

**ERISA PLAN ADVISORY AGREEMENT**

Plan Sponsor: \_\_\_\_\_  
[Name]  
\_\_\_\_\_  
[Address]  
\_\_\_\_\_  
\_\_\_\_\_

Plan: \_\_\_\_\_  
[Name of Plan]

Investment Adviser: FiduciaryPlanReview.com, LLC  
2300 M Street N.W., Suite 800  
Washington, D.C. 20037

Date: \_\_\_\_\_, 20\_\_\_\_\_

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The Plan Sponsor, as the primary fiduciary for the Plan, engages the Investment Adviser (“Adviser”) to provide the services described in this Agreement according to the terms of this Agreement.

1. **Fiduciary Authority.** The Plan Sponsor has the authority to designate investment alternatives under the Plan and the related trust, and to enter into an Agreement with third parties to assist in these and related duties. In this capacity, the Plan Sponsor is referred to as the Client.
2. **Disclosures.** Before this Agreement was entered into, the Adviser provided the Client with certain disclosures concerning its services, compensation and conflicts of interest, including Part II of the SEC Form ADV (or a brochure with similar information), and Client acknowledges that it received such disclosures sufficiently in advance of entering into the arrangement evidenced by this Agreement to make an informed decision to engage Investment Adviser. The information in this Agreement constitutes part of those disclosures.
3. **Services.** Adviser agrees to provide the following services to Client, the Plan and the Plan participants, as agreed by the parties:
  - (A) **Fiduciary Services:** Adviser will perform the Discretionary Fiduciary Services, described in Appendix A.
  - (B) Client acknowledges that Adviser has no responsibility to provide any services related to the following types of assets: employer securities; real estate (except for real estate funds and publicly traded REITs); stock brokerage accounts or mutual fund windows; participant loans; non-publicly traded partnership interests; other non-publicly traded securities (other than collective trusts and similar vehicles); or other hard-to-value securities or assets.
  - (C) Client acknowledges that Adviser is entitled to rely upon all information provided to Adviser, whether financial or otherwise, by Client or other parties. Client represents that all such financial and other information provided to Adviser by Client or its designees is true, correct and complete in all material respects. Client agrees to promptly notify Adviser in writing of any material change

in the financial and other information provided to Adviser and to promptly provide any such additional information as may be reasonably requested by Adviser.

4. Fees.

- (A) The compensation of the Adviser for the performance of the Fiduciary Services is described in Appendix B.
- (B) Unless agreed to by the parties, Adviser will not receive any other compensation, direct or indirect, for its Fiduciary Services under this Agreement or, if Adviser or an affiliate receives any other compensation for such services, Adviser or the affiliate will offset that compensation against stated fees.

5. Fiduciary Status: Limitations on Functions.

- (A) Client acknowledges that:
  - (i) In performing the Discretionary Fiduciary Services, Adviser is acting as the investment manager (as that term is defined in Section 3(38) of ERISA) and as a fiduciary of the Plan under ERISA and the Act for the purposes described in Department of Labor Regulation section 2510.3-21(c)(ii)(A) and shall act with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims; and
  - (ii) In performing ministerial or administrative support services from time to time, on an ad-hoc basis, in furtherance of and incidental to rendering Fiduciary Services, Adviser is not acting as a fiduciary of the Plan as defined in the ERISA; and
  - (iii) In performing both ministerial or administrative support services and Fiduciary Services, Adviser does not act as, nor has Adviser agreed to assume the duties of, a trustee or the Plan Administrator, as defined in ERISA, and Adviser has no discretion to interpret the Plan documents, to determine eligibility or participation under the Plan, or to take any other action with respect to the management, administration or any other aspect of the Plan.
- (B) Client acknowledges that Adviser does not provide legal or tax advice.

6. Representations of Client. Client represents and warrants as follows:

- (A) It is the “named fiduciary” for the control or management of the assets of the Plan, and for the selection and monitoring of service providers for the Plan, in accordance with the requirements of ERISA.
- (B) The person signing the Agreement on behalf of Client has all necessary authority to do so.
- (C) The execution of this Agreement and the performance thereof is within the scope of the investment authority authorized by the governing instrument and/or applicable laws. If Client is a corporation, the signatory on behalf of Client represents that the execution of the Agreement has been duly authorized by appropriate corporate action and agrees to provide such supporting documentation as may be reasonably required by Adviser.

- (D) Upon request, Client shall deliver to Adviser true and accurate copies of the governing plan documents including, without limitation, any and all amendments thereto, and shall timely provide Adviser with copies of any subsequent amendments or restatements of those documents.
- (E) The Plan and related Trust permit payment of Fees out of Plan assets. Client has determined that the Fees charged by Adviser are reasonable and are the obligation of the Plan; however, if Client desires, it may pay the Fees directly, rather than with Plan assets.
- (F) Client understands that Adviser and its affiliates may perform, among other things, retirement plan investment consulting, retirement plan fiduciary consulting, retirement plan design consulting, plan administration and record keeping services, and portfolio management services for other clients. Client recognizes that Adviser or its affiliates may give advice and take action in the performance of its duties for such other clients (including those who may have similar retirement plan arrangements as Client) that may differ from advice given, or in the timing and nature of action taken, with respect to Client. Nothing in this Agreement shall be deemed to impose on Adviser, or any of its affiliates, any obligation to advise Client with respect to the Plan, including the Services under this Agreement, in the same manner as it may advise any of its other clients. Client also acknowledges that Adviser and its affiliates may, by reason of its other such activities as described above, from time to time acquire confidential information. Client acknowledges and agrees that Adviser is unable to divulge to the Client or any other party, or to act upon, any such confidential information with respect to its performance of this Agreement.

7. Representation of Adviser. Adviser represents as follows:

- (A) It is registered as an investment adviser under the Act.
- (B) It has the power and authority to enter into and perform this Agreement.
- (C) It will not participate in or otherwise acquire a financial or other interest in any transaction to be entered into by the Plan and does not have a material financial, referral or other relationship or arrangement with a money manager, broker, other client of Adviser or other person or entity that creates or may create a conflict of interest for Adviser in performing services under this Agreement, except as disclosed in Appendix C and/or Adviser's Form ADV Part II or similar brochure.
- (D) Appendix C contains an explanation of Adviser's policies and procedures that address actual or potential conflicts of interest or that are designed to prevent either the compensation or relationships from adversely affecting the provision of services to the Plan and how such policies or procedures address such conflicts of interest or prevent an adverse effect on the provision of services.
- (E) It will disclose to Client any material change to the information required to be disclosed in this Agreement within 30 days from the date on which Adviser acquires knowledge of the material change.
- (F) It will disclose all information related to this Agreement and any compensation or fees received under the Agreement that is requested by Client in order to enable Client to comply with the reporting and disclosure requirements of Title I of ERISA and the regulations, forms and schedules issued thereunder.

8. Indemnity.

Adviser agrees to indemnify and hold Client harmless from any and all liabilities and claims, including but not limited to damages, court costs, reasonable legal fees and costs of investigation, which arise directly from Adviser's intentional misconduct or gross negligence with respect to the Services hereunder; provided, however, