



**HOUSING AND HOMELESSNESS INCENTIVE PROGRAM
MEMORANDUM OF UNDERSTANDING
BETWEEN
COUNTY OF HUMBOLDT
AND
PARTNERSHIP HEALTHPLAN OF CALIFORNIA**

This Memorandum of Understanding (the “MOU”) is made and entered into by Partnership HealthPlan of California (“PHC”, “The Plan”), a public entity contracted with the Department of Health Care Services (“DHCS”), and County of Humboldt, (“County”), also hereunder known as (“Party”, “Parties”). This MOU is effective the last date of signature and will expire on December 31, 2027.

RECITALS/BACKGROUND

PHC is a non-profit community-based healthcare organization that contracts with the State of California to provide Medi-Cal services in fourteen counties in Northern California, under a County Organized Health System model.

WHEREAS, California submitted, and the federal government approved a Home and Community Based Services Plan to allow for a variety of programs, including the Housing and Homelessness Incentive Program (HHIP) intended to improve health outcomes and access to services by addressing housing insecurity and instability as a social determinant of health for the Medi-Cal population. The goals of the HHIP program are to reduce and prevent homelessness and to ensure that Medi-Cal managed care plans, including Partnership HealthPlan of California, develop the necessary capacity and partnerships to connect their members to needed housing services.

WHEREAS, the State has outlined county-specific allocations and target activities that must be collaboratively accomplished by the counties, local continuums of care, and Partnership HealthPlan of California to achieve these allocations.

WHEREAS, the county’s proposed spending plan has been approved by the Plan and reviewed by the appropriate continuum of care, and is consistent with the county’s and PHC’s collaborative approach to housing.

WHEREAS, the Plan is responsible for oversight and administration of payments to the county consistent with State guidance related to the HHIP Program.

WHEREAS, this MOU identifies each party’s responsibilities and obligations for the securing of the incentive grant funds to support the housing needs of PHC members.

NOW, THEREFORE, in consideration of the promises and the mutual covenants herein stated, it is agreed by and between the Parties hereto as follows:

1. COUNTY’S OBLIGATIONS

- A. The parties acknowledge the need to collaborate on the collection and reporting of data to secure the incentive funds and support ongoing activities.
- B. County agrees to designate a primary staff member as the point of contact for the purposes of the administration of this MOU.
- C. County agrees to provide the services and documentation outlined in Attachment A, Scope of Work and Attachment B, Payment Schedule/Deliverables.
- D. The County shall collaborate with the Plan on the administration of activities associated with CalAIM, including the Plan's contracting to provide the Enhanced Case Management benefit and Community Support services to the County's Plan members.
- E. County agrees to execute, or facilitate the execution of a data sharing agreement allowing for the sharing of information from the Housing Management Information System (HMIS) and other key housing related systems, potentially including the Coordinated Entry System.
- F. County acknowledges that the amount of funding available will be determined by the State, based upon the Plan's reporting of the activities and achievements that result from the collaboration outlined in this MOU. County agrees to propose budget adjustments if the State allocates less funding than what is anticipated in this MOU.

G. Use of Funding

- i. The use of these funds shall not supplant existing funding and shall be applied in conjunction with the relevant activities funded through CalAIM and the associated Community Supports program.
- ii. The county shall document and submit to the Plan, in a form and manner determined by the Plan, those project activities have been carried out and milestones that have been achieved.
- iii. To the extent the county does not or is unable to carry out project activities and achieve milestones, the provider shall notify the plan and return any funds that the provider may have received related to those project activities or milestones.

2. HEALTHPLAN'S OBLIGATION

- A. PHC agrees to provide the Plan data and activities necessary to achieve the incentive funds.
- B. The plan will report to DHCS on the project status as required by the HHIP program.
- C. PHC acknowledges that the amount of funding available will be determined by the State, based upon the Plan's reporting of the activities and achievements that result from the collaboration

outlined in this MOU. PHC agrees to work collaboratively with the county on any budget adjustments needed because of State allocations that are less than what is anticipated in this MOU.

