Swing Education Platform & Services Agreement

This **Platform & Services Agreement** ("Agreement") is entered into on July 1, 2020 by and between Swing Education, Inc. ("Swing Education," "we" or "us") and the School(s) listed on the signature page ("School" or "you"). Swing Education agrees to provide you with access to the Swing Education Platform & Services ("Platform"), which allows the School and School representatives to post and manage Requests for substitute teachers and related professionals ("SwingSubs") on the Swing Education Website at www.swingeducation.com ("Website").

Note that this Agreement will apply to the obligations and relationships between School, Swing Education and each SwingSub (though the SwingSubs are not party to this Agreement) when that SwingSub is enrolled on Swing Education's employer-of-record payroll (expected to be completed for all SwingSubs by about August 1, 2020). Before that point, the most recent agreement signed by School and Swing Education will control.

1. Services. Swing Education agrees to provide you with:

(a) **Access to the Services**, which allows authorized School users to post requests for SwingSub on the Platform, track and manage those requests, and view information about the SwingSubs.

(b) **Access to Our Verification Services - California**

i. **Teaching Credentials.** Swing Education verifies whether a SwingSub teaching professional holds a substitute teaching permit or standard professional teaching credential, by having the SwingSub upload or submit such document to the Platform. Swing Education marks such SwingSubs as credentialed (or similar language) on the Platform. Swing Education also tracks the expiration date (if one exists) of such document. If such document expires while the SwingSub is a registered member of the Service, Swing Education will shortly thereafter label the SwingSub teaching professional as non-credentialed (or similar language). Note that School is responsible for ensuring accuracy of SwingSub requests where a permit or credential is or is not required.

ii. **CA DOJ Live Scan Fingerprint Background Check**. Swing Education verifies that a SwingSub working in California is eligible to work as a teacher before the SwingSub is allowed to fill requests on the Website. Swing Education does this by reviewing the results of the individual's completed Live Scan check issued by the State of California Department of Justice (DOJ) using California Education Code guidelines. Subsequent changes to the SwingSub's status are sent from the DOJ to Swing Education. Swing Education prevents a SwingSub from filling requests on the Website if such changes render the SwingSub ineligible to teach, shortly after receiving notice of such changes.

iii. **TB Test**. Swing Education determines whether a SwingSub has obtained required TB tests before allowing a SwingSub to fill requests on the Website (according to this form, www.cdph.ca.gov/Programs/CID/DCDC/CDPH%20Document%20Library/TBCB-CA-School-Staff-Volunteer-TB-Risk-Assessment.pdf).

iv. **Child Abuse Reporting - Mandated Reporter.** Swing Education will make all SwingSubs aware of their child and dependent adult abuse reporting obligations. Swing Education will also require all SwingSubs to confirm that they have undergone CA state

Mandated Reporter Training within 6 weeks of completion of their first assignment through the Platform and annually thereafter, by signing a Suspected Child Abuse Reporting Acknowledgement Form. A copy of each signed form will be kept on file with Swing Education.

(c) **Verification Process**. Swing Education reserves the right to change any of the verification processes described above if such processes become impossible or impractical to carry out as described.

(d) **Limitations**. Swing Education provides the Services as a venue for connecting Schools and SwingSubs. Swing Education does not provide any education training, equipment, curriculum for teaching classes or students at any School, nor any other education services to either Schools or SwingSub, other than that specified below. Swing Education does not participate in, and the Services expressly do not include, the relationship or interaction between Schools and SwingSubs, except to provide a Website for Schools to post requests and for SwingSubs to review and accept those requests.

(e) **Relationship with SwingSubs**. Swing Education withholds and pays payroll taxes with regard to SwingSub wages but does not exercise any control over their schedules. School issues work requests for SwingSubs to fill. School works with SwingSubs on-site and in person and thus has direct feedback and information on the actions and performance of SwingSubs. Swing Education makes no warranty or representation as to the effectiveness, competence, skill, background, record, or behavior of the SwingSubs beyond what is covered by the Verification Services above.

