider shall obtain and/or document such authorization from each assigned Member, including sharing of PHI, and shall confirm it has obtained such authorization from SFHP.

- a. Member authorization for Community Supports-related data sharing is not required for the Community Supports Provider to initiate delivery of Community Supports unless such authorization is required by federal law.

**Requests and Determinations for Nursing Facility Transition/Diversion to Assisted Living Facilities:**

SFHP Community Supports referral intake staff will document request for services and decision within SFHP care management system.

**Approval of Community Supports:**

SFHP will support several methods of referral and approval of Community Supports from Community Supports Provider when services are deemed appropriate and cost effective as an alternative to a State Plan service:

1. Prospective: applies to requests for Community Supports not yet rendered
  - a. Once request is received, and the services are determined to be medically appropriate and cost effective as an alternative to a State Plan services, SFHP will review and approve the request within 3 business days for routine requests and within 24 hours for expedited requests.
  - b. Community Supports Provider will be made aware of approval of services by written notification.
2. Concurrent: applies to request for Community Supports currently being received
  - a. Once request is received, and the services are determined to be medically appropriate and cost effective as an alternative to State Plan services, SFHP will review and approve the request within 3 business days.
3. Retrospective: applies to requests for Community Supports that have been rendered
  - a. For retrospective requests, SFHP will review requests up to 30 days post last date of service delivery. If the services are determined to be medically appropriate and cost effective as an alternative to State Plan services, SFHP will review and approve the request.

The amount/duration of Community Supports approved will vary depending on the services and the Member's circumstance. Community Supports may be approved when there is supporting evidence that the CS service is a cost-effective alternative to State Plan service.

**Denial of CS Service Requests:**

For Community Supports requests in which SFHP determines that the services requested from Community Supports Provider are not medically appropriate and/or not a cost-effective alternative to State Plan services, the request for Community Supports will be denied.

In cases where Community Supports Provider and SFHP do not agree on duration, scope of CS service, SFHP Health Services staff will discuss with Community Supports Provider. If consensus cannot be reached, case will be escalated to SFHP Chief Medical Officer or designee for final determination of scope of Community Supports to be covered by Plan.

The Community Supports Provider and Member will be notified verbally and in writing and the notice will outline the rationale for the denial.

**RATES:**

Community Supports Provider shall accept the following payment rate, for authorized Community Supports, as payment in full for services provided under this Agreement.

- Facility fee to support wrap around services: ALW (tier 4) +10% to account for local cost of living= \$5,721/month
- Admin rate: 3% (\$171/month) (on top of fee to facility)
- Total monthly rate to DAS: \$5,892/month (HCPCS code: H2022)
- If the SFHP member does not wish to enroll in ECM, SFHP will fund the CS transition services (HCPCS code: T2038 (U4)) at the standard SFHP ECM rate.

SFHP will reimburse the Community Supports Provider's incurred costs of providing Nursing Home Facility Transition services with authorization by SFHP. For reimbursement, Community Supports Provider shall document to SFHP Community Supports Provider's incurred costs, as well as documentation of any criteria for services established by the California Department of Health Care Services in the "Medi-Cal Community Supports, or In Lieu of Services (ILOS), Policy Guide" (July 2023), or as amended by DHCS in any successor Policy Guide pertaining to Community Transition Services. If the individual is also enrolled in ECM with the same provider, the Community Supports Provider shall document costs for all services related to assessing individual needs, identifying a suitable placement, facilitating the transition to an RCFE/ALF and ongoing support to the individual after placement within ECM; and document costs associated with the enhanced services to the RCFE/ALF within Community Supports, excluding costs associated with room and board which are paid by the member.

At the written request of either party, SFHP and Community Supports Provider will, on an annual basis, meet and confer in good faith regarding the rates payable hereunder for the Community Supports Provider's provision of Nursing Facility Transition. However, nothing contained in this Section will obligate either SFHP or Community Supports Provider to agree to a modification or any particular modification of the rates payable hereunder. In the event the Parties mutually agree to modify such rate, such modification will be set forth in an amendment to this Agreement, executed by each of the Parties.

Line(s) of business covered under this Agreement include:

**Medi-Cal (including dual-eligible Medi-Medi)**

### **REPORTING:**

Health Plan is required to comply with all applicable state and federal reporting requirements and must hold Community Supports Provider responsible for the same DHCS reporting requirements as are required of Health Plan by DHCS. Community Supports Provider shall submit to SFHP written reports about Community Supports rendered pursuant to the due dates and frequency described in the table below. Community Supports Provider agrees to provide SFHP with additional data and reporting, when requested, to demonstrate program performance, effectiveness and patient outcomes. Health Plan must timely submit any related data requested by DHCS, CMS, or an independent entity conducting an evaluation of Community Supports including, but not limited to:

- i. Data to evaluate the utilization and effectiveness of a Community Supports.
- ii. Data necessary to monitor health outcomes and quality metrics at the local and aggregate levels through timely and accurate Encounter Data and supplemental reporting on health outcomes and equity of care. When possible, metrics must be stratified by age, sex, race, ethnicity, and language spoken.
- iii. Data necessary to monitor Member Appeals and Grievances associated with Community Supports.

Community Supports Provider shall submit all Community Supports Encounter Data to Health Plan using national standard specifications and code sets to be defined by DHCS, if possible, which shall be submitted to DHCS by Health Plan (for both Community Supports Provider as well as any downstream providers). When possible, the Encounter Data should include data necessary for DHCS to stratify services by age, sex, race, ethnicity, and language spoken to inform health equity initiatives and efforts to mitigate health disparities undertaken by the DHCS.

Community Supports Provider shall also submit to SFHP written reports about Community Supports rendered pursuant to the due dates and frequency described in the table below.

| <u>Report Title</u>                      | <u>Report Description</u>  | <u>Due Date(s)</u>             | <u>From (Origin)</u> | <u>To (Recipient)</u> |
|--|--|--------------------------------|----------------------|-----------------------|
| CS Return Transmission File*             | DHCS required reporting that provides updates on member activity in Community Supports services.                                   | 5 <sup>th</sup> calendar day   | CS Provider          | SFHP                  |
| CS Return Transmission File Error Report | Report outlining any errors in the Return Transmission File submitted by the Provider to SFHP.                                     | 5 <sup>th</sup> calendar day + | SFHP                 | CS Provider           |
| CS Authorization Status File             | DHCS required reporting that SFHP will send to the Provider with updates on member authorizations for Community Supports services. | 9 <sup>th</sup> calendar day   | SFHP                 | CS Provider           |
| CS Authorization Status File             | DHCS required reporting that SFHP will send to the Provider with updates on member authorizations for Community Supports services. | 23 <sup>rd</sup> calendar day  | SFHP                 | CS Provider           |



**EXHIBIT B  
DISCLOSURE FORM**

Community Supports Provider understands the following disclosures are required by DHCS pursuant to 42 C.F.R. § 455.104, 42 C.F.R. §438.608(c)(2), DHCS APL 17-004, and the Medi-Cal Agreement between Health Plan and DHCS (“Medi-Cal Agreement”). The Parties agree that any updates to the information contained in this Disclosure Form will not require a formal amendment to the Agreement.