3. PAYMENT

- A. PHC will provide grant payments according to the schedule and amounts listed in Attachment B, Payment Schedule, contingent on receipt of State funding. If the terms and conditions set forth in Attachment C are not met, PHC reserves the right to withhold any further payments, to recoup unspent funds, and the right to move to terminate this MOU.

4. TERM AND TERMINATION

- A. The effective date of this MOU is the last date of signature and will remain in force up to December 31, 2027.
- B. This MOU, and its attachments, constitutes the entire agreement between the Parties and except as otherwise specified in this MOU may be amended only by both Parties' agreement in writing, and executed by a duly authorized person of each Party.
- C. The terms of this MOU are contingent upon HHIP Incentive Program application approval, the availability of sufficient HHIP funding, and all necessary state/federal approvals. Should sufficient funds not be allocated, services may be modified accordingly, or this MOU can be terminated by any party after giving 30 days advance written notice.
- D. Either party may terminate this MOU upon thirty (30) days' prior written notice to the other party. In the event of the failure of either party to meet the specified obligations, the agreement may be terminated within thirty (30) days' notice of the failure, if the obligation is still not met at that time.
- E. Provider in Good Standing. PHC provides a variety of support initiatives, including this HHIP grant to local providers in good standing. Local providers in good standing, including counties, are those not pursuing any litigation or arbitration against PHC at the time of program application or at the time additional funds may be payable, and has demonstrated the intent, in PHC's sole determination, to continue to work with PHC on addressing community and member issues. Additionally, at the direction of the Chief Executive Officer or designee, PHC may determine that a provider is not in good standing based on relevant quality, payment or other business concerns. PHC, has the sole authority to determine if a Provider is in good standing. Upon termination of the MOU, the Provider will reimburse PHC for any funds not expended by it on the project by the termination date. At the date of termination, PHC will cease to be liable to the Provider for any grant funds committed pursuant to this MOU.

5. SCOPE

- A. The provider is responsible for the implementation of and compliance with the project(s), as set forth in their HHIP program summary, which is attached as Attachment C and incorporated here by reference, including reporting to the plan on the achievement of milestones and objectives

consistent with the terms of the HHIP application. The provider shall promptly notify the plan of any material change in information submitted in support of the project(s) or the HHIP application.

6. **CORRECTIVE ACTION**

- A. In recognition of the need for project flexibility, the plan may utilize a corrective action plan, or other mutually agreed upon or DHCS-required mechanism, for modifying the project terms to facilitate the provider's compliance with project terms or to adjust project goals and objectives and related payments, as necessary. Such modifications may be subject to DHCS review and approval. Provider noncompliance with modified project terms may result in termination of this MOU consistent with Section 4 (Term and Termination). In the event of project termination, the provider shall return funds as directed by the plan.

7. **OTHER PROVISIONS**

- A. **MOU Monitoring.** The plan and provider will meet on a mutually agreed upon frequency, or upon request to monitor the performance of parties' responsibilities related to this MOU.
- B. **Dispute Resolution.** In the event that any dispute, claim, or controversy of any kind or nature relating to this Agreement arises between the Parties, the Parties agree to meet and make a good faith effort to resolve the dispute. Any unresolved dispute or controversy arising under or in connection with this Agreement, or the breach thereof, or the commercial or economic relationship of the Parties hereto shall be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association, and judgment upon the award will be rendered by the arbitrator, and may be entered in any court having jurisdiction thereof. The arbitration will be governed by the U.S. Arbitration Act 9 U.S.C. 33 1-16, to the exclusion of any provisions of state law inconsistent therewith or which would produce a different result. The arbitration is to take place in Solano County and by a single arbitrator knowledgeable in health care administration. This provision shall survive the termination of this Agreement.
- C. **Non-Discrimination.** Provider and its subcontractors shall not unlawfully discriminate or harass against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (cancer), age (over 40) marital status, and use of family care leave and any other characteristics covered under State and federal law. Provider and subcontractors shall ensure that the evaluation and treatment of their employees and applicants for employment are free of such discrimination and harassment.
- D. **Compliance with Law.** Provider agrees to comply with all federal, State and local licensing standards, all applicable accrediting standards, and any other standards or criteria established federally, by the State, or locally, to assure quality of service. Provider agrees to comply with all applicable State and Federal laws and regulations during the term of this MOU.
- E. **Audit.** PHC reserves the right to audit data submissions prior to payment. Upon request, Provider agrees to provide copies of the supporting documentation based on the obligations of this MOU.

F. **Liability:** Provider indemnifies and holds harmless PHC and its commissioners, officers, employees and agents from and against all allegations, claims and liabilities that result from any act or omission by Provider related to the services funded under this MOU.

G. **Counterparts.** This MOU may be executed by electronic signatures, each of which shall be deemed an original, but all of which, together, shall authorize one agreement.

IN WITNESS WHEREOF, the Parties have, by their duly authorized representatives, executed this Agreement, to be effective the date written above:

PARTNERSHIP HEALTHPLAN OF CALIFORNIA

COUNTY OF HUMBOLDT

By: _____

By: _____

Name: Elizabeth Gibboney

Name: _____

Title: CEO

Title: _____

Address: 4665 Business Center Dr.

Address: _____

Fairfield, CA 94534

Email: egibboney@partnershiphp.org

Email: _____

Date: _____

Date: _____

ATTACHMENT A SCOPE OF WORK

County agrees to administer the services detailed in Attachment C, in a manner consistent with the HHIP program guidance:

- To prevent or address the needs of persons experiencing homelessness
- To facilitate the reduction/elimination of homelessness by addressing the needs of those experiencing homelessness and linking them to housing services
- To work collaboratively with Partnership HealthPlan and other key partners including:
 - Working to ensure that PHC members are linked to health care and housing services
 - Helping to strengthen data collection and data sharing to better inform collective housing efforts
 - Seeking to achieve the targets and goals established in the HHIP program.

County agrees to report to PHC on its efforts on a template to be provided by PHC and according to the following tentative* timeline:

- Data and associated deliverables (such as letters of support) that will be specified by DHCS and needed for the March 10, 2023 submission to DHCS due to PHC no later than February 1, 2023;
- Data and associated deliverables (such as letters of support) that will be specified by DHCS and needed for the December 29, 2023 submission to DHCS due to PHC no later than December 1, 2023;
- Quarterly summaries of HHIP activities due by the end of the first month following the quarter:
 - By January 31, 2023, for the October 1 through December 31, 2022 period
 - By April 30, 2023 for the January 1 through March 31, 2023 period
 - By July 31, 2023 for the April 1 through June 30, 2023 period
 - By October 31, 2023 for the July 1 through September 30, 2023 period
 - By January 31, 2024, for the October 1 through December 31, 2023 period
 - By April 30, 2024 for the January 1 through March 31, 2023 period
 - By July 31, 2024 for the April 1 through June 30, 2024 period
 - And on a quarterly basis until the HHIP funding has been exhausted.

*This timeline is subject to change based upon future DHCS guidance and represents a “best guess” of the reporting expectations. Counties will be given as much notice as possible if reporting needs change because of DHCS guidance or for any other reason.