2. Acceptance of Appendix Terms and Website Terms of Service. By signing this Agreement, you agree to the terms in any Appendix, including Appendix A: Standard Terms. You also agree to the Website Master Terms of Service and Privacy Policy (the "Website Terms") available on the Swing Education website at www.swingeducation.com/tc, as well as the Privacy Policy, https://swingeducation.com/privacy.

3. Payments. Payment for the services of a SwingSub will be made to Swing Education according to the following:

(a) **Work Requests & Daily Rates.** School shall fill out work Requests for SwingSubs, specifying the work stop and start times for each work day of the Request. The School designates a **Daily Rate** or Rates, via the Website and/or by separate communication with Swing Education in its discretion, or as listed here: **$240**. The **Half Daily Rate** shall be **50%** of the Daily Rate.

(b) **Amounts Due.** The "Preliminary Amount Due" is the sum of the Estimated Daily Amount for each Day of the Request, based on the **Daily Rate** and **Half Daily Rate**. The Daily Rate applies to any Day over four (4) and no more than eight (8) hours ("Full Day") and the Half Daily Rate applies to any Day of four (4) hours or less ("Half Day"). The "Adjusted Amount Due" is the sum of the Adjusted Daily Amounts. Each Adjusted Daily Amount of the Request will be the same as the Estimated Daily Amount, unless the SwingSub is owed additional wages due to legally required overtime wages or wage-related penalties such as missed meal and rest breaks. In such case, the Adjusted Daily Amount will be equal to the Estimated Daily Amount multiplied by (the wages actually owed to the SwingSub / the estimated wages based on a Full Day or Half Day, as appropriate).

(c) **Cancellation**. Request(s) accepted by a SwingSub, then canceled outside of 24 hrs of the initial work time, are not subject to any fees. If a Request is canceled less than 24 hrs from the initial

work time, then the Amount Due will be subject to the Preliminary Amount Due for the first Day of the Request.

(d) **Invoicing**
Payment for the services of a SwingSub will be made to Swing Education according to the following. Swing Education charges and invoices, according to one of these options: Option A - Payment Plan, which includes an initial balance and top-up amounts, and Option B - Pay As You Go, as outlined in Exhibit A: Payment Options.

(e) **Deviations from Request.** While SwingSubs will be instructed to track their actual time worked, School must also inform Swing Education of any deviations between the work times submitted in a Request and actual time worked (including deviations from mandated breaks) by midnight of the same day for such deviations to be reflected on an invoice. SwingSubs shall also have the right to submit such deviations, and the actual invoice will be reconciled using all known facts about the actual time worked.

(f) **Invoice Disputes.** School must identify any invoice item dispute to Swing Education within [**60**] days of the invoice in order to receive credit for such invoice item. All known facts about the actual time worked shall be used in correcting and crediting such invoice items.

(g) **Late Payments**. Late payments shall accrue interest at a rate equal to the lesser of one and one half percent (1.5%) per month or the maximum rate permitted by applicable law, from due date until paid, plus Swing Education's reasonable cost of collection. Under Option A, late payments are defined as amounts due 30 days after the Payment Plan Account Balance drops below the Minimum Balance. Under Option B, late payments are defined as any amounts due 30 days after invoice. Swing Education reserves the right to suspend or terminate School's use of the services until any outstanding balance is paid, with notice.

4. Recruitment. If you want to hire or contract directly with a SwingSub, you agree to pay Swing Education a $2,500 finder's fee to cover costs associated with finding, screening and onboarding the SwingSub, and anticipated loss of revenue. This recruitment fee does not apply to SwingSubs who previously worked directly for the School.

5. Term and Termination. Term. This Agreement shall be in effect for one year from the Effective Date, thereafter this Agreement shall automatically renew at the anniversary date of the Effective Date unless provided 30 days prior written notice of the intent to terminate this Agreement by either party.

(a) **Termination for Cause.** Either party may seek Termination for Cause of this Agreement at any time during its term for a breach of obligations under this Agreement. Upon timely written notice of such breach, the breaching party has 30 days to cure such breach to reasonable satisfaction of both parties. Failure to cure the breach after 30 days will allow the aggrieved party to terminate the Agreement immediately upon receipt of such written notice by the aggrieved party.

(b) **Termination.** This Agreement may terminate by election of either party in accordance with the above, or shall terminate naturally if School fails to seek Engagement of any SwingSub for a period of more than 9 months.

(c) **Effect of Termination.** Termination does not extinguish obligations to pay or rights to seek payment for Invoices outstanding under this Agreement. Upon termination, Swing Education shall have 30 days to reconcile all payments due, and return any remaining Account Balance. All or any portion of the Account Balance may be used by Swing Education to (i) cure School's

default in payment of invoices and (ii) pay services completed at the School in advance of the Amount Due being collected from the School.

6. Disclaimer of Warranties. The Services are provided "as is" without any warranty and Swing Education expressly disclaims any and all warranties, express, implied or statutory, including warranties of title, noninfringement, merchantability, and fitness for a particular purpose. Except as expressly set forth herein, Swing Education expressly disclaims, and you expressly release Swing Education from, any and all liability whatsoever for any damages, suits, claims and/or controversies that have arisen or may arise from and/or in any way relate to any acts or omissions of users on or off the Platform, including without limitation the provision of any services by any SwingSub. Furthermore, beyond the Verification set forth above, Swing Education makes no warranty, representation or condition as to the effectiveness, competence, skill, background, record, or behavior of the SwingSubs. You hereby release Swing Education from any and all liability whatsoever for any damages, suits, claims, and/or controversies that have arisen or may arise from and/or in any way relate to any acts or omissions of the SwingSubs while they are engaged by you, on your premises, and/or performing the duties for which you engage with them.

7. Insurance. Swing Education shall, at its own cost and expense, acquire and maintain at all times while Swing Education is providing services to School, sufficient insurance to adequately protect the respective interests of the parties, including:

(a) Commercial General Liability Insurance including Product Completed Operations, Personal Injury and Advertising Injury coverage in the minimum amount of $1,000,000 per occurrence, $2,000,000 aggregate
(b) Umbrella Liability Insurance in the minimum amount of $2,000,000 Each Occurrence and in the Aggregate
(c) Workers' Compensation insurance
(d) Professional (Errors and Omissions) Liability insurance covering Swing Education's legal liability for damages arising out of Swing Education's performance of the services with a minimum insurance coverage amount of $2,000,000 per claim
(e) Sexual Abuse & Molestation insurance of $1,000,000 per occurrence and $3,000,000 in the aggregate

8. Limitation of Liability. Swing Education takes its verification responsibilities seriously, including all the verification listed in Section 1. However, our verification responsibilities are limited to the Services specifically outlined in this Agreement, and we cannot ensure the accuracy of the results we receive from any third party. Each party to this Agreement shall defend, indemnify and hold harmless the other party, including affiliates and each of their respective officers, directors, shareholders, employees, representatives, agents, successors and assigns from and against all claims of third parties, and all associated losses, to the extent arising out of (a) that party's gross negligence or willful misconduct in performing any of its obligations under this Agreement, or (b) a material breach by that party of any of its representations, warranties, or covenants under this Agreement. Except as required by law, neither party will be liable to the other for more than the amount received by Swing Education from you in the twelve month period preceding the date a claim is first asserted.

9. Federal & State Mandated Obligations to SwingSubs Employees/Workers. While Swing Education will be the employer-of-record of SwingSubs, by the nature of the work involved, School determines the schedules of SwingSubs and directs them as to the manner and means of work on a daily basis. Therefore, School agrees to treat SwingSubs as both workers and employees with respect to all federal and state laws protecting the rights of employees, including but not limited to non-discrimination, harassment, timekeeping, overtime, meal and rest periods, fair employment and housing, and sick time.

10. Third-Parties and Subsidiaries. School understands that Swing Education may use third-party personnel and administrative services, including its own subsidiaries, as well as an administrative

organizations (“ASOs”), professional employer organizations (“PEOs”), to carry out its obligations under this Agreement.

11. Entire Agreement. This Agreement constitutes the sole and entire agreement with respect to the subject matter contained herein, and supersedes all others, both written and oral, except as otherwise explicitly provided above. This Agreement is valid only if signed by School within 60 days of the Effective Date listed above.

[*Signature Page Follows*]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the Effective Date by their respective officers thereunto duly authorized.

