

SJVIA PARTICIPATION AGREEMENT

This agreement is dated _____ and is between [NAME OF PARTICIPATING ENTITY], a [type of entity] (“Participating Entity”), and the SAN JOAQUIN VALLEY INSURANCE AUTHORITY, a joint powers agency (“SJVIA”).

The SJVIA negotiates, purchases, or otherwise funds health, pharmacy, vision, dental, and life insurance (each an “Insurance Program,” and collectively “Insurance Programs”).

The SJVIA makes Insurance Programs available to participating entities, subject to the terms and conditions of an agreement by each participating entity to pay for its respective costs for the Insurance Programs in which it participates.

To carry out that purpose, the SJVIA enters into contracts with health insurance providers for Insurance Programs that are made available to participating entities. (Each of those contracts is an “Insurance Contract.”)

The SJVIA also provides public agencies, such as Participating Entity, access to **Insurance Programs**. Each year, the claims experience of all participating entities is aggregated and actuarially based underwriting standards are applied to determine the total projected cost of continuing to provide Insurance Programs during the upcoming renewal year. Based on that information, the SJVIA Board of Directors annually establishes premium rates for participating entities.

The Participating Entity wishes to participate in the Insurance Programs listed in exhibit A to this agreement (“**Selected Programs**”) for its participating employees.

The parties therefore agree as follows:

Article 1 Participating Entity’s Obligations

1.1 **Participation in Selected Programs.** Employees and dependents of the Participating Entity may participate in the Selected Programs, subject to (a) eligibility criteria established in each applicable Insurance Contract, (b) the terms and conditions of this agreement, and (c) the lawful terms and conditions established by Participating Entity for its employees.

1.2 **Premium Amounts.** Exhibit B to this agreement states the premium rates for the Participating Entity for the plan year initially covered by this agreement, which includes the period from _____ to _____. Participating Entity acknowledges that premium rates include a share of the SJVIA’s administrative expenses. Premium rates for subsequent plan years are established by the SJVIA Board of Directors and memorialized by written amendment to this agreement signed by both parties. Participating Entity acknowledges that the SJVIA Board of Directors annually establishes premium rates for participating entities.

1.3 **Premium Payments.** Premium payments under this agreement are due on the first day of the month for which coverage is provided under Selected Programs and are delinquent if

not paid within 15 calendar days after the due date. The Participating Entity understands and acknowledges that its failure to make full and timely premium payments under this agreement may result in a failure of coverage under Selected Programs.

1.4 **Insurance Contract Requirements.** The Participating Entity shall perform under this agreement consistently with the terms of each applicable Insurance Contract and shall not take any action that would impair the rights of the SJVIA, or of the Participating Entity through the SJVIA, under each applicable Insurance Contract. If any other section of this agreement conflicts with the requirements of this section 1.4, the requirements of this section take precedence.

1.5 **Changes to Selected Programs.** The Participating Entity may only participate in additional Insurance Programs, or make changes to Selected Programs, by written amendment to this agreement signed by both parties.

1.6 **Assessments.** If the Selected Programs are not adequately funded for any reason, the SJVIA may impose an assessment on the Participating Entity to ensure necessary funding for the Selected Programs. Assessments shall only be made upon determination and approval of the SJVIA Board of Directors after considering alternatives, including factoring inadequate funding into renewal rates. The Participating Entity is obligated to pay assessments under this section for 12 months after the end of participation in the SJVIA.

1.7 **Information, Assistance, Cooperation.** The Participating Entity shall provide to the SJVIA information or assistance that the SJVIA, in its sole discretion, deems necessary to develop and implement the Selected Programs. The Participating Entity shall cooperate with and assist the SJVIA, any insurer or insurance provider to the SJVIA, and other contractors of the SJVIA in all matters relating to this agreement, and shall comply with all bylaws, if any, and other rules or policies established by the SJVIA Board of Directors. Nothing in this section requires the Participating Entity to disclose information whose disclosure is prohibited by federal, state, or local law or regulation.