1. Community Supports Provider name:  
\_\_\_\_\_
  
2. Indicate how Community Supports Provider is legally organized:
  - a. Corporation
    - i. Publicly Traded\*
    - ii. Nonprofit\*
  - b. Limited Liability Company
  - c. Partnership
  - d. Sole Proprietorship
  - e. Public Entity\*
  - f. Other \_\_\_\_\_

\*Complete any applicable provisions; otherwise skip to certification/signature section.

3. Community Supports Provider shall complete the below information for any individual or corporate entity, as applicable, with an ownership or control interest in Community Supports Provider:

| <b>For Individuals:</b> |                 |              |              |
|-------------------------|-----------------|--------------|--------------|
| <b>Name:</b>            | <b>Address:</b> | <b>DOB:γ</b> | <b>SSN:γ</b> |
|                         |                 |              |              |
|                         |                 |              |              |
|                         |                 |              |              |

γ Confidential information; not to be disclosed as public record.

| <b>For Corporate Entities:</b> |                                  |                                 |                          |             |
|--------------------------------|----------------------------------|---------------------------------|--------------------------|-------------|
| <b>Name:</b>                   | <b>Primary Business Address:</b> | <b>Every Business Location:</b> | <b>P.O. Box Address:</b> | <b>TIN:</b> |
|                                |                                  |                                 |                          |             |
|                                |                                  |                                 |                          |             |

4. If any individual(s) or corporation(s) listed above is/are related to another person with ownership or control interest in the Community Supports Provider as a spouse, parent, child, or sibling, please list the name(s) and relationship(s) here:

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5. Community Supports Provider shall complete the below information for any subcontractors in which Community Supports Provider has a 5% or more interest:

| Name: | TIN: |
|-------|------|
|       |      |
|       |      |
|       |      |

6. If any individual(s) or corporation(s) with an ownership or control interest in any subcontractor listed above is related to another person with ownership or control interest in Community Supports Provider as a spouse, parent, child, or sibling, please list the name(s) and relationship(s) here:

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7. Community Supports Provider shall complete the below information for any managing employee of the Community Supports Provider:

| Name: | Address: | DOB:γ | SSN:γ |
|-------|----------|-------|-------|
|       |          |       |       |
|       |          |       |       |
|       |          |       |       |

γ Confidential information; not to be disclosed as public record.

8. If an owner of Community Supports Provider has an ownership or control interest in any other disclosing entity, please indicate name(s) here:

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9. Community Supports Provider shall indicate any major creditors holding more than five percent (5%) of the debt of Community Supports Provider:

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I certify that the information in this Disclosure Form is accurate, complete, and current to the best of my knowledge, and that any updates to this form shall be provided to Health Plan within thirty five (35) days after any change.

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Name:  
Title:  
Date:

## EXHIBIT C COMPLIANCE WITH LAW

Health Plan and Community Supports Provider agree that each will comply with all applicable requirements of local, state, and federal laws and regulations, whether or not contained in this Exhibit. The Parties shall comply with the legal requirements stated herein, which shall supplement the Agreement between Community Supports Provider and Health Plan, and further understand that this Exhibit is not exhaustive.

In the event of any conflict between the terms and conditions of this Exhibit (including any attachments) and those contained in the Agreement, the terms and conditions of this Exhibit shall control. Notwithstanding the foregoing, if such conflict is in regard to a retention period, the provision calling for the longer retention period shall control.

1. **Medi-Cal Program Requirements.** Community Supports Provider understands that Health Plan is a Medi-Cal Managed Care Health Plan and subject to requirements under applicable laws and regulations, as well as the contractual obligations set forth under the Medi-Cal Agreement. As a subcontractor to Health Plan, Community Supports Provider is likewise required to comply with the requirements of the Medi-Cal program, as further described on Attachment I to Exhibit C, Medi-Cal Program Provisions.
2. **Immigration Compliance.** Community Supports Provider warrants, represents and agrees that Covered Services will not be performed under the Agreement by any person who is an unauthorized alien under the Immigration and Reform and Control Act of 1986 (as the same has been or may be amended) or its implementing regulations. Community Supports Provider shall ensure that each and every person performing Covered Services shall be a citizen or permanent resident of the United States, or have a valid United States visa authorizing employment in the United States, and shall be permitted to work for federal contractors, including but not limited to Medicare and Medicaid contractors.
3. **Export Regulations.** Community Supports Provider acknowledges its obligations to control access to technical data under the U.S. Export Laws and Regulations and agrees to adhere to such laws and regulations with regard to any technical data received under this Agreement.
4. **Federal Equal Opportunity Requirements**
  - a) **Discrimination.** Community Supports Provider will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era. Community Supports Provider will take affirmative action to ensure that qualified applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and career development opportunities and selection for training, including apprenticeship.
  - b) **Posting.** Community Supports Provider shall post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Federal Government or DHCS, setting forth the provisions of the Equal Opportunity clause, Section 503 of the Rehabilitation Act of 1973, the affirmative action clause required by the Vietnam

Era Veterans' Readjustment Assistance Act of 1974 (38 USC Section 4212) and of the Federal Executive Order No. 11246 as amended, including by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and as supplemented by regulation at 41 CFR 60, "Office of the Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," and of the rules, regulations, and relevant orders of the Secretary of Labor. Such notices shall state Community Supports Provider's obligation under the law to take affirmative action to employ and advance in employment qualified applicants without discrimination based on their race, color, religion, sex, national origin physical or mental handicap, disability, age or status as a disabled veteran or veteran of the Vietnam era and the rights of applicants and employees.

5. **Fraud and Abuse Prevention and Detection.** Community Supports Provider shall comply with all fraud and abuse related laws and regulations as well as any and all Health Plan fraud and abuse prevention requirements. This shall include, but is not limited to, the following:
- a) Provide Health Plan with all data needed to investigate potential cases of fraud and abuse;
  - b) Permit Health Plan access to Community Supports Provider's (and Community Supports Provider's subcontractors') books and records and facilities in order to complete any fraud investigations;
  - c) Require Community Supports Provider to represent and warrant that all claims, encounter data and other report represents truthful and accurate information; and
  - d) Require disclosure of any sanctions for a health care related offense of Community Supports Provider or its subcontractors.