SWING EDUCATION, INC.

Michael Teng

Michael Teng
CEO

Date: ___5/14/2020_____

Email:
mike@swingeducation.com

Address:
700 S. Claremont Street
San Mateo, CA 94402

SAN LEANDRO UNIFIED SCHOOL DISTRICT:

_____

Name:

Title:

Date:

Exhibit A: Payment Options

Option A - Payment Plan. Under Option A, upon execution of this contract, Swing Education will Invoice the School a Top-Up Amount of $25,000.00, or in the alternative, the Top-Up Amount defined in the Pilot Program below (if offered), which the School will pay within 14 days. The Top-Up Amount will be held by Swing Education as an Account Balance and drawn down as Requests are rendered. Once the School's Account Balance drops below the Minimum Balance of $10,000.00, Swing Education will invoice the Top-Up Amount again. Under Option A, Swing will charge based on a Daily Rate of $240. If the Top-Up Amount is not paid within 14 days, Swing Education reserves the right to immediately discontinue all services, or, in the alternative, to automatically switch the School to Option B. Swing Education will maintain ongoing records of the above transactions, which will be reported to the school at least quarterly. Swing Education reserves the right to change the Top-Amount based on running School usage, i.e., to approximately the dollar amount represented by the previous three months of active School usage (i.e., not including extended holidays).

Option B - Pay As You Go. Under Option B, upon execution of this contract, Swing Education will invoice the School for Amounts Due on a regular basis, but no more than 30 days after each Request. School shall pay all amounts due under each invoice within 30 days of the invoice date. Under Option B, upon execution of this contract, Swing Education will not charge an initial Top-Up Amount. However, if both parties in the future consent to Option A, Swing Education will then invoice the School a Top-Up Amount as described under Option A above. Swing Education will charge based on a Daily Rate of $240. If an invoice is not paid within 30 days, Swing Education reserves the right to immediately discontinue all services.

Appendix A: Standard Terms

1. FERPA Compliance. The Family Educational Rights and Privacy Act ("FERPA") requires that U.S. Schools that receive certain federal funds obtain prior written consent from a parent or guardian of a minor student ("Parent") before disclosing any educational records regarding such student ("Educational Records") to third parties. While Swing Education does not anticipate any disclosure of records, if you are a School and FERPA applies to you, you hereby agree to the following:

(a) You shall designate your selected SwingSub as an "other school official" under FERPA, who has a "legitimate educational interest" in using and accessing such Educational Records, and you hereby represent and warrant that (a) You have obtained all consents necessary in connection with disclosing any Educational Records directly or indirectly to Swing Education, Users, or otherwise in connection with the Services, and (b) Your disclosures described in (a) are not and will not be a violation of FERPA; and

(b) You shall not disclose to Swing Education any information protected by FERPA, and that you shall indemnify and hold harmless Swing Education for any disclosures, inadvertent or otherwise, from you, your authorized users, administrators, teachers, staff, students, or other persons who have access to such information.

2. Dispute Resolution. *Please read this section carefully. It is part of your contract with Swing Education and affects your rights. It contains procedures for MANDATORY BINDING ARBITRATION AND A CLASS ACTION WAIVER.*

(a) ***Applicability of Arbitration Agreement.*** *All claims and disputes (excluding claims for injunctive or other equitable relief as set forth below) in connection with this Agreement or the use of any product or service provided by Swing Education, including the Services, that cannot be resolved informally or in small claims court shall be resolved by binding arbitration on an individual basis under the terms of this Arbitration Agreement. Unless otherwise agreed, all arbitration proceedings shall be held in English. This Arbitration Agreement applies to you and Swing Education, and to any subsidiaries, affiliates, agents, employees, predecessors in interest, successors, and assigns, as well as all authorized or unauthorized users or beneficiaries of services or goods provided under this Agreement.*

(b) ***Notice Requirement and Informal Dispute Resolution***. Before either party may seek arbitration, the party must first send to the other party a written notice of dispute ("Notice") describing the nature and basis of the claim or dispute, and the requested relief. A Notice to Swing Education must be sent to: Michael Teng, CEO, Swing Education, Inc., 700 S. Claremont Street, San Mateo, CA 94402 and mike@swingeducation.com. After the Notice is received, you and Swing Education may attempt to resolve the claim or dispute informally. If you and Swing Education do not resolve the claim or dispute within thirty (30) days after the Notice is received, either party may begin an arbitration proceeding. The amount of any settlement offer made by any party may not be disclosed to the arbitrator until after the arbitrator has determined the amount of the award, if any, to which either party is entitled.

(c) ***Arbitration Rules***. Arbitration shall be initiated through the American Arbitration Association ("AAA"), an established alternative dispute resolution provider ("ADR Provider") that offers arbitration as set forth in this section. If AAA is not available to arbitrate, the parties shall agree to select an alternative ADR Provider. The rules of the ADR Provider ("Arbitration Rules")

shall govern all aspects of the arbitration, including but not limited to the method of initiating and/or demanding arbitration, except to the extent such rules are in conflict with this Agreement. The arbitration shall be conducted by a single, neutral arbitrator. Any claims or disputes where the total amount of the award sought is less than Ten Thousand U.S. Dollars (US $10,000.00) may be resolved through binding non-appearance-based arbitration, at the option of the party seeking relief. For claims or disputes where the total amount of the award sought is Ten Thousand U.S. Dollars (US $10,000.00) or more, the right to a hearing will be determined by the Arbitration Rules. Any hearing will be held in a location within 100 miles of your residence, unless you reside outside of the United States, and unless the parties agree otherwise. If you reside outside of the U.S., the arbitrator shall give the parties reasonable notice of the date, time and place of any oral hearing. Any judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction. Each party shall bear its own costs (including attorney's fees) and disbursements arising out of the arbitration and shall pay an equal share of the fees and costs of the ADR Provider.

(d) ***Additional Rules for Non-Appearance Based Arbitration***. If non-appearance based arbitration is elected, the arbitration shall be conducted by telephone, online and/or based solely on written submissions; the specific manner shall be chosen by the party initiating the arbitration. The arbitration shall not involve any personal appearance by the parties or witnesses unless otherwise agreed by the parties.

(e) ***Time Limits***. If you or Swing Education pursue arbitration, the arbitration action must be initiated and/or demanded within the statute of limitations (i.e., the legal deadline for filing a claim) and within any deadline imposed under the Arbitration Rules for the pertinent claim.

(f) ***Authority of Arbitrator***. If arbitration is initiated, the arbitrator will decide the rights and liabilities, if any, of you and Swing Education, and the dispute will not be consolidated with any other matters or joined with any other cases or parties. The arbitrator shall have the authority to grant motions dispositive of all or part of any claim. The arbitrator shall have the authority to award monetary damages, and to grant any non-monetary remedy or relief available to an individual under applicable law, the Arbitration Rules, and this Agreement. The arbitrator shall issue a written award and statement of decision describing the essential findings and conclusions on which the award is based, including the calculation of any damages awarded. The arbitrator has the same authority to award relief on an individual basis that a judge in a court of law would have. The award of the arbitrator is final and binding upon you and Swing Education.

(g) ***Waiver of Jury Trial***. THE PARTIES HEREBY WAIVE THEIR CONSTITUTIONAL AND STATUTORY RIGHTS TO GO TO COURT AND HAVE A TRIAL IN FRONT OF A JUDGE OR A JURY, instead electing that all claims and disputes shall be resolved by arbitration under this Arbitration Agreement. Arbitration procedures are typically more limited, more efficient and less costly than rules applicable in a court and are subject to very limited review by a court. In the event any litigation should arise between you and Swing Education in any state or federal court in a suit to vacate or enforce an arbitration award or otherwise, YOU AND SWING EDUCATION WAIVE ALL RIGHTS TO A JURY TRIAL, instead electing that the dispute be resolved by a judge.

(h) ***Confidentiality***. All aspects of the arbitration proceeding, including but not limited to the award of the arbitrator and compliance therewith, shall be strictly confidential. The parties agree to maintain confidentiality unless otherwise required by law. This paragraph shall not prevent a party from

submitting to a court of law any information necessary to enforce this Agreement, to enforce an arbitration award, or to seek injunctive or equitable relief.

(i) ***Severability***. If any part or parts of this Arbitration Agreement are found under the law to be invalid or unenforceable by a court of competent jurisdiction, then such specific part or parts shall be of no force and effect and shall be severed and the remainder of the Agreement shall continue in full force and effect.

(j) ***Right to Waive***. Any or all of the rights and limitations set forth in this Arbitration Agreement may be waived by the party against whom the claim is asserted. Such waiver shall not waive or affect any other portion of this Arbitration Agreement.

(k) ***Survival***. This Arbitration Agreement will survive the termination of your relationship with Swing Education.

(l) ***Small Claims Court***. Notwithstanding the foregoing, either you or Swing Education may bring an individual action in small claims court.

(m) ***Emergency Equitable Relief***. Notwithstanding the foregoing, either party may seek emergency equitable relief before a state or federal court in order to maintain the status quo pending arbitration. A request for interim measures shall not be deemed a waiver of any other rights or obligations under this Arbitration Agreement.

(n) ***Claims Not Subject to Arbitration***. Notwithstanding the foregoing, claims of defamation, violation of the Computer Fraud and Abuse Act, and infringement or misappropriation of the other party's patent, copyright, trademark or trade secrets shall not be subject to this Arbitration Agreement.

(o) ***Courts***. In any circumstances where the foregoing Arbitration Agreement permits the parties to litigate in court, the parties hereby agree to submit to the personal jurisdiction of the courts located within San Mateo County, California, for such purpose.

3. General Provisions

(a) **Attorneys' Fees**. The prevailing party in any suit, action or proceeding, including arbitration, arising out of or relating to this Agreement shall be entitled to receive in addition to all other damages, the costs incurred by such party, including reasonable attorneys' fees and expenses and court costs.

(b) **Notices**. All notices, and other communications hereunder (each, a "Notice") shall be in writing and addressed to the parties at the designated email for Notice of a party. A Notice is effective only upon receipt by the receiving party, either at the below or or as designated on the Signature Page.

i. Swing Education Address: Michael Teng, CEO, Swing Education, Inc., 700 S. Claremont Street, San Mateo, CA 94402, mike@swingeducation.com
ii. School Address: See Signature Page

(c) **Severability**. If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

(d) **Waiver**. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. No waiver by any party shall be construed as a waiver of any failure, breach or default not expressly identified by such written waiver. No failure to exercise, or delay in exercising, or any single or partial exercise of any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof.

(e) **Assignment**. Neither party may assign any of its rights or delegate any of its obligations hereunder without the prior written consent of the other party. Any purported assignment or delegation in violation of this Section shall be null and void. No assignment or delegation shall relieve the assigning or delegating party of any of its obligations hereunder.

(f) **Successors and Assigns**. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

(g) **Governing Law**. This Agreement and all matters arising out of or relating to this Agreement shall be governed by and construed in accordance with the laws of the State of California without giving effect to any choice or conflict of law provision or rule (whether of the State of California or any other jurisdiction).

(h) **Counterparts**. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement

(i) **Non-Discrimination.** Swing Education represents that it will exercise equal opportunity in the registration and assignment of all SwingSubs and acknowledges that it shall not subject any person to unlawful discrimination based on race, color, gender, age, religion, national origin, U.S. military veteran status, marital status, sexual orientation, disability, source of income, or political affiliation in programs, activities, services, benefits, or employment in connection with this Agreement. Swing Education agrees not to discriminate on any of these bases in its practices and policies.

(j) **Confidentiality.** Both parties may receive information that is proprietary to or confidential to the other party, or to its affiliated companies and their clients. Both parties agree to hold such information in strict confidence and not to disclose such information to third parties or to use such information for any purpose whatsoever other than performing under this agreement or as required by law. No knowledge, possession or use of School's confidential information will be imputed to Swing Education as a result of a SwingSub's access to such information.

(k) **Employer of Record For Wages.** Swing Education shall be employer of record ("EOR") of SwingSubs for purposes of wages/payroll taxes and workers' compensation. Swing Education may also, in its discretion, provide health and other benefits to SwingSubs.