ATTACHMENT B PAYMENT SCHEDULE

| <i>*Payments will be earned based on successful achievement of the program measures, determined by DHCS. PHC will hold fixed 10% per payment per county. Contingency may be used for Street Medicine.</i> | | | | | |
|---|-------------------|----------------------|-------------------|-------------------|---------------------------|
| County | HHIP Program Year | Allocation* | Contingency (5%) | PHC Admin (5%) | Net Allocation Available* |
| Humboldt | Year 1 | \$ 5,190,093 | \$ 259,505 | \$ 259,505 | \$ 4,671,084 |
| | Year 2 | \$ 6,343,447 | \$ 317,172 | \$ 317,172 | \$ 5,709,103 |
| | Total* | \$ 11,533,540 | \$ 576,677 | \$ 576,677 | \$ 10,380,186 |

| Disbursement and Amount* | | Expected Date* | Deliverables |
|--------------------------|---|----------------|---|
| Payment 1 | Up to 5% of Net Total Allocation ¹ | October 2022 | Completed Local Homelessness Plan (LHP) |
| Payment 2 | Up to 10% of Net Total Allocations ² | December 2022 | Completed budget plan as specified in Attachment C |
| Payment 3 | Up to 35% of Net Total Allocation ³ | April 2023 | Completed data sharing agreement(s) governing housing data; report on measures as specified in Attachment A |
| Payment 4 | Up to 50% of Net Total Allocation ⁴ | May 2024 | Report on measures as specified in Attachment A |

*Disbursement amounts are dependent on DHCS' final approval of funding and will be calculated and paid once DHCS formally awards funds to PHC on expected date.

¹ PHC and County will be evaluated based on the quality of the LHP components submitted, including the Landscape Analysis, Funding Availability assessment, and MCP and County Strategies, as well as on the program measures. Each program measure will either be earned in full, or not earned.

² PHC and County will be eligible to earn incentive payments for successful completion and submission of the Investment Plan (IP), subject to acceptance of the IP by DHCS. The IP is worth up to 10% of each MCP's allocated earnable funds for HHIP overall. DHCS will evaluate the IP based on the MCP's demonstration of a meaningful investment strategy, including how adequately stated needs are addressed and how effectively funding is targeted, to support the achievement of program measures and goals.

³ Payments subject to DHCS' acceptance of PHC's Submission 1 and the County's and PHC's performance on applicable measures.

⁴ Payments subject to DHCS' acceptance of PHC's Submission 2 and the County's and PHC's performance on applicable measures.

ATTACHMENT C

Summary of Proposed Use of Funds

The attached summary shall guide the use of HHIP funds administered by County. The parties acknowledge that, over time, there may need to be changes in the allocations, timing or manner of the use of these funds. These changes shall be the subject of collaborative discussions among the parties and adopted by mutual agreement.

Housing and Homelessness Incentive Program (HHIP)

Total Budget

| | |
|------------------------------|---------------------|
| County: | Humboldt |
| Expected Allocation: | \$10,380,186 |
| Remaining Allocation: | \$0 |

| Use Category* | Amount | How will funds be allocated among providers (e.g., RFP, existing provider contracts, etc.) | HHIP Measure associated with this use of Funds | HHAP activities and/or identified gaps addressed by this use of Funds |
|--|---------------|---|---|---|
| <i>Rapid Rehousing</i> | \$ 2,391,236 | RFP | 1.4, 1.6 | We have large numbers of people who are eligible for and would benefit from rapid rehousing assistance that cannot access it because there isn't enough capacity for most of the people that qualify |
| <i>Street Outreach</i> | \$ 1,629,602 | RFP | 1.3, 2.1 | We need additional street outreach to identify and engage those most in need of assistance who are unlikely to seek housing assistance |
| <i>Services Coordination</i> | \$ - | | | |
| <i>Delivery of Permanent Housing:</i> | \$ - | | | |
| ▪ <i>Capital construction</i> | \$ - | | | |
| - <i>Building/space lease or purchase</i> | \$ 3,034,687 | RFP | 1.4 | We need to continue expand the supply of permanent housing that is dedicated to the target population because many people are very difficult to place in privately owned housing that is not dedicated to the target population |
| - <i>Other</i> | \$ - | | | |
| <i>Prevention and Shelter Diversion</i> | \$ - | | | |
| <i>Interim Sheltering</i> | \$ 1,970,723 | RFP | 1.4 | We have a major shortage of interim sheltering options relative to the large number of people experiencing unsheltered homelessness |

