

# INVESTMENT ADVISORY SERVICES AGREEMENT



This Agreement is made this \_\_\_\_\_ {DATE}, by and between Voya Retirement Advisors, LLC ("VRA") and the PLAN SPONSOR of the \_\_\_\_\_ {PLAN NAME} (the "Plan"), a qualified defined contribution plan maintained for the benefit of the participants and beneficiaries thereof;

**WHEREAS**, under the terms of the Plan, participants are entitled to direct the investment of their account balances under the Plan among the investment options available under the Plan;

**WHEREAS**, the Plan Sponsor has designated certain of such investment options as being subject to the investment advice services contemplated hereunder (the "Designated Investment Options");

**WHEREAS**, certain of the Designated Investment Options may be managed for a fee by affiliates of VRA and/or may provide for the payment of shareholder servicing fees or other revenue sharing amounts to VRA or its affiliates;

**WHEREAS**, VRA's affiliates will also provide various services with respect to the Plan including participant recordkeeping services pursuant to a separate services agreement;

**WHEREAS**, VRA is registered as an investment advisor under the Investment Advisers Act of 1940, as amended (the "Advisers Act"); and

**WHEREAS**, the Plan Sponsor desires to appoint VRA to provide investment advisory services to participants and beneficiaries under the Plan on the terms and conditions stated herein, and VRA desires to provide such services;

**NOW THEREFORE**, the Parties hereto agree as follows:

## 1. Investment Advisory Services

The Plan Sponsor hereby appoints VRA, and VRA hereby agrees, to provide individualized investment advice and account management services (the "Program") to participants and beneficiaries under the Plan ("Participants") in connection with the investment of their account balances under the Plan (collectively, the "Accounts") among the Designated Investment Options. Such Participant investment advice will be provided by VRA in the manner described in Exhibit A ("Investment Advisory Services), including the utilization of Morningstar Investment Management, LLC ("Morningstar") as described therein.

**2. No Discretionary Authority.** The Plan Sponsor hereby agrees and acknowledges that VRA does not intend to exercise discretionary authority with respect to either (i) the selection of the Designated Investment Options or any other investment options available under the Plan or (ii) the investment of the assets in the Accounts under the terms of this Agreement, it being understood that all discretionary decisions relating to the selection of the Designated Investment

Options and any other investment options available under the Plan will be made by the Plan Sponsor or such other fiduciary as is allocated such responsibility under the Plan and all discretionary decisions relating to the investment of the assets in the Accounts will be made by the Participants. Notwithstanding the foregoing, if VRA or its agents actually exercise discretionary authority with regard to the services provided under this Agreement, VRA acknowledges that it will retain liability for all such actions for which discretion was exercised.

## 3. Acknowledgements and Representations of VRA

VRA hereby acknowledges and represents to the Plan Sponsor that:

(a) it is duly registered as an investment advisor under the Advisers Act and that such registration will remain in effect during the course of this Agreement;

(b) with respect to the services provided under this Agreement, it is a fiduciary of the Plan within the meaning of Section 3(21) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA");

(c) it is not subject to any of the disqualifications set forth in Section 411 of ERISA;

(d) it is duly organized, validly existing, and in good standing under the laws of the state in which it is organized, and has the power and authority to carry on its business as it is now being conducted;

(e) VRA carries and maintains, at its own cost and expense, commercially reasonable insurance coverage appropriate for its obligations under this Agreement, which may include, without limitation, errors/omissions, general commercial liability, coverage for cybersecurity and data/privacy breaches, and a fidelity bond as described in Section 412 of ERISA, and will provide upon request a verification of VRA's insurance types, limits, and carrier of each type of insurance coverage held by VRA.

(f) Morningstar has represented to VRA that (i) it is independent from VRA and its affiliates and (ii) there is no financial interest (e.g. compensation, fees, etc.), ownership interest, or other relationship, agreement or understanding between Morningstar and VRA that would limit the ability Morningstar to carry out its responsibility beyond the control, direction or influence of VRA;

(g) the services provided under this Agreement are intended to comply with Department of Labor Advisory Opinion 2001-09A and VRA has received a legal opinion, as may be amended from time to time, that the services do comply with such Advisory Opinion;

(h) this Agreement has been duly executed and delivered on behalf of VRA and is a legal and binding obligation of VRA enforceable in accordance with its terms.