## **Attachment I to Exhibit C Medi-Cal Program Provisions**

Community Supports Provider understands that Health Plan is a Medi-Cal Managed Care Health Plan and subject to requirements under applicable laws, regulations, and contractual obligations set forth under the contract between Health Plan and the DHCS (the “Medi-Cal Agreement”). This Exhibit sets forth requirements pursuant to DHCS APL 17-004 and the Medi-Cal Agreement, and applies to contracts with any individual or entity who is classified as a “subcontractor” of Health Plan, as that term is defined in 42 C.F.R. § 438.2. In the event of any conflict between the terms and conditions of the Agreement, including those by amendment or attachment, and those contained in this Attachment I to Exhibit C, the terms and conditions of Attachment I to Exhibit C shall control.

Community Supports Provider has been identified as a subcontractor of Health Plan and subject to the requirements below.

1. **Compliance with Legal and Regulatory Requirements and the Medi-Cal Managed Care Program.** Community Supports Provider agrees to comply with all applicable state and federal Medicaid laws and regulations, including applicable subregulatory guidance, contractual requirements set forth under the Medi-Cal Agreement, and the applicable requirements of the Medi-Cal Managed Care Program. Community Supports Provider further understands and agrees that this Agreement is governed by and construed in accordance with all laws and applicable regulations governing the contract between Health Plan and DHCS. (22 C.C.R. § 53250(c)(2); Exhibit A, Attachment 6, Provisions 14.B.2 and 14.B.21 of the Medi-Cal Agreement)
2. **Approval by DHCS.** Community Supports Provider understands that the Agreement is effective upon written approval by DHCS, or by operation of law where DHCS has acknowledged receipt and has failed to approve or disapprove the Agreement within sixty (60) calendar days of receipt. Amendments shall be submitted to DHCS for prior approval, at least thirty (30) calendar days before the effective date of any proposed changes governing compensation, services, or terms. Proposed changes, which are neither approved nor disapproved by DHCS, shall become effective by operation of law thirty (30) calendar days after DHCS has acknowledged receipt, or upon the date specified in the amendment, whichever is later. (22 C.C.R. § 53250(c)(3); Exhibit A, Attachment 6, Provision 14.B.3 of the Medi-Cal Agreement)
3. **Emergency Services.** In the event that Community Supports Provider is delegated risk for non-contracting emergency services, Community Supports Provider shall provide the services in compliance with applicable State and Federal law as well as applicable sections of the Medi-Cal Agreement (including but not limited to, 22 C.C.R. § 53855 and Exhibit A, Attachment 8, Provision 13 of the Medi-Cal Agreement). (Exhibit A, Attachment 6, Provision 14.B.5 of the Medi-Cal Agreement)
4. **Reports.** Community Supports Provider agrees to submit any reports required by Health Plan, in a form acceptable to Health Plan. (22 C.C.R. § 53250(c)(5); Exhibit A, Attachment 6, Provision 14.B.6 of the Medi-Cal Agreement)
5. **Monitoring Rights.** Community Supports Provider shall comply with all monitoring provisions of the Medi-Cal Agreement and any monitoring requests by DHCS. Community Supports Provider understands that authorized State and Federal agencies have the right to monitor all aspects of Health Plan’s operation for proper compliance, including, the inspection and auditing of Community Supports Provider, which can be announced or unannounced. Community

Supports Provider is required to provide reasonable facilities, cooperation, and assistance to such agency representatives in the performance of their duties. (42 C.F.R. § 438.3(h); Exhibit A, Attachment 6, Provision 14.B.7 of the Medi-Cal Agreement)

6. **Audit and Inspection.** Community Supports Provider agrees to make all of its premises, facilities, equipment, books, records, contracts, computer and other electronic systems pertaining to the goods and services furnished under the terms of the Agreement, available for the purpose of an audit, inspection, evaluation, examination or copying, including but not limited to Access Requirements and State's Right to Monitor, as set forth in Exhibit E, Attachment 2, Provision 20 of the Medi-Cal Agreement:

- a) By DHCS, CMS, Department of Health and Human Services (DHHS) Inspector General, the Comptroller General, DOJ, DMHC, or their designees.
- b) At all reasonable times at Community Supports Provider's place of business or at such other mutually agreeable location in California.
- c) In a form maintained in accordance with the general standards applicable to such book or record keeping.
- d) For a term of at least ten (10) years from the final date of the Agreement period or from the date of completion of any audit, whichever is later.
- e) Including all encounter data, as applicable, for a period of at least ten (10) years.
- f) If DHCS, CMS, or the DHHS Inspector General determines there is a reasonable possibility of fraud or similar risk, DHCS, CMS, or the DHHS Inspector General may inspect, evaluate, and audit Community Supports Provider at any time.
- g) Upon resolution of a full investigation of fraud, DHCS reserves the right to suspend or terminate Community Supports Provider from participation in the Medi-Cal program; seek recovery of payments made to Community Supports Provider; impose other sanctions provided under the State Plan, and direct Health Plan to terminate the Agreement due to fraud.

(42 C.F.R. § 438.3(h); 22 C.C.R. § 53250(e)(1); Exhibit A, Attachment 6, Provision 14.B.8 of the Medi-Cal Agreement)

7. **Policies and Procedures.** Community Supports Provider shall implement and maintain policies and procedures that are designed to detect and prevent fraud, waste, and abuse. (DHCS APL 17-004)

8. **Provider Subcontracts.** Community Supports Provider agrees to maintain and make available to DHCS, upon request, copies of all subcontracts and to ensure that all subcontracts are in writing and require that the subcontractor:

- a) Make all premises, facilities, equipment, applicable books, records, contracts, computer, or other electronic systems related to the Agreement, available at all reasonable times for audit, inspection, examination, or copying by DHCS, CMS, or the DHHS Inspector General, the Comptroller General, DOJ, and DMHC, or their designees.
- b) Retain all records and documents for a minimum of ten (10) years from the final date of the Agreement period or from the date of completion of any audit, whichever is later.

(22 C.C.R. § 53250(e)(3); Exhibit A, Attachment 6, Provision 14.B.10 of the Medi-Cal Agreement)

9. **Transfer of Care.** In the event the Medi-Cal Agreement is terminated, Community Supports Provider shall assist Health Plan in the orderly transfer of Members and medical care, as required by the Medi-Cal Agreement; including but not limited to, making available to DHCS copies of medical records, patient files, and any other pertinent information, necessary for efficient case management of Members. Community Supports Provider further agrees to assist Health Plan in the orderly transfer of care in the event the contract between Community Supports Provider and a subcontractor is terminated. (Exhibit A, Attachment 6, Provisions 14.B.11 and 14.B.12 of the Medi-Cal Agreement)
10. **Notice to DHCS.** Health Plan agrees to notify DHCS on behalf of Community Supports Provider and Health Plan in the event this Agreement is amended or terminated. Notice is considered given when properly addressed and deposited in the U.S. Postal Service as first-class registered mail, postage attached. (22 C.C.R. § 53250(e)(4); Exhibit A, Attachment 6, Provision 14.B.13 of the Medi-Cal Agreement)
11. **Assignment and Delegation.** Community Supports Provider agrees that assignment or delegation of this Agreement is void unless prior written approval is obtained from DHCS in those instances where prior approval by DHCS is required. (22 C.C.R. § 53250(e)(5); Exhibit A, Attachment 6, Provision 14.B.14 of the Medi-Cal Agreement)
12. **Hold Harmless.** Community Supports Provider agrees to hold harmless both the State and Members in the event Health Plan cannot or will not pay for services performed by Community Supports Provider pursuant to this Agreement. Community Supports Provider shall further ensure that any subcontracts contain this requirement. (22 C.C.R. § 53250(e)(6); Exhibit A, Attachment 6, Provision 14.B.15 of the Medi-Cal Agreement)
13. **Records Related to Litigation.** Community Supports Provider agrees to timely gather, preserve, and provide to Health Plan and/or DHCS, any records in Community Supports Provider's possession, in the form and manner specified by DHCS, any information specified by DHCS, subject to any lawful privileges, in Community Supports Provider's possession relating to threatened or pending litigation by or against DHCS. Community Supports Provider agrees to use all reasonable efforts to immediately notify Health Plan and DHCS of any subpoenas, document production requests, or requests for records, received by Community Supports Provider related to this Agreement. Community Supports Provider shall further ensure that any subcontracts contain this requirement. (Exhibit A, Attachment 6, Provision 14.B.16 of the Medi-Cal Agreement)



14. **Interpreter Services.** Community Supports Provider agrees to arrange for the provision of interpreter services for Members at all provider sites. (Exhibit A, Attachment 6, Provision 14.B.17 of the Medi-Cal Agreement)
15. **Provider Grievances.** Community Supports Provider understands that it has a right to submit a grievance to Health Plan, which includes any complaint, dispute, request for consideration, or appeal, in accordance with Health Plan's process to resolve provider grievances. (Exhibit A, Attachment 6, Provision 14.B.18 of the Medi-Cal Agreement)
16. **Quality Improvement System.** Community Supports Provider agrees to participate and cooperate in Health Plan's Quality Improvement System. If Health Plan has delegated Quality Improvement activities to Community Supports Provider, the Agreement shall include those provisions stipulated in Exhibit A, Attachment 4, Provision 6 (Delegation of Quality Improvement Activities). The Agreement shall include, at minimum:
  - a. Quality improvement responsibilities, and specific delegated functions and activities of the Health Plan and Community Supports Provider.
  - b. Health Plan's oversight, monitoring, and evaluation processes and Community Supports Provider's agreement to such processes.
  - c. Health Plan's reporting requirements and approval processes, and Community Supports Provider's responsibility to report findings and actions taken as a result of the quality improvement activities at least quarterly.
  - d. Health Plan's actions/remedies if Community Supports Provider's obligations are not met.

(Exhibit A, Attachment 6, Provisions 14.B.19 and 14.B.20 of the Medi-Cal Agreement; Exhibit A, Attachment 4, provision 6.A of the Medi-Cal Agreement)
17. **Revocation of Delegated Activities.** Community Supports Provider agrees to allow revocation of delegated activities or obligations, or specify other remedies in instances where DHCS or Health Plan determines that the Community Supports Provider has not performed satisfactorily. (42 C.F.R. § 438.230(c)(1)(iii); Exhibit A, Attachment 6, Provision 14.B.22 of the Medi-Cal Agreement)
18. **Data Sharing for Coordination of Care.** If Community Supports Provider is responsible for the coordination of care for Members, Health Plan agrees to share with Community Supports Provider any utilization data that DHCS has provided to Health Plan, and Community Supports Provider agrees to receive the utilization data provided and use it as Community Supports Provider is able for the purpose of Member care coordination. (42 C.F.R. § 438.208; Exhibit A, Attachment 6, Provision 14.B.23 of the Medi-Cal Agreement)
19. **Changes to DHCS Contract.** Health Plan agrees to inform Community Supports Provider of prospective requirements added by DHCS to the Medi-Cal Agreement before the requirement would be effective, and Community Supports Provider agrees to comply with the new requirements within thirty (30) calendar days of the effective date, unless otherwise instructed by DHCS and to the extent possible. (Exhibit A, Attachment 6, Provision 14.B.24 of the Medi-Cal Agreement)

20. **Disclosure Form**. Community Supports Provider understands that DHCS mandates specified information regarding ownership and control interests to be disclosed due to Community Supports Provider's relationship to Health Plan. Community Supports Provider shall complete the Disclosure Form, attached hereto as Exhibit B, in compliance with DHCS requirements. (42 C.F.R. § 455.104; DHCS APL 17-004)
21. **Recovery from Other Sources**. Community Supports Provider shall not attempt recovery in circumstances involving casualty insurance, tort liability or workers' compensation. Community Supports Provider shall report to the Health Plan and DHCS within ten (10) calendar days after discovery of any circumstances which may result in casualty insurance payments, tort liability payments, or workers' compensation award. (Exhibit E, Attachment 2, Provision 24 of the Medi-Cal Agreement)
22. **Provider Data**. If applicable, Community Supports Provider shall submit to Health Plan complete, accurate, reasonable, and timely provider data needed (and requested) by Health Plan in order to meet its provider data reporting requirements to DHCS. Such provider data may include, but not be limited to, claims and payment data, health care services delivery encounter data, and network information as may be required by the Medi-Cal Agreement. (Exhibit A, Attachment 3, Provision 1 of the Medi-Cal Agreement; DHCS APL 16-019)
23. **Encounter Data**. If applicable, Community Supports Provider shall submit to Health Plan complete, accurate, reasonable, and timely encounter data needed by Health Plan in order for Health Plan to meet its encounter data reporting requirements to DHCS. (Exhibit A, Attachment 3, Provisions 2.C and 2.G of the Medi-Cal Agreement; DHCS APL 14-019)
24. **Prohibition of Balance Billing**. Community Supports Provider shall not collect reimbursement or balance bill a Medi-Cal member for the provision of covered services. (Exhibit A, Attachment 8, Provision 6 of the Medi-Cal Agreement)
25. **Provider Training**. Health Plan shall provide, and Community Supports Provider shall participate in, cultural competency, sensitivity and diversity training. (Exhibit A, Attachment 9, Provision 13.E of the Medi-Cal Agreement)
26. **Protected Health Information (PHI)**. As a condition of obtaining access to records utilized/maintained by Health Plan for the Medi-Cal Program, Community Supports Provider agrees not to divulge any information obtained in the course of performing services under this Agreement to unauthorized persons. Community Supports Provider further agrees not to publish or otherwise make public any information regarding persons receiving Medi-Cal services, which would identify or make identifiable such persons. Community Supports Provider acknowledges receipt of a copy of Exhibit G of the Medi-Cal Agreement, and agrees to the applicable restrictions and conditions therein with respect to such PHI. (Exhibit G, Provision III.E.1 of the Medi-Cal Agreement)
27. **Cultural & Linguistic Services**. Community Supports Provider agrees to cooperate with Health Plan's language assistance program developed under California Health and Safety Code Section 1367.04 and 28 C.C.R. § 1300.67.04.
28. **Emergency Preparedness**. With regard to emergency preparedness, Provider shall: (i) annually submit evidence of adherence to CMS Emergency Preparedness Final Rule 81 FR 63859; (ii) advise Health Plan as part of its emergency plan; and (iii) notify Health Plan within 24 hours of an emergency if Provider closes down, is unable to meet the demands of a medical surge, or is otherwise affected by an emergency.

29. **Federally Qualified Health Centers (FQHC), Rural Health Clinics (RHC), and Indian Health Service (IHS) Facilities.** For FQHCs, RHCs, and other clinics, the Agreement and Provider's downstream subcontractor agreement and amendments thereto will become effective only as set forth in Exhibit A, Subsection 3.1.8 (DHCS Approval of Network Provider Agreements, Subcontractor Agreements, and Downstream Subcontractor Agreements) of the Medi-Cal Agreement.

For FQHCs, RHCs, and other clinics, any negotiated and agreed-upon rate with an FQHC, RHC, or other clinic constitutes complete reimbursement and payment in full for the covered services rendered to a Member.

For IHS Facilities that qualify as a FQHC but are not a network provider, Health Plan or the appropriate financially responsible party shall reimburse such IHS Facilities as set forth in 42 CFR section 438.14(c)(1).

For services provided to Members who are qualified to receive services from an IHS Facility pursuant to the California Medicaid State Plan, Supplement 6, Attachment 4.19-B, regardless of whether the IHS Facility is a network provider:

Health Plan or the appropriate financially responsible party shall reimburse IHS Facility at the most current and applicable outpatient per-visit rate published in the Federal Register by the Indian Health Service in accordance with APL 17-020 and APL 21-008.

Health Plan or the appropriate financially responsible party shall ensure compliance with any retroactive changes to the outpatient per visit rates published in the Federal Register by the Indian Health Service by appropriately reimbursing IHS Facilities in accordance therewith.

Health Plan or the appropriate financially responsible party shall reimburse IHS Facilities at the Medi-Cal FFS Rate for services that, pursuant to the California Medicaid State Plan, Supplement 6, Attachment 4.19-B, are not eligible for the outpatient per-visit rate published in the Federal Register by the Indian Health Service.

The parties shall comply with all Medi-Cal requirements, including Exhibit A, Attachment III, Provision 3.3.7 of the Medi-Cal Agreement, with regard to FQHCs, RHCs and/or IHS Facilities. To the extent that an IHS Facility qualifies as an FQHC or RHC, the requirements of Provision 3.3.7 subsection (B) shall also apply to such contracted IHS Facility.

**EXHIBIT D****HIPAA PRIVACY AND SECURITY BUSINESS  
ASSOCIATE AGREEMENT**

This Business Associate Agreement supplements and is made a part of the Services Agreement (collectively, the "Agreement") by and between **San Francisco Health Authority doing business as San Francisco Health Plan ("Health Plan")** and the City and County of San Francisco acting by and through the **San Francisco Department of Disability and Aging Services** (hereinafter, "**Community Supports Provider**").

- A. Health Plan and Community Supports Provider are parties to the Agreement pursuant to which Community Supports Provider provides a service to, or performs a function on behalf of, Health Plan and, in connection therewith, uses, discloses or has access to Protected Health Information ("PHI"), which includes Electronic Protected Health Information ("EPHI"), that is subject to protection under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), the American Recovery and Reinvestment Act of 2009 ("ARRA"), the Health Information Technology for Economic and Clinical Health ("HITECH"), certain privacy and security regulations found at 45 CFR Parts 160 and 164 ("HIPAA Regulations"), and California Civil Code Section 56.107;
- B. In the performance of such services, Community Supports Provider may also access PHI that Health Plan has received from the Department of Health Care Services ("DHCS") relating to Medi-Cal beneficiaries and as such, Community Supports Provider may be subject to additional requirements under the contract between DHCS and Health Plan relating to the Medi-Cal program (the "Medi-Cal Agreement");
- C. Health Plan is a Covered Entity as that term is defined in the HIPAA Regulations. Community Supports Provider, creates, receives or has access to PHI and/or EPHI from or on behalf of Health Plan and is, therefore, a Business Associate, as defined in the HIPAA Regulations;
- D. Pursuant to the HIPAA Regulations, Community Supports Provider, as a Business Associate of Health Plan, must agree in writing to certain mandatory provisions regarding the safeguarding, use and disclosure of PHI; and
- E. The purpose of this Business Associate Agreement is to satisfy the Business Associate contract requirements as set forth at § 164.314(a) and § 164.504(e) of the HIPAA Regulations, and contract requirements of the Medi-Cal Agreement relating to access and use of Medi-Cal PHI, as they may be amended from time-to-time.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

1. Definitions. Unless otherwise provided in this Business Associate Agreement, capitalized terms have the same meaning as set forth in the HIPAA Regulations. PHI, unless otherwise specifically stated, shall include both PHI and EPHI.
2. Scope of Use and Disclosure of PHI. Except as otherwise limited in this Business Associate Agreement:
  - a. Community Supports Provider shall not use or disclose PHI or other confidential information other than (i) as permitted or required by the Agreement, provided that such use or disclosure would not violate the HIPAA Regulations if so used or disclosed by Health Plan, or (ii) as required by law.

- b. Except as otherwise indicated in the Medi-Cal Agreement, Community Supports Provider may use or disclose PHI relating to Medi-Cal beneficiaries, inclusive of de-identified data derived from such PHI, only to perform functions, activities or services specified in the Medi-Cal Agreement on behalf of Health Plan, provided that such use or disclosure would not violate HIPAA or other applicable laws if done by Health Plan.
  - c. Community Supports Provider may use or disclose PHI for the proper management and administration of Community Supports Provider, to carry out the legal responsibilities of the Community Supports Provider, or to provide Data Aggregation services to Health Plan, provided that such use or disclosure is required by law, or Community Supports Provider obtains reasonable assurances from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notifies Community Supports Provider of any instances of which it is aware in which the confidentiality of the information has been breached. When using or disclosing PHI, Community Supports Provider shall limit PHI to a limited data set as defined at 45 CFR 164.514(3)(2) and to the minimum data necessary to accomplish the intended purpose of using or disclosing the PHI.
  - d. Community Supports Provider, acting on Health Plan's behalf, shall provide services or arrange, perform or assist in the performance of functions or activities on behalf of Health Plan, and may create, receive, maintain, transmit, aggregate, use or disclose PHI in order to fulfill Health Plan's obligations under the Medi-Cal Agreement.
3. Obligations of Community Supports Provider. Community Supports Provider shall:
- a. Not use or disclose PHI other than as permitted or required by the Agreement or as required by law. As required by §164.502(b) of the HIPAA Regulations, when using or disclosing PHI, or requesting PHI from Health Plan, Community Supports Provider shall make reasonable efforts to limit the PHI to the minimum necessary to accomplish the intended purpose of the use, disclosure or request.
  - b. Mitigate, to the extent practicable, any harmful effect that is known to Community Supports Provider of a use or disclosure of PHI and other confidential information by Community Supports Provider in violation of the requirements of this Business Associate Agreement.
  - c. With respect to SSA data (as that term is defined in Section 7), Community Supports Provider shall notify Health Plan immediately upon the discovery of a suspected breach or security incident that involves SSA data. This notification will be provided by email upon discovery of the breach. If Community Supports Provider is unable to provide notification by email, then Community Supports Provider shall provide notice by telephone to Health Plan.
  - d. With respect to PHI involving Medi-Cal beneficiaries, report to Health Plan within 24 hours by email (or by telephone if Community Supports Provider is unable to email Health Plan) of the discovery of:
    - 1. Unsecured PHI if the PHI is reasonably believed to have been accessed or acquired by an unauthorized person;
    - 2. Any suspected security incident which risks unauthorized access to PHI and/or other confidential information;
    - 3. Any intrusion or unauthorized access, use or disclosure of PHI in violation of this Agreement; or
    - 4. Potential loss of confidential data affecting this Business Associate Agreement.
  - e. With respect to breaches or security incidents that impact non-Medi-Cal beneficiaries, Community Supports Provider agrees to notify Health Plan of any Breach of Unsecured PHI in accordance with 45 CFR 164.410. Such notification shall be made in as expeditious a manner as possible and in no event later than 30 calendar days after discovery.
  - f. Report to Health Plan uses or disclosures of the PHI not provided for by this Business Associate Agreement of which Community Supports Provider becomes aware, which do not

meet the low probability requirement that demonstrates that there is a low probability that the protected health information has been compromised.

1. To demonstrate that there is in fact a “low probability” that PHI has been compromised, the BA must perform a risk assessment of at least the following factors:
    - The nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification.
    - The unauthorized person who used the PHI or to whom the disclosure was made;
    - Whether the PHI was actually acquired or viewed; and
    - The extent to which the risk to PHI has been mitigated.
  2. The BA’s risk assessments shall be thorough and completed in good faith and for the conclusions reached to be reasonable.
  3. If an evaluation of the factors fails to demonstrate that there is a low probability that PHI has been compromised, breach notification is required.
- g. Provide Health Plan with a complete report of all breaches or security incidents in accordance with §164.410 of the HIPAA Regulations. Community Supports Provider shall send the completed report to Health Plan without unreasonable delay and in no case later than forty-five (45) calendar days after Community Supports Provider’s discovery of the breach. Such breach report shall include at minimum the following, to the extent available to Community Supports Provider:
1. The identification of each individual whose unsecured PHI has been, or is reasonably believed to have been, accessed, acquired, used, or disclosed during the breach.
  2. A brief description of what happened.
  3. A description of the types of unsecured PHI that were involved in the breach (e.g., name, social security number, date of birth, CPT, diagnosis, etc.).
  4. Steps the Individuals should take to protect themselves from harm resulting from the breach.
  5. A description of what is being done to investigate the Breach, to mitigate harm to Individuals, and to protect against further Breaches.
  6. Contact information for Individuals to obtain additional information.
- h. Reports for Medi-Cal beneficiaries may require additional report elements, which the Health Plan will provide to Community Supports Provider. Community Supports Provider shall work with Health Plan to comply with the reporting requirements of the Medi-Cal program, including notice to the DHCS Program Contract Manager (as applicable), the DHCS Privacy Office, and the DHCS Information Security Office (collectively, “DHCS Contacts”) using the DHCS Contact Information stated in the Medi-Cal Agreement and include the following:
1. Notice shall be made using the current DHCS “Privacy Incident Reporting Form” (“PIR Form”); the initial notice of a security incident or breach that is submitted is referred to as an “Initial PIR Form”) and shall include all information known at the time the incident is reported. The form is available online at <http://www.dhcs.ca.gov/formsandpubs/laws/priv/Pages/DHCSBusinessAssociatesOnly.aspx>.
  2. Upon discovery of a breach or suspected security incident, intrusion or unauthorized access, use or disclosure of PHI, Community Supports Provider shall take: (a) prompt action to mitigate any risks or damages involved with the security incident or breach; and (b) any action pertaining to such unauthorized disclosure required by applicable federal and state law.
- i. Immediately investigate such security incident or breach.
- j. Work with Health Plan to provide a complete report of the investigation to the DHCS contacts within ten (10) working days of the discovery of the security incident or breach. This “Final PIR” must include any applicable additional information not included in the Initial Form. The Final PIR Form shall include an assessment of all known factors relevant to a determination of

whether a breach occurred under HIPAA and other applicable federal and state laws. The report shall also include a full, detailed corrective action plan, including its implementation date and information on mitigation measures taken to halt and/or contain the improper use or disclosure. Community Supports Provider understands that a complete Final PIR is due within ten (10) working days, and in the event the Final PIR is not completed, Health Plan must request approval from DHCS within the ten (10) working day timeframe of a new submission timeframe for the Final PIR. Community Supports Provider shall work with Health Plan and provide adequate notice and information for submission of an extension approval, when necessary.

- k. In accordance with 45 CFR 164.502(e)(1)(ii), require contractors, subcontractors, subawardees, vendors, agents, or others to whom Community Supports Provider provides PHI and/or confidential information created or received by Community Supports Provider on behalf of Health Plan to agree to the same restrictions, conditions, and requirements that apply to Community Supports Provider with respect to such PHI and/or confidential information under this Business Associate Agreement.
- l. If applicable, provide access, at the request of Health Plan, and in the time and manner as designated by Health Plan, to PHI in a Designated Record Set, to Health Plan in order to meet the requirements under § 164.524 of the HIPAA Regulations. If Health Plan and Community Supports Provider mutually agree, Community Supports Provider may provide such access directly to Individual, provided that such access is provided to the Individual in the time-frames set forth in § 164.524 of the HIPAA Regulations.
- m. If applicable, make any amendment(s) to PHI in a Designated Record Set, or make PHI available for amendment and incorporate any amendments to PHI, that the Health Plan directs or agrees to pursuant to § 164.526 of the HIPAA Regulations at the request of Health Plan in the time and manner as designated by the Health Plan
- n. Make internal practices, books, and records, including, but not limited to, policies and procedures, relating to the use and disclosure of PHI created or received by Community Supports Provider on behalf of Health Plan available to the Secretary, with a copy to Health Plan (if requested), in a time and manner designated by the Secretary, for purposes of the Secretary determining Health Plan's compliance with the HIPAA Regulations.
- o. Make internal practices, books, and records relating to the use and disclosure of Medi-Cal PHI on behalf of Health Plan available to DHCS upon reasonable request, and to the Secretary for purposes of determining Health Plan and/or DHCS' compliance with 45 CFR Part 164, Subpart E.
- p. Allow Health Plan's ITS Department to conduct a security assessment of Business Associate's system(s) where Community Supports Provider creates, receives, accesses, stores or maintains PHI. Any such security assessment will be conducted remotely, will not unreasonably interfere with Community Supports Provider's business activities, and shall not occur more than once per year, except in situations where a re-assessment may be necessary to follow up on corrective action(s). Should Community Supports Provider fail to pass Health Plan's security assessment, Health Plan shall have the right, in its sole discretion, to require corrective action or terminate the Agreement and Business Associate Agreement.
- q. Community Supports Provider shall identify the security official who is responsible for the development and implementation of the policies and procedures required by 45 CFR Part 164, Subpart C.