| | | | | |
|---|----|-------------------|------------|--|
| <i>Shelter Improvements (specify type; e.g., capital, staffing, etc.)</i> | \$ | - | | |
| <i>Administrative (limit of 15%)</i> | \$ | 1,353,938 | RFP | |
| <i>Data infrastructure/systems improvement</i> | \$ | - | | |
| <i>Other (specify)</i> | \$ | - | | |
| | \$ | - | | |
| TOTAL | \$ | 10,380,186 | RFP | |

ATTACHMENT D BUSINESS ASSOCIATE AGREEMENT

This Business Associate Agreement (“BAA”), effective as of the last date of signature (“Effective Date”) is entered into by and between PARTNERSHIP HEALTHPLAN OF CALIFORNIA (the “Plan” or “Covered Entity”) and COUNTY OF HUMBOLDT (“Business Associate”). PARTNERSHIP HEALTHPLAN OF CALIFORNIA and COUNTY OF HUMBOLDT may be referred to individually as a “Party” or collectively as “Parties.”

WHEREAS, the Parties have entered into a Memorandum of Understanding effective the last date of signature (“Agreement”) which may require Business Associate’s use or disclosure of protected health information (“PHI”) in performance of the services described in the Agreement on behalf of the Plan.

WHEREAS, the Parties are committed to complying with the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and the Health Information Technology for Economic and Clinical Health (“HITECH”) Act and any regulations promulgated thereunder (collectively the “HIPAA Rules”), and other applicable State and federal laws, including but not limited to, the California Confidentiality of Medical Information Act (“CMIA”), California Health and Safety Code §1280.15, the Information Practices Act located at California Civil Code § 1798.82 et seq., Confidentiality of Alcohol and Drug Abuse Patient Records located at 42 CFR Part 2, California Welfare and Institutions Code § 5328, and California Health and Safety Code § 11845.5 as amended from time to time (collectively referred to as the “Privacy Rules”).

WHEREAS, this BAA, in conjunction with the HIPAA Rules, sets forth the terms and conditions pursuant to which PHI (in any format) that is created, received, maintained, or transmitted by, the Business Associate from or on behalf of the Plan, will be handled between the Business Associate, the Plan and with third parties during the term of the Agreement(s) and after its termination.

WHEREAS, Covered Entity has a Medi-Cal contract (“Medi-Cal Contract”) with the California Department of Health Care Services (“DHCS”), pursuant to which Covered Entity provides services or arranges, performs or assists in the performance of functions or activities on behalf of DHCS, and may create, receive, maintain, transmit, aggregate, use or disclose PHI in order to fulfill Covered Entity’s obligations under the Medi-Cal Contract. As a subcontractor of Covered Entity, Business Associate will be assisting in the performance of functions or activities on behalf of DHCS, and may create, receive, maintain, transmit, aggregate, use or disclose PHI in order to help fulfill Covered Entity’s obligations under the Medi-Cal Contract and its own obligations under the Agreement.

NOW THEREFORE, the Parties hereby agree as follows:

1. DEFINITIONS

- 1.1 The following terms used in this BAA shall have the same meaning as those terms in the HIPAA Rules: Availability, Breach, Confidentiality, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Integrity, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required By Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use.

2. SPECIFIC DEFINITIONS

- 2.1 “Business Associate” shall generally have the same meaning as the term “business associate” at 45 CFR 160.103, and in reference to the party to this BAA, shall mean COUNTY OF HUMBOLDT.

- 2.2 “Covered Entity” shall generally have the same meaning as the term “covered entity” at 45 CFR 160.103, and in reference to the party to this BAA, shall mean PARTNERSHIP HEALTHPLAN OF CALIFORNIA.
- 2.3 “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164 and HITECH.
- 2.4 “Services” shall mean, to the extent and only to the extent they involve the creation, use or disclosure of PHI, the services provided by Business Associate to the Plan under the Agreement, including those set forth in this BAA, as amended by written consent of the parties from time to time.

3. RESPONSIBILITIES OF BUSINESS ASSOCIATE

Business Associate agrees to:

- 3.1 Not use or disclose PHI or other confidential information other than as permitted or required by the BAA or as required by law;
- 3.2 Use appropriate safeguards, and comply with Subpart C of 45 CFR Part 164 with respect to electronic PHI, to prevent use or disclosure of PHI other than as provided for by the BAA;
- 3.3 Implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of PHI that it creates, receives, maintains, or transmits on behalf of the Plan. Business Associate shall comply with the applicable standards at Subpart C of 45 CFR Part 164. Such safeguards shall be based on applicable Federal Information Processing Standards (FIPS) Publication 199 protection levels;
- 3.4 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;
- 3.5 Shall, at a minimum, utilize an industry-recognized security framework when selecting and implementing its security controls, and shall maintain continuous compliance with its selected framework;
- 3.6 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;
- 3.7 Employ FIPS 140-2 compliant encryption of PHI at rest and in motion unless Business Associate 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, Business Associate shall maintain, at a minimum, the most current industry standards for transmission and storage of PHI and other confidential information;
- 3.8 Immediately report to the Plan any use or disclosure of PHI not provided for by the BAA of which it becomes aware, including, but not limited to, Breaches or suspected Breaches of unsecured PHI under 45 CFR 164.410, and any Security Incident or suspected Security Incidents of PHI or confidential information which it becomes aware. Business Associate shall report the improper or unauthorized use or disclosure of PHI or potential loss of confidential information within 24 hours to the Plan. Business

Associate shall immediately investigate any suspected Security Incident or Breach. Business Associate shall provide Covered Entity with all requested information so Covered Entity may comply with its reporting obligations to DHCS per the Medi-Cal Contract and all required Breach notifications. Business Associate shall mitigate, to the extent practicable, any harmful effects that is known to Business Associate of such Breach or Security Incident of PHI or other confidential information in violation of this BAA. Business Associate shall indemnify Covered Entity against any losses, damages, expenses or other liabilities including reasonable attorney's fees incurred as a result of Business Associate's or its agent's or Subcontractor's unauthorized use or disclosure of PHI including, but not limited to, the costs of notifying individuals affected by a Breach;

- 3.9 In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, ensure that any subcontractors, agents, vendors, or others that create, receive, maintain, or transmit PHI and/or confidential information on behalf of the Business Associate agree to the same restrictions, conditions, and requirements that apply to the Business Associate with respect to such information;
- 3.10 Make available PHI in a designated record set to the Plan as necessary to satisfy the Plan's obligations under 45 CFR 164.524;
- 3.11 Make any amendment(s) to PHI in a designated record set as directed or agreed to by the Plan pursuant to 45 CFR 164.526, or take other measures as necessary to satisfy the Plan's obligations under 45 CFR 164.526;
- 3.12 Forward any requests from a Plan member for access to records maintained in accordance with the BAA as soon as they are received. The Plan will maintain responsibility for making determinations regarding access to records;
- 3.13 Direct any requests for an amendment from an individual as soon as they are received to the Plan. The Business Associate will incorporate any amendments from the Plan immediately upon direction from the covered entity;
- 3.14 Maintain and make available the information required to provide an accounting of disclosures to the Plan as necessary to satisfy the Plan's obligations under 45 CFR 164.528;
- 3.15 Forward any requests from a Plan member for an accounting of disclosures maintained in accordance with the BAA as soon as they are received. The Plan will maintain responsibility for making determinations regarding the provision of an accounting of disclosures;
- 3.16 To the extent the Business Associate is to carry out one or more of the Plan's obligations under Subpart E of 45 CFR Part 164, comply with the requirements of Subpart E that apply to the covered entity in the performance of such obligation(s);
- 3.17 Make its internal practices, books, and records available to Covered Entity, the Secretary, and DHCS upon reasonable request for purposes of determining compliance with the HIPAA Rules. Make its facilities and systems available to DHCS to monitor compliance with the Medi-Cal Contract;