#### **4. Acknowledgements and Representations of Plan Sponsor**

The Plan Sponsor hereby acknowledges and represents to VRA that:

(a) the execution and performance of this Agreement will not violate any provision of the governing documents of the Plan or require the Plan to obtain any consent or waiver not heretofore obtained;

(b) the Plan Sponsor is duly authorized to enter into this Agreement on behalf of the Plan and this Agreement is a legal and binding obligation of the Plan Sponsor and the Plan, enforceable in accordance with its terms;

(c) the Plan Sponsor has received a copy of Voya Retirement Advisors, LLC's most recently amended Disclosure Statement (Part II of VRA's Form ADV), or other document containing at least the information required in Part II, in advance of executing this Agreement; and

(d) the Plan Sponsor has reviewed the manner in which VRA will provide investment advice hereunder, and understands that such advice, if followed by the Participants, may result in the receipt of additional revenue by VRA and its affiliates.

#### **5. Standard of Care**

VRA will discharge its duties hereunder (i) with the degree of care, skill, prudence and diligence required under the circumstances that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims and (ii) as otherwise required by ERISA and other applicable laws.

#### **6. Limitation of Liability**

VRA will have no liability whatsoever under this Agreement and will not be responsible under this Agreement for any loss (including attorney's fees) or other damages that result solely from:

(a) a breach of fiduciary duty of the Plan Sponsor;

(b) incorrect data provided to VRA or Morningstar by the Plan Sponsor (or any of its employees or agents) or by a Participant;

(c) any failure by the Plan Sponsor or an unaffiliated Plan administrative service provider to process Participant investment instructions completely or accurately; or

(d) the selection and composition of the Designated Investment Options or any other investment options available under the Plan.

The preceding sentence will not relieve VRA or any of its affiliates of any responsibility or liability they may have or incur by reason of any other contractual relationship with respect to, or any other services provided to, the Plan, including any and all costs incurred or associated with a breach of this Agreement. By way of example (and not limitation), costs associated with an information security breach that results in the unauthorized disclosure of participant information may include costs related to sending communications to affected participants, providing notification to relevant authorities, investigating and remediating the security breach (including attorney or other outside consulting fees), and/or providing credit monitoring or identity theft protection services to affected participants.

#### **7. Fees**

The compensation for all services to be rendered by VRA hereunder will be determined as provided in the fee schedule attached hereto as Exhibit B. All fees are due and payable by the Plan within 30 days after the date of invoice. The Plan Sponsor agrees to pay such fees to VRA or cause the Plan to pay such fees in a timely manner. VRA will be responsible for the payment of any compensation due to Morningstar Investment Management in connection with the investment advisory services provided hereunder.

In exchange for such fees, participants and beneficiaries of the Plan will receive unlimited access to the Advice Service and investment advisor representatives for advice, guidance, help and support using the online advisor and enrollment in the managed account program.

## 8. Term and Termination

The term of this Agreement shall be from the Agreement Date until the earlier of (i) the termination of this Agreement or (ii) the termination of the agreement between Plan Sponsor and an affiliate of VRA that provides for the affiliate's provision of recordkeeping and related administrative services to the Plan. This Agreement, may be terminated on at least 90 days' prior written notice by either party. This Agreement also may be terminated immediately by the Plan Sponsor upon written notice to VRA if the Plan Sponsor determines in good faith that the continuation of this Agreement is not or may not be consistent with its fiduciary duties under ERISA or other applicable law, and either party may terminate this Agreement upon written notice in the event of Default by the other party.

As used herein, "Default" by a party means the party's failure to meet any of its material obligations under the Agreement (other than the obligation to make payments) and to correct its failure within thirty (30) days after written notice of the failure; and in the case of the Plan Sponsor, Default also means the Plan Sponsor's failure to meet any payment obligations hereunder and to correct its failure within ten (10) days after VRA notifies the Plan Sponsor in writing of the failure.

## 9. Confidentiality

All investment information and advice furnished by each party to the other party or by a Participant to VRA or its affiliates or Morningstar will be treated as confidential and shall not be disclosed to third parties except as required by law. Notwithstanding the foregoing, the Plan Sponsor acknowledges and agrees that VRA will disclose to Morningstar such information concerning the Plan, the Accounts, and the Participants as is deemed necessary by VRA for Morningstar to provide services as contemplated by this Agreement; however, Morningstar shall maintain the confidentiality of such information on the same basis as if the information was provided by the Plan or its Participants. VRA shall be responsible for any breaches of this Agreement by Morningstar.

## 10. Reports

As part of its included and ongoing Program services, VRA will furnish the Plan Sponsor with such periodic reports as described in Exhibit C, or other information as may be required by applicable law or as the Plan Sponsor may reasonably request. However, VRA will not be responsible for the accuracy of any information furnished to VRA or Morningstar by the Plan Sponsor (or any of its employees or agents) or any of the Participants.