Article 2 SJVIA's Obligations

2.1 **Insurance Contracts.** The SJVIA shall negotiate, approve, and execute Insurance Contracts for the Selected Programs. In doing so, the SJVIA is not acting on behalf of, or as an agent for, the Participating Entity or the employees of the Participating Entity. Nothing in this agreement obligates the SJVIA to maintain any particular Insurance Contracts, or any particular terms or conditions of any Insurance Contracts, in any future plan years.

2.2 The SJVIA shall make available to the Participating Entity a copy of each applicable fully-executed Insurance Contract.

2.3 **Renewal Rates.** The SJVIA will make reasonable efforts to adopt renewal rates at least 120 days before the beginning of the plan year.

2.4 **Enforcement of Rights.** The SJVIA shall enforce its rights under each applicable Insurance Contract for the benefit of the Participating Entity. In doing so, the SJVIA is not acting as an agent for the Participating Entity or the employees of the Participating Entity.

2.5 **Conditional Obligations.** The SJVIA shall perform its obligations under each applicable Insurance Contract, including timely payment of premiums and any similar charges, necessary to keep each applicable Insurance Contract in full force and effect. The obligation of the SJVIA to pay premiums and similar charges under this section 2.4 is contingent on the Participating Entity's payment of premiums to the SJVIA as required by this agreement. The SJVIA's payment of any premium or similar charge under any applicable Insurance Contract while the Participating Entity is in breach of any payment obligation under this agreement is not a waiver of that obligation.

2.6 **Records and Data.** The SJVIA shall maintain all records and data with respect to the matters covered by this agreement for a minimum of three years, or a longer period if required by law, from the termination of this agreement. For purposes of audits and inspections, at any time during business hours as the Participating Entity requests during the term of this agreement, the SJVIA shall make available to the Participating Entity the SJVIA's records and data with respect to the matters covered by this agreement. Nothing in this section requires the SJVIA to disclose records or data whose disclosure is prohibited by federal, state, or local law or regulation.

Article 3 Term and Termination

3.1 **Term.** This agreement is effective on _____ and terminates on _____. If the Participating Entity expects to discontinue its participation in the SJVIA after that termination date, it shall provide written notice of nonrenewal to the SJVIA delivered not less than 120 days before the beginning of the next plan year. Participating Entity acknowledges that failure to give such notice may result in an assessment as provided in section 1.6 of this agreement.

3.2 **Termination for Non-Allocation of Funds.** The Participating Entity's obligations under this agreement are contingent on the approval of funds by the appropriating government agency or agencies. If sufficient funds are not allocated for a future plan year, then the Participating Entity may terminate this agreement upon written notice to the SJVIA delivered not less than 120 days before the beginning of the next plan year.

3.3 **Termination for Breach; Reinstatement.**

(A) Upon determining that the Participating Entity has failed to comply with any part of this agreement, the SJVIA Manager may give written notice of the breach to the Participating Entity. The written notice shall provide a reasonable time for the Participating Entity to cure the breach.

(B) If the Participating Entity fails to cure the breach within the reasonable time stated in the written notice, the SJVIA may terminate this agreement without further

notice, effective at the expiration of the last period for which full premium payment is made under each applicable Insurance Contract.

(C) If the SJVIA has terminated this agreement under this section 3.3 due to the Participating Entity's failure to make premium payments under this agreement, the SJVIA may, in its sole discretion, and subject to each applicable Insurance Contract, accept late or delinquent premium payments. Upon acceptance of such payments by the SJVIA, this agreement may be reinstated retroactively to the last date for which full premium payment was made under each applicable Insurance Contract. The SJVIA's acceptance of any such payments is not a waiver of the SJVIA's right to terminate this agreement if the Participating Entity later fails to pay premiums or any other amounts due under this agreement.