- 3.18 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 confidentiality statement must be renewed annually;
- 3.19 Agree to comply with DHCS's monitoring provisions contained in the Medi-Cal Contract;
- 3.20 Agree to comply with the more protective of the privacy and security standards defined herein as Privacy Rules. Therefore, to the extent other applicable state laws or federal laws provide a greater degree of protection and security than HIPAA or are more favorable to the individuals whose information is concerned, Business Associate shall comply with the more protective applicable privacy and security standards. Business Associate shall treat any violation of the more protective standards as a Breach or Security Incident pursuant to Section 3.8 herein;
- 3.21 In the event Business Associate received data from Covered Entity that was verified by or provided by Social Security Administration ("SSA") and is subject to an agreement between DHCS and SSA, upon request, Business Associate shall provide Covered Entity with a list of all employees and agents who have access to such data, including employees and agents of its agents, so that Covered Entity can submit this list to DHCS. Business Associate shall notify Covered Entity immediately upon the discovery of a suspected breach or security incident that involves SSA data;
- 3.22 Shall promptly report to Covered Entity if Business Associate is the subject of any audit, compliance review, investigation, or any proceeding that is related to the performance of its obligations pursuant to the Agreement, so Covered Entity can report this information to DHCS per the Medi-Cal Contract;
- 3.23 Shall promptly report to Covered Entity if Business Associate is the subject of any judicial or administrative proceeding alleging a violation of HIPAA, Business Associate shall report this to Covered Entity unless it is legally prohibited from doing so. Covered Entity is then required to report this information to DHCS per the Medi-Cal Contract; and
- 3.24 Shall make itself, and any subcontractors, employees or agents assisting Business Associate in the performance of its obligations under the Agreement, available to Covered Entity, to testify as witnesses, or otherwise, in the event of litigation or administrative proceedings commenced against DHCS or Covered Entity, or their directors, officers or employees.

4. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE

- 4.1 Business Associate may only use or disclose PHI, inclusive of de-identified data derived from such PHI, as necessary to perform the functions, activities, Services set forth in the Agreement, provided that such use and disclosure would not violate HIPAA or other applicable laws if done by Covered Entity.
- 4.2 Business Associate must obtain approval from the Plan before providing any de-identified information in accordance with 45 CFR 164.514(a)-(c). Business Associate, if approved, will obtain instructions for the manner in which the de-identified information will be provided.

- 4.3 Business Associate may use or disclose PHI as required by law.
- 4.4 Business Associate agrees to make uses and disclosures and requests for PHI consistent with the Plan's minimum necessary policies and procedures.
- 4.5 Business Associate may not use or disclose PHI in a manner that would violate Subpart E of 45 CFR Part 164 if done by the Plan except for the specific uses and disclosures set forth below.
- 4.6 Business Associate may use PHI for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate, provided the disclosures are required by law, or Business Associate 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 Business Associate of any instances of which it is aware in which the confidentiality of the information has been breached.
- 4.7 Business Associate is solely responsible for all decisions made by Business Associate regarding the safeguarding of PHI and other confidential information.

5. PROVISIONS FOR COVERED ENTITY TO INFORM BUSINESS ASSOCIATE OF PRIVACY PRACTICES AND RESTRICTIONS

- 5.1 The Plan shall notify Business Associate of any limitations in the notice of privacy practices under 45 CFR 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI.
- 5.2 The Plan shall notify Business Associate of any changes in, or revocation of, the permission by an individual to use or disclose his or her PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.
- 5.3 The Plan shall notify Business Associate of any restriction on the use or disclosure of PHI that the Plan has agreed to or is required to abide by under 45 CFR 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

6. PERMISSIBLE REQUESTS BY COVERED ENTITY

- 6.1 The Plan shall not request Business Associate to use or disclose PHI in any manner that would not be permissible under Subpart E of 45 CFR Part 164 if done by covered entity.

7. TERM AND TERMINATION

- 7.1 Term. The Term of this BAA shall be effective as of the last date of signature and shall terminate on the expiration date of the Agreement or on the date the Plan terminates for cause as authorized in Paragraph 7.2 below, whichever is sooner.

- 7.2 Termination for Cause. Business Associate authorizes termination of this BAA by the Plan, if the Plan determines, in its sole discretion, that Business Associate has violated a material term of this BAA and either:
- 7.2.1 The Plan provides Business Associate an opportunity to cure the Breach or end the violation within a time specified and Business Associate does not cure the Breach or end the violation within the time specified by the Plan; or
 - 7.2.2 The Plan immediately terminates this BAA upon notice if the Plan determines, in its sole discretion, that a cure is not possible.
- 7.3 Obligations of Business Associate Upon Termination. Upon termination of this BAA for any reason, Business Associate, with respect to PHI received from the Plan, or created, maintained, or received by Business Associate on behalf of the Plan, shall:
- 7.3.1 Retain only that PHI which is necessary for Business Associate to continue its proper management and administration or to carry out its legal responsibilities;
 - 7.3.2 Return to covered entity or, if agreed to by covered entity, destroy the remaining PHI that the Business Associate still maintains in any form. If return or destruction is not feasible, Business Associate shall notify Covered Entity. Covered Entity is then required to notify DHCS and DHCS may require additional terms and conditions under which Business Associate may retain the PHI and Business Associate shall agree to such terms;
 - 7.3.3 Continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic PHI to prevent use or disclosure of the PHI, other than as provided for in this Section, for as long as Business Associate retains the PHI;
 - 7.3.4 Not use or disclose the PHI retained by Business Associate other than for the purposes for which such PHI was retained and subject to the same conditions set out at section 4 of this BAA which applied prior to termination; and
 - 7.3.5 Return to covered entity or, if agreed to by covered entity, destroy the PHI retained by Business Associate when it is no longer needed by Business Associate for its proper management and administration or to carry out its legal responsibilities.
- 7.4 Survival. The obligations of Business Associate under this Section shall survive the termination of this BAA.

8. MISCELLANEOUS

- 8.1 No Third Party Beneficiaries. Nothing express or implied in this BAA is intended to confer, nor shall anything herein confer, upon any person other than the Parties and the respective successors or assigns of Parties, any rights, remedies, obligations or liabilities whatsoever.
- 8.2 Regulatory References. A reference in this BAA to a section in the HIPAA Rules means the section as in effect or as amended.

- 8.3 Amendment. The Parties agree to take such action as is necessary to amend this BAA from time to time as is necessary for compliance with the requirements of the HIPAA Rules and any other applicable law. Any provision of this BAA 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 BAA 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.
- 8.4 Interpretation. Any ambiguity in this BAA shall be interpreted to permit compliance with the HIPAA Rules.
- 8.5 Counterparts; Facsimile Signatures. This BAA may be executed in any number of counterparts, each of which will be deemed an original and all of which together will constitute one and the same document. This BAA may be executed and delivered by facsimile or in PDF format via email, and any such signatures will have the same legal effect as manual signatures. If a Party delivers its executed copy of this BAA by facsimile signature or email, such party will promptly execute and deliver to the other party a manually signed original if requested by the other party.

Acknowledged and agreed:

**PARTNERSHIP HEALTHPLAN
OF CALIFORNIA "PHC"**

COUNTY OF HUMBOLDT

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____