## 11. Miscellaneous

### (a) No Assignment

No assignment of this Agreement under Section 205(a)(2) of the Advisors Act and the applicable regulations and interpretations thereunder may be made by VRA without the prior written consent of the Plan Sponsor. Notwithstanding the foregoing, Plan Sponsor hereby consents to any future assignment of this Agreement from VRA to an affiliated registered investment advisor provided (i) that any required regulatory disclosure is furnished to the Plan Sponsor at least sixty (60) days in advance of any actual assignment, (ii) VRA will provide Plan Sponsor with any due diligence or other information concerning the affiliated registered investment advisor reasonably requested by Plan Sponsor, and (iii) such assignment is not accompanied by a material change to the services described in Exhibit A.

### (b) Entire Agreement; Amendment

This Agreement (including any Exhibits attached hereto) constitutes the entire understanding of the Parties relating to the subject matter hereof. Except as permitted in Section 11(a), this Agreement may be amended or assigned only by a written instrument with mutual agreement of the Parties hereto. Notwithstanding the foregoing, VRA may amend Exhibit A, in its sole discretion, upon 90 days' prior written notice to the Plan Sponsor, provided that in the event of a material reduction in services, as determined by the Plan Sponsor, the Parties will also negotiate fair and proportionate reductions to the fees set forth in Exhibit B.

### (c) Survival

The provisions of Sections 6, 9, and this Section 11 shall survive the termination of this Agreement.

### (d) Binding Agreement

This Agreement will be binding upon, and inure to the benefit of, the Parties and their respective successors, permitted assigns, heirs and legal representatives.

### (e) Governing Law

This Agreement shall be governed, interpreted, and enforced in accordance with the laws of the Commonwealth of Massachusetts, without regard to principles of conflicts of law, except that when federal law exists on substantive matters requiring construction under this Agreement, such federal law shall apply in lieu of state law. Notwithstanding the foregoing and to the extent not superseded by federal law, for purposes of VRA's status as a registered investment advisor or the advisory services it provides, this Agreement shall be construed and enforced in accordance with the laws of the Commonwealth of Massachusetts without regard to conflicts of law principles.

(f) Force Majeure

Notwithstanding anything else in this Agreement, and except for payment obligations hereunder, a party's failure to perform any of its obligations under this Agreement shall be excused if and to the extent such failure arises out of causes beyond the reasonable control of the nonperforming party, provided that the party charged with such default must continue to use all commercially reasonable efforts to overcome such force majeure. Such causes may include, but are not restricted to, (i) acts of God or the public enemy, acts of the government in either its sovereign or contractual capacity, acts of terrorism or war, fires or other loss of facilities, floods, epidemics, quarantine restrictions, strikes, freight embargoes, failure of a common carrier, breach of contract by suppliers or others, computer downtime, telephone system outage, delays or failures of access involving the Internet, World Wide Web or similar services including network traffic and configuration problems therewith, or unusually severe weather, labor disputes, and call demand in excess of telephone capacity or operator capacity and similar occurrences; or (ii) the acts or omissions of the other party.

IN WITNESS WHEREOF, this Agreement has been executed by the parties as of the date first set forth above.

PLAN SPONSOR

VOYA RETIREMENT ADVISORS, LLC

By \_\_\_\_\_

By Christopher E. Trovato \_\_\_\_\_

Christopher E. Trovato

Its \_\_\_\_\_

Its Vice President, Voya Retirement Advisors \_\_\_\_\_

**EXHIBIT A**  
**Description of Services**

VRA will provide individualized participant investment advice and account management services (the “Program”) over the telephone through its investment advisor representatives (“Call Center”), via the internet called Online Advice (“OA”), and on personalized statements distributed periodically (“Statements”) regarding the investment options under the Plan that has been designated by the Plan Sponsor as being subject to such investment advice services (the “Designated Investment Options”).

The Program may consider all reported assets of the individual and his or her spouse/partner in providing retirement forecasts and advice or explain why the assets are excluded from the forecast. The Program will provide recommendations to the individual as to the investments available to him or her under the Plans. In addition, with respect to Internet accessed advice, the Plan Sponsor may elect to allow individuals to be advised as to multiple tax-deferred accounts and/or other accounts. Target retirement/target date funds are designed to be used as a single investment choice for participants, VRA will follow the analysis and recommendation of Morningstar with regard to the treatment of these funds. The Program does not include any buy/sell recommendations with respect to individual securities, such as a stock or bond.