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 415-557-5788

- r. Maintain for a period of six (6) years an accounting of all disclosures of PHI that are required to be maintained under § 164.528 of the HIPAA Regulations. Such accounting will include at a minimum the date of the disclosure, the name and address of the recipient, a description of

- PHI disclosed and the purpose of the disclosure that reasonably informs the Individual of the basis for the disclosure.
- s. If applicable, provide to Health Plan in a time and manner as directed by Health Plan, information collected in accordance with Section 3.n. of this Business Associate Agreement, to permit Health Plan to respond to a request by an Individual for an accounting of disclosures of PHI in accordance with § 164.528 of the HIPAA Regulations. If Health Plan and Community Supports Provider mutually agree, Community Supports Provider may provide such accounting directly to Individual, provided that such accounting is provided to the Individual in the time-frames set forth in § 164.528 of the HIPAA Regulations.
  - t. Make reasonable efforts to implement any restriction of the use or disclosure of PHI that Health Plan has agreed to under Section 4.c. of this Business Associate Agreement.
  - u. Use reasonable and appropriate safeguards to protect the confidentiality, integrity and availability of PHI and other confidential data, and comply with Subpart C of 45 CFR Part 164 to prevent use or disclosure of the PHI other than as provided for by this Business Associate Agreement. Community Supports Provider further acknowledges that it is subject to the requirements of 45 CFR 164.308, 164.310, 164.312, and 164.316 to the same extent such requirements are applicable.
  - v. Comply, where applicable, with Subpart C of 45 CFR Part 164 with respect to EPHI, to prevent use or disclosure of the information other than as provided for by this Business Associate Agreement. Such safeguards shall be based on applicable Federal Information Processing Standards (FIPS) Publication 199 protection levels. Community Supports Provider shall implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of the EPHI that Community Supports Provider creates, receives, maintains, or transmits on behalf of Health Plan.
  - w. Utilize, at a minimum, an industry-recognized security framework when selecting and implementing its security controls, and shall maintain continuous compliance with its selected framework.
  - x. Apply security patches and upgrades, and keep virus software up-to-date, on all systems on which PHI and other confidential information may be used.
  - y. Ensure that all members of its workforce with access to PHI and/or other confidential information sign a confidentiality statement prior to access to such data. The statement must be renewed annually.
  - z. With respect to EPHI, ensure that any agent, including a subcontractor, to whom Community Supports Provider provides EPHI, agrees to implement reasonable and appropriate safeguards to protect the EPHI.
  - aa. Community Supports Provider shall also comply with all the requirements of a Business Associate under the HITECH Act and the requirements of 45 CFR Sections 164.308, 164.310, 164.312 and 164.316. The written policies and procedures and documentation required by 45 CFR Section 164.316 shall be made available to Health Plan, upon Health Plan's request. The additional requirements of the HITECH Act that relate to privacy and security and that are made applicable with respect to covered entities shall also be applicable to Business Associate and shall be and by this reference hereby are incorporated into this Business Associate Agreement.
  - bb. Community Supports Provider agrees that it is subject to and will abide by the restrictions and conditions contained in Exhibit G of Client's contract with DHCS, to which Community Supports Provider confirms receipt.
  - cc. Business Associate shall comply with all monitoring provisions of the Medi-Cal Agreement and any monitoring requests by DHCS.
  - dd. Community Supports Provider understands that under some circumstances Health Plan may be the Business Associate of other entities whose PHI may be in the possession of Health Plan, and that such PHI of other entities could be disclosed by Health Plan in connection with the Agreement. To the extent that any PHI of other entities is disclosed to Community



Supports Provider, and to the extent that Health Plan serves as a Business Associate of such other entities, Community Supports Provider agrees to the Business Associate restrictions and requirements of any separate Business Associate agreement that Health Plan may have with such other entities concerning the PHI in question.

- ee. To the extent Community Supports Provider is to carry out an obligation of DHCS under 45 CFR Part 164, Subpart E, Community Supports Provider shall comply with the requirements of the subpart that apply to DHCS in the performance of such obligation.
- ff. If the cause of a breach is attributable to Community Supports Provider or its agents, Community Supports Provider shall pay Health Plan for all costs of such notifications, as well as all costs associated with the breach. The notifications shall comply with applicable federal and state law. DHCS shall approve the time, manner and content of any such notifications and their review and approval must be obtained before the notifications are made. Health Plan shall maintain the duty to notify individuals, however, Community Supports Provider shall cooperate and work with Health Plan in good faith in order to draft the notification and obtain DHCS approval.
- gg. If the cause of a breach of PHI is attributable to Community Supports Provider or its subcontractors, Community Supports Provider is responsible for all required reporting of the Breach as required by applicable federal and state law.

4. Obligations of Health Plan. Health Plan shall:

- a. Provide Community Supports Provider with the notice of privacy practices that Health Plan furnishes to Individuals in accordance with § 164.520 of the HIPAA Regulations.
- b. Promptly notify Community Supports Provider of any changes in, or revocation of, permission by Individual to use or disclose PHI, to the extent that such changes may affect Community Supports Provider's use or disclosure of PHI.
- c. Promptly notify Community Supports Provider of any restriction to the use or disclosure of PHI that Health Plan has agreed to in accordance with § 164.522 of the HIPAA Regulations, to the extent that such restriction may affect Community Supports Provider's use or disclosure of PHI.
- d. Not request Community Supports Provider to use or disclose PHI in any manner that would not be permissible under the HIPAA Regulations if so used or disclosed by Health Plan, unless such use or disclosure is necessary for the purposes of Data Aggregation or management and administrative activities of Community Supports Provider under the Agreement.