Article 4 Notices

4.1 **Contact Information.** The persons and their addresses having authority to give and receive notices provided for or permitted under this agreement include the following:

For the SJVIA:

SJVIA Manager
SAN JOAQUIN VALLEY INSURANCE AUTHORITY
[Street Address]
[City, State ZIP]
[Fax Number]

For the Participating Entity:

[Name if Desired]
[Title]
[ORGANIZATION]
[Street Address]
[City, State ZIP]
[Fax Number]

4.2 **Method of Delivery.** All notices between the SJVIA and the Participating Entity provided for or permitted under this agreement must be in writing and delivered either by personal service, by first-class United States mail, by an overnight commercial courier service, or by telephonic facsimile transmission.

(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 SJVIA 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 on County 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 is effective when transmission to the recipient is completed (but, if such transmission is completed outside of SJVIA business hours, then such delivery shall be deemed to be effective at the next beginning of a SJVIA business day), provided that the sender maintains a machine record of the completed transmission.

4.3 **Claims Presentation.** 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 but not limited to the Government Claims Act (Division 3.6 of Title 1 of the Government Code, beginning with section 810).

Article 5 General Provisions

5.1 **Modification.** This agreement may not be modified, and no waiver is effective, except by another written agreement that is signed by both parties.

5.2 **Non-Assignment.** Neither party may assign its rights or delegate its obligations under this agreement without the prior written consent of the other party.

5.3 **Governing Law.** The laws of the State of California govern all matters arising from or related to this agreement.

5.4 **Jurisdiction and Venue.** This agreement is signed and performed in Fresno County, California. The Consultant consents to California jurisdiction for actions arising from or related to this agreement, and, subject to the Government Claims Act, all such actions must be brought and maintained in the Fresno County Superior Court.

5.5 **Alternative Dispute Resolution.** If a dispute arises out of or relating to this Agreement, or the breach thereof, and if said dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by non-binding mediation before resorting to litigation or some other dispute resolution procedure, unless the parties mutually agree otherwise. The mediator shall be mutually selected by the parties, but in case of disagreement, the mediator shall be selected by lot from among two nominations provided by each party. All costs and fees required by the mediator shall be split equally by the parties, otherwise each party shall bear its own costs of mediation. If mediation fails to resolve the dispute within 30 days, either party may pursue litigation to resolve the dispute.

5.6 **Construction.** The final form of this agreement is the result of the parties' combined efforts. If anything in this agreement is found by a court of competent jurisdiction to be ambiguous, that ambiguity is to be resolved by construing the terms of this agreement according

to their generally accepted meaning, and not by construing the terms of this agreement for or against either party.

5.7 **Headings.** The headings and section titles in this agreement are for convenience only and are not part of this agreement.

5.8 **Severability.** If anything in this agreement is found by a court of competent jurisdiction to be unlawful or otherwise unenforceable, the balance of this agreement remains in effect.

5.9 **Entire Agreement.** This agreement is the entire agreement between the Participating Entity and the SJVIA with respect to the subject matter of this agreement, and it supersedes all previous negotiations, proposals, commitments, writings, advertisements, publications, and understandings of any nature unless those things are expressly included in this agreement.

5.10 **Third-Party Beneficiaries.** This agreement does not and is not intended to create any rights or obligations for any person or entity except for the parties.

5.11 **Authorized Signatures.** The Participating Entity represents and warrants to the SJVIA that:

(A) The Participating Entity is duly authorized and empowered to sign and perform its obligations under this agreement.

(B) The individual signing this agreement on behalf of the Participating Entity is duly authorized to do so and his or her signature on this agreement will legally bind the Participating Entity to the terms of this agreement.

5.12 **Counterparts.** This agreement may be signed in counterparts, each of which is an original, and all of which together constitute this agreement.

[SIGNATURE PAGE FOLLOWS]

The parties are signing this agreement on the date stated in the introductory clause.

PARTICIPATING ENTITY

SAN JOAQUIN VALLEY INSURANCE
AUTHORITY

(Authorized signature)

[Name of President]

(Print name and title)

President, Board of Directors

Reviewed and recommended for approval.

SJVIA Manager

TEMPLATE