With respect to the investment advice delivered by Statements, the Call Center or the Internet, VRA has engaged an unrelated, independent financial expert/sub-adviser, Morningstar Investment Management, LLC (“Morningstar”), to generate the specific portfolio recommendations for Participants in the Program. Morningstar will develop, implement, and maintain a computer program to provide Internet or intranet-based financial advisory services to the Participants. VRA will have no responsibility for or involvement in, the development of such computer program; provided, however, that VRA or its affiliates may provide certain background information to Morningstar. This computer program will analyze Participant portfolios, market conditions, and designated investment options available under the Plans, as well as information provided by the Participant through an electronic questionnaire developed by Morningstar or through telephone communication with VRA retirement advisor representatives based on questions developed by Morningstar (as described below). Based on this analysis, the computer program will generate specific portfolio recommendations for the Participants as to the allocation of their account balances under the Plan among the Designated Investment Options. These portfolio recommendations will be delivered to Participants by VRA via the internet, Call Center and/or through the mailing of Statements.

The Program will be tailored to the Plan in accordance with background information provided by VRA to Morningstar. The Program will be provided through a web-based link to Morningstar’s website or indirectly through VRA’s Call Center. VRA will maintain a Call Center that will be made available to Participants in addition to access through the Internet via the Online Advice tool. The Call Center will act solely as a non-discretionary conduit for the communication of the information required of the Participant under the Program, to Morningstar and for the communication of the investment advice generated by Morningstar to the Participant. In obtaining the information required of the Participant, the Call Center representative will use a questionnaire that has been developed by Morningstar. The Call Center personnel or the Statements will not make any investment recommendations to the Participants (other than communicating the output of Morningstar’s computer program) or take any other action designed to influence the investment recommendation generated by the Program or the investment decisions ultimately made by the Participants.

The Program will be based upon the application of economic models and formulae developed by Morningstar that are not specific to VRA, the Plan or the Designated Investment Options and that are based on generally accepted financial planning and investment principles. VRA will have no role in the development, maintenance or oversight of the software and technology used in the Program, which responsibility will be exclusively the responsibility of Morningstar. All investment advice provided under the Program will be the product of the application of the foregoing computer program, considering the Designated Investment Options under the Plan and the individual participant data as provided by the Participant, the Plan Sponsor or the Plan recordkeeper. Neither VRA nor any of its affiliates will have any discretion regarding the output of such computer program. The advice communicated to Participants will not be accessible to VRA, except to the extent that VRA will be aware of such result through the operation of the Call Center. The computer program utilized by Morningstar under the Program will be developed and implemented by computer programmers engaged by Morningstar each of whom will be independent of VRA and its affiliates.

As part of the Program, Plan Participants may also have access to additional investment related education and guidance, as made available by VRA at no additional cost to Plan Sponsor or Plan Participants. Such education and/or guidance may include information, materials and/or analysis on retirement and financial planning related matters (e.g., Social Security claiming strategies, Medicare information and choice structure).

**Professional Management (PM)**

VRA will also provide a managed account option called Professional Management (“PM”). For purposes of this service, VRA shall act as an investment manager as defined under Section 3(38) of ERISA. Participants may either call VRA or read the Fact Sheet or Disclosure Statement to learn about PM and applicable fees. VRA will provide Participants with a portfolio recommendation,

investment allocation and contribution recommendation that considers the number of years from their current age and assumed retirement age and a suitable level of risk. Participants will also be provided with a forecast of their current investment risk and retirement account value and/or income. PM is delivered by VRA online, through personalized statements and by its investment advisor representatives who may be contacted by calling the Plan's toll-free information line. VRA may provide Participants with a recommendation regarding a suitable level of retirement savings and investment allocation and recommendations that consider their retirement goals and time horizon. Participants enrolled in PM may also be provided a personalized risk assessment and forecast of retirement wealth and income and the probability of achieving their financial goals.

Participants who enroll in the PM program will authorize VRA to collect the PM fee from their accounts and to provide ongoing management of their account which may include periodic increases of contributions to their accounts, periodic rebalancing/reoptimizing investment allocations and adjusting the portfolio risk level and resulting allocation over time based on their changing retirement time horizon, within prescribed specifications, as presented by VRA and agreed to by the Participant.

VRA will pay Morningstar compensation for its services in connection with the Program. The amount of such compensation will not be affected in any way by the investment advice provided by Morningstar under the Program or by the manner in which the assets in Participants' accounts are ultimately invested by the Participants.

The Plan Sponsor will be provided on an on-going basis with periodic written report not less frequently than semi-annually concerning the Program.

Information regarding (i) fees and expenses paid or received by VRA or its affiliates with respect to any of the Designated Investment Options and (ii) any proposed increases in any of such fees shall be provided by the Plans' recordkeeper, Voya Retirement and Annuity Company.

**EXHIBIT B**  
**Fee Agreement**

This fee agreement summarizes the fees that will be paid to Voya Retirement Advisors, LLC ("VRA"), in connection with its providing investment advisory and managed account services to the participants of the Plan. These fees include:

<b>Set-up Fee</b> – investment modeling and administrative committee review of employer-sponsored plan(s), Advisor customization and addition of the Professional Account Manager program. This fee will be paid by the Sponsor to VRA and will be paid upon signing of the Investment Advisory Services Agreement. This fee represents a one-time fee for set-up and testing the plan data connection, customizing the services to reflect the Plan specifications, establishing unique identifiers for all plan eligible employees, and review, analysis and modeling of plan investment options.	<b>Included</b>
<b>Unlimited access to the VRA powered by Morningstar Online Advice Service and investment advisor representatives for advice, guidance, help and support using the online service and enrollment in the managed account program.</b>	
<b>Professional Management Fee</b> – This fee is calculated quarterly based on the account balance of participants who enroll in the program. Fees are charged to participants' accounts each quarter subject to the tiered fee schedule below.	<b>Fees are charged to participants' accounts quarterly pursuant to the fee schedule below with any partial months being subject to a prorated fee.</b>

Professional Management - Fee Schedule*				
Select one (X)	Plan Asset Range	Single Tier or Multi-Tiered Annual Fee (deducted Quarterly) Select one (X)		
<input type="checkbox"/>	Less than \$3M	<input type="checkbox"/> 60 bps	<input type="checkbox"/>	First \$100,000 65 bps Next \$150,000 55 bps Over \$250,000 45 bps
<input type="checkbox"/>	\$3M to less than \$10M	<input type="checkbox"/> 55 bps	<input type="checkbox"/>	First \$100,000 60 bps Next \$150,000 50 bps Over \$250,000 40 bps
<input type="checkbox"/>	\$10M to less than \$75M	<input type="checkbox"/> 50 bps	<input type="checkbox"/>	First \$100,000 55 bps Next \$150,000 45 bps Over \$250,000 35 bps
<input type="checkbox"/>	\$75M to less than \$250M	<input type="checkbox"/> 45 bps	<input type="checkbox"/>	First \$100,000 50 bps Next \$150,000 40 bps Over \$250,000 30 bps
<input type="checkbox"/>	\$250M to less than \$1B	<input type="checkbox"/> 40 bps	<input type="checkbox"/>	First \$100,000 45 bps Next \$150,000 35 bps Over \$250,000 25 bps
<input type="checkbox"/>	Over \$1B	<input type="checkbox"/> 35 bps	<input type="checkbox"/>	First \$100,000 40 bps Next \$150,000 30 bps Over \$250,000 20 bps

*\*This Fee Schedule is contingent on the transfer of all Participant assets in the Plan's managed accounts program at the time of the Plan's transfer to the Voya recordkeeping platform to Professional Management as part of the Plan's implementation process at Voya. In the event that Plan Sponsor elects not to transfer the assets as outlined in the preceding paragraph, the parties will amend this Exhibit to replace the Fee Schedule.*

**EXHIBIT C**  
**Communication and Education Material**

The following core communication package shall be included in the standard launch (and ongoing where indicated) at no additional charge:

- a. Annual Progress Report (provided to Plan Sponsor)
- b. Annual awareness campaign (required)
- c. Quarterly Progress Reports via e-mail for participants using the Manage My Plan (ongoing)
- d. Content and links on the Plan Participant Web site
- e. Statement messaging

**The following services and materials are available for additional fees:**

- 1. Handling and postage for mailing Communication and Education materials to participants
- 2. On-site meetings – Travel & Expenses plus \$750 per Advisor per day or as mutually agreed



**Exhibit D**  
**Requested Plan Details**

**Temporary Investment Instructions**

**This section should be completed only for Voya Corporate Market Plans** who elect to integrate the Investment Advisory Services as an election option during plan enrollment. If not completed then the Voya Fixed Account will be the Plan's temporary investment.

☐ The plan's temporary investment option will be:

*Fund Name, Fund Number* \_\_\_\_\_

*Temporary Investment Option must be a currently available investment option under the Plan, other than a Voya Solution Portfolio, Solution Index Portfolio, or Lifestyle Portfolio.*

The Plan Sponsor has chosen the investment option above to hold any balances or contributions that may be applied to Plan participant accounts between the time they elect the Program and when Voya receives and processes the investment allocation instructions provided by Morningstar.