5. Termination for Breach. Upon Health Plan's knowledge of a material breach of the terms of this Business Associate Agreement by Community Supports Provider, Health Plan shall, in accordance with the notification requirement and cure period set forth in the Agreement, terminate such Agreement.

6. Future Confidentiality of PHI. Upon the expiration or earlier termination of the Agreement, for any reason, Community Supports Provider shall return or destroy all PHI and confidential information received from Health Plan, or created or received by Community Supports Provider on behalf of Health Plan, and provide written certification that Community Supports Provider retains no copies of such PHI; provided that Community Supports Provider shall provide to Health Plan notification of any conditions that Community Supports Provider believes make the return or destruction of PHI infeasible. If Health Plan agrees that return or destruction of PHI is infeasible, Community Supports Provider shall notify Health Plan of the conditions that make the return or destruction infeasible, and Health Plan and Community Supports Provider shall determine the terms and conditions under which Community Supports Provider may retain the PHI. If such return or destruction is not feasible, Community Supports Provider shall extend the protections of this Business Associate Agreement to such PHI and limit further uses and disclosures of such PHI to

those purposes that make the return or destruction infeasible, for so long as Community Supports Provider maintains such PHI.

7. Special Provision for SSA Data (if applicable). If Community Supports Provider receives data from or on behalf of DHCS that was verified by or provided by the Social Security Administration (“SSA data”) and is subject to an agreement between DHCS and SSA, Community Supports Provider shall provide, upon request by DHCS, a list of all employees and agents and employees who have access to such data, including employees and agents of its agents, to DHCS.
8. Audits, Inspection and Enforcement. DHCS may inspect the facilities, systems, books and records of Community Supports Provider to monitor compliance with the Medi-Cal Agreement. If Community Supports Provider is the subject of an audit, compliance review, investigation or any proceeding that is related to the performance of its obligations pursuant to the Services Agreement and/or the Business Associate Agreement, or is the subject of any judicial or administrative proceeding alleging a violation of HIPAA, Community Supports Provider shall promptly notify Health Plan and DHCS unless it is legally prohibited from doing so.
9. Assistance in Litigation or Administrative Proceedings. Community Supports Provider shall make itself and its employees and agents available to DHCS at no cost to DHCS to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings being commenced against DHCS, its directors, officers and/or employees based upon claimed violation of HIPAA, which involve inactions or actions by the Community Supports Provider.
10. Amendment. Any provision of this Business Associate Agreement which is in conflict with current or future applicable federal or state laws is hereby amended to conform to the provisions of those laws. Such amendment of this Business Associate Agreement shall be effective on the effective date of the laws necessitating it, and shall be binding on the parties even though such amendment may not have been reduced to writing and formally agreed upon and executed by the parties. The parties agree to take such action to amend this Business Associate Agreement from time-to-time as is necessary for Health Plan to comply with the requirements of HIPAA and the HIPAA Regulations.
11. Survival. The respective rights and obligations of Community Supports Provider under Section 6 of this Business Associate Agreement shall survive the termination of the Agreement.
12. Interpretation. Any ambiguity in this Business Associate Agreement shall be resolved to permit Health Plan to comply with the HIPAA Regulations.
13. Conflict of Terms. Whenever the terms of this Business Associate Agreement and the Services Agreement (or any attachments thereto) are in conflict, the terms of this Business Associate Agreement shall control.
14. Other Terms Remain in Force. Except as expressly modified by the terms of this Business Associate Agreement, all of the terms and conditions set forth in the Services Agreement shall remain in full force and effect.
15. Indemnification. Community Supports Provider agrees to defend, indemnify and hold Health Plan harmless from and against any and all claims, losses, liabilities or expenses (including without limitation attorneys' fees and any fines, penalties, or other such applicable costs) which may arise, in whole or in part, out of a breach or violation by Community Supports Provider of its obligations under this Business Associate Agreement or applicable law.

16. Equitable Remedies. Community Supports Provider agrees that Health Plan shall be entitled, without waiving any additional rights or remedies otherwise available to Health Plan at law or in equity or by statute, to injunctive and other equitable relief in the event of a breach or intended or threatened breach by Community Supports Provider of any of Community Supports Provider's covenants set forth herein. In the event such equitable relief is sought in connection herewith, Community Supports Provider agrees to waive any requirement for the securing or posting of any bond in connection with such remedy.
17. Disclaimer. Health Plan makes no warranty or representation that compliance by Community Supports Provider with this Business Associate Agreement is satisfactory for Community Supports Provider to comply with any obligations it may have under the HIPAA Regulations or any other applicable law or regulation pertaining to the confidentiality, use or safeguarding of health information. Community Supports Provider is solely responsible for all decisions it makes regarding the use, disclosure or safeguarding of PHI and other confidential information.
18. Compliance with Law. Community Supports Provider shall comply with all applicable state or federal laws and regulations. Community Supports Provider agrees to:
  - a. Comply with the more protective of the privacy and security standards set forth in applicable state or federal laws (including, but not limited to, the Information Practices Act, California Civil Code sections 1798 - 1798.78, Confidentiality of Alcohol and Drug Abuse Patient Records, 42 CFR Part 2, Welfare and Institutions Code section 5328, and California Health and Safety Code section 11845.5) to the extent such standards provide a greater degree of protection and security than HIPAA or are otherwise more favorable to the individuals whose information is concerned; and
  - b. Treat any violation of such additional and/or more protective standards as a breach or security incident, as appropriate, pursuant to the applicable provisions of the Agreement.
19. Encryption. Electronic PHI transmitted or otherwise transferred between the parties must be encrypted by a process that renders the Electronic PHI unusable, unreadable, or indecipherable to unauthorized individuals within the meaning of §13402 of the HITECH Act and any implementing guidance, including but not limited to 45 C.F.R. § 164.402. Community Supports Provider shall employ FIPS 140-2 compliant encryption of PHI at rest and in motion unless Community Supports Provider determines it is not reasonable and appropriate to do so based upon a risk assessment, and equivalent alternative measures are in place and documented as such. In addition, Community Supports Provider shall maintain, at a minimum, the most current industry standards for transmission and storage of PHI and other confidential information.
20. Third-Party Beneficiaries. Nothing in this Agreement is intended to or shall confer, upon any third person any rights or remedies whatsoever.
21. Effective Date. This Business Associate Agreement shall be effective on the effective date of the Services Agreement ("SA") and terminate concurrently upon the termination or expiration of the SA, unless sooner terminated in accordance with the terms and conditions of this Business Associate Agreement.

IN WITNESS WHEREOF, the parties have executed this Business Associate Agreement as of the date(s) set forth below.

**San Francisco Department of Disability  
and Aging Services**

**SAN FRANCISCO HEALTH AUTHORITY**

By: \_\_\_\_\_

By: \_\_\_\_\_

Printed: \_\_\_\_\_

Printed: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_