

## **SJVIA PARTICIPATION AGREEMENT**

THIS AGREEMENT ("Agreement") is made and entered into this 9<sup>th</sup> day of December 2022, by and between **COUNTY OF FRESNO**, a political subdivision of the State of California, hereinafter referred to as "**COUNTY OF FRESNO**," and the **SAN JOAQUIN VALLEY INSURANCE AUTHORITY**, a joint powers agency, hereinafter referred to as "**SJVIA**."

### **WITNESSETH:**

WHEREAS, the purpose of the SJVIA is to develop and provide various health insurance programs for health, pharmacy, vision, dental, mental health and life insurance, including related administrative services for such programs to be provided by the insurance provider(s) and the SJVIA and its agents and consultants (collectively, "Various Benefits"), for the benefit of participating entities; and

WHEREAS, the COUNTY OF FRESNO wishes to participate in the SJVIA Various Benefits for the purpose of purchasing health insurance programs, and/or other benefits in a cost-effective manner for each of the COUNTY OF FRESNO's participating employees; and

WHEREAS, the COUNTY OF FRESNO elects to participate in the selected SJVIA health insurance programs as referenced in Exhibit "A" (collectively, "SELECTED PROGRAMS"); and

WHEREAS, a true and correct copy of a summary of applicable SJVIA health insurance programs is attached hereto and incorporated herein by reference as Exhibit "A"; and

WHEREAS, the SJVIA represents that it will contract with Insurance Providers which will provide its Various Benefits under the terms and conditions of a written contract, including amendments thereof, if any, between the SJVIA and the Insurance Provider (the "Insurance Contract") for each of the COUNTY OF FRESNO's participating employees; and

WHEREAS, the SJVIA represents that the rates for the Various Benefits under the SELECTED PROGRAMS to be provided to COUNTY OF FRESNO under the Insurance Contract and by the SJVIA, including the costs of its agents and consultants, are set forth in Exhibit "B" which is attached hereto and incorporated herein by reference; and

WHEREAS, the COUNTY OF FRESNO and the SJVIA now desire to enter into this Agreement to secure the COUNTY OF FRESNO's commitment to remit premium payments to the SJVIA for the Various Benefits to be provided under the Insurance Contract, and the COUNTY OF FRESNO's portion of the costs of the SJVIA's agents and consultants, as provided herein.

**NOW THEREFORE**, in consideration of their mutual promises, covenants and conditions, the parties agree as follows:

**1. COUNTY OF FRESNO's OBLIGATIONS:** The COUNTY OF FRESNO acknowledges that this agreement requires a commitment to participate in SJVIA Various Benefits effective December 12, 2022 through December 31, 2023, subject to the terms and conditions of this Agreement. Within ten (10) business days of the date that SJVIA is required under the Insurance Contract to pay any insurance premium and/or similar charge to the Insurance Provider, the COUNTY OF FRESNO shall remit to SJVIA the amount necessary to pay the required premium payment based on the intervals of such payments under the Insurance Contract.

The COUNTY OF FRESNO may also participate in SELECTED PROGRAMS as referenced in Exhibit "A" and shall comply with all applicable terms and provisions of the Insurance Contract and this Agreement, effective December 12, 2022. The attached rates in Exhibit "B" reference only the SELECTED PROGRAMS the COUNTY OF FRESNO is electing. Exhibit "B" also references the effective term such rates apply to the COUNTY OF FRESNO which are effective December 12, 2022 through December 31, 2023. The COUNTY OF FRESNO agrees that it may only elect to participate in additional health insurance programs, or elect to make changes to the SELECTED PROGRAMS, through subsequent amendment to this agreement or separate agreement. Subsequent renewals are based on the SJVIA underwriting guidelines.

**2. SJVIA'S OBLIGATIONS:** The SJVIA shall timely approve and execute all Insurance Contracts. Following execution of the Insurance Contracts, (i) SJVIA shall make available the fully-executed copy of the Insurance Contract to COUNTY OF FRESNO, (ii) SJVIA shall enforce SJVIA's rights under the Insurance Contract for the benefit of COUNTY OF FRESNO, (iii) SJVIA shall perform SJVIA's obligations under the terms and conditions of the Insurance Contracts, including making timely payment of premium payments, and/or any similar charges, necessary to keep the Insurance Contracts in full force and effect, and (iv) provide COUNTY OF FRESNO with the then-current total amounts required to be paid by COUNTY OF FRESNO each eligibility period in order for SJVIA to pay any insurance premium and/or similar charge to the Insurance Provider, including the costs of its agents and consultants, allocable to the COUNTY OF FRESNO. The SJVIA represents and covenants to the COUNTY OF FRESNO that the SJVIA shall use actuarially-based underwriting standards with respect to all SJVIA operations.

**3. MODIFICATION:** Any matters of this Agreement may be modified from time to time but only by the written consent of all the parties hereto without, in any way, affecting the remainder hereof. Any proposed modifications to the rates referenced in Exhibit "B" will need approval by the Board of Directors of the SJVIA and the Board of Supervisors of the COUNTY OF FRESNO.

**4. NON-ASSIGNMENT:** Neither party hereto shall assign, transfer, or subcontract this Agreement nor their rights or duties under this Agreement without the prior written consent of the other party hereto.

**5. AUDITS AND INSPECTIONS:** The SJVIA shall at any time during usual SJVIA business hours, upon request by the COUNTY OF FRESNO, and as often as the COUNTY OF FRESNO may deem necessary, make available to the COUNTY OF FRESNO for examination all SJVIA records and data for inspection, examination, and audit by the COUNTY OF FRESNO with respect to the matters covered by this Agreement. SJVIA shall be subject to the examination and audit of the State Auditor General for a period of three (3) years after final payment under contract (Government Code section 8546.7).

**6. NOTICES:** The persons having authority to give and receive notices under this Agreement and their addresses include the following:

COUNTY OF FRESNO

Hollis Magill  
Director of Human Resources  
2220 Tulare St, 16<sup>th</sup> Floor  
Fresno, CA 93721  
Hmagill@fresnocountyca.gov

SJVIA

Lupe Garza  
SJVIA Assistant Manager  
2500 West Burrel  
Visalia, CA 93291  
lugarza@co.tulare.ca.us

Either party may change the information in this section 6 by giving notice as provided in this section 6.

Each notice between the COUNTY OF FRESNO and the SJVIA provided for or permitted under this Agreement must be in writing, state that it is a notice provided under this Agreement, and be delivered either by personal service, by first-class United States mail, by an overnight commercial courier service, by telephonic facsimile transmission, or by Portable Document Format (PDF) document attached to an email, or by email from an authorized email account.

- a. A notice delivered by personal service is effective upon service to the recipient.
- b. A notice delivered by first-class United States mail is effective three sender business days after deposit in the United States mail, postage prepaid, addressed to the recipient.
- c. A notice delivered by an overnight commercial courier service is effective one sender business day after deposit with the overnight commercial courier service, delivery fees prepaid, with delivery instructions given for next day delivery, addressed to the recipient.
- d. A notice delivered by telephonic facsimile transmission or by PDF document attached to an email, or authorized email account, is effective when transmission to the recipient is completed (but, if such transmission is completed outside of the sender's business hours, then such delivery is deemed to be effective at the next beginning of a sender's business day), provided that the sender maintains a machine record of the completed transmission.

For all claims arising from or related to this Agreement, nothing in this Agreement establishes, waives, or modifies any claims presentation requirements or procedures provided by law, including the Government Claims Act (Division 3.6 of Title 1 of the Government Code, beginning with section 810).

**7. GOVERNING LAW:** The parties agree that for the purposes of venue, performance under this Agreement is to be in Fresno County, California. The rights and obligations of the parties and all interpretation and performance of this Agreement shall be governed in all respects by the laws of the State of California.

**8. TERM:** This Agreement shall become effective beginning at 12:01 a.m. on December 12, 2022 and shall terminate on December 31, 2023.

**9. TERMINATION:**

a. The terms of this Agreement, and the health insurance programs, administrative services, and/or SJVIA staff costs to be provided hereunder, are contingent on the approval of funds by the COUNTY OF FRESNO. Should sufficient funds not be allocated, the services provided may be modified, or this Agreement terminated at any time by COUNTY OF FRESNO giving SJVIA at least one hundred twenty (120) days advance written notice.

b. Notwithstanding any other provision of this Article, if the COUNTY OF FRESNO fails to make in full any payment when due pursuant to Article 1, the SJVIA shall have the right, in its sole discretion, to terminate this Agreement, upon at least ten (10) days written notice, effective at the expiration of the last period for which full premium payment was made. Notwithstanding such termination or suspension, the SJVIA, in its sole discretion, may accept late payment or delinquent

amounts and, upon acceptance, this Agreement may be reinstated retroactively to the last date for which full premium payment was made. Any such acceptance of a delinquent payment by the SJVIA shall not be deemed a waiver of this provision for termination of this Agreement in the event of any future failure of the COUNTY OF FRESNO to make timely payments of any amounts due under this Agreement.

**10. INDEPENDENT RELATIONSHIP:** Nothing in this Agreement shall create, or be deemed to create, any relationship of principal-agent, master-servant, employer-employee, partnership, joint venture, or association between SJVIA and COUNTY OF FRESNO. The relationship between SJVIA and COUNTY OF FRESNO under this Agreement is that of independent contractors, with each such party at all times acting in an independent capacity from the other.

**11. SEVERABILITY:** In the event any provisions of this Agreement are held by a court of competent jurisdiction to be invalid, void, or unenforceable, the parties will use their best efforts to meet and confer to determine how to mutually amend such provisions with valid and enforceable provisions, and the remaining provisions of this Agreement will nevertheless continue in full force and effect without being impaired or invalidated in any way.

**12. DISPUTE RESOLUTION:** Any controversy or dispute between the parties arising out of this agreement shall be submitted to mediation. The mediator will be selected by mutual agreement. If the matter cannot be resolved through mediation or if the parties cannot agree upon a mediator the matter shall be submitted to arbitration and such arbitration shall comply with and be governed by the provisions of the California Arbitration Act, of the California Code of Civil Procedure.

**13. NO THIRD-PARTY BENEFICIARIES:** This Agreement does not and is not intended to create any rights or obligations for any person or entity except for SJVIA and COUNTY OF FRESNO.

**14. ENTIRE AGREEMENT:** This Agreement constitutes the entire agreement between the SJVIA and COUNTY OF FRESNO with respect to the subject matter hereof and supersedes all previous agreement negotiations, proposals, commitments, writings, advertisements, publications, and understandings of any nature whatsoever unless expressly included in this Agreement.

**15. COUNTERPARTS:** This Agreement may be executed in one or more original counterparts, all of which together will constitute one and the same agreement.

(Go to next page for signatures)

**SJVIA PARTICIPATION AGREEMENT**  
**BETWEEN COUNTY OF FRESNO AND THE**  
**SAN JOAQUIN VALLEY INSURANCE AUTHORITY**

**SAN JOAQUIN VALLEY INSURANCE  
AUTHORITY:**

By: \_\_\_\_\_  
Steve Brandau  
SJVIA Board President

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

**COUNTY OF FRESNO:**

By: \_\_\_\_\_  
Brian Pacheco  
Chairman of the Board of Supervisors of  
the County of Fresno

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

**REVIEWED & RECOMMENDED  
FOR APPROVAL**

By: Lupe Garza  
Lupe Garza  
SJVIA Assistant Manager

**ATTEST:**

Bernice E. Seidel  
Clerk of the Board of Supervisors  
County of Fresno, State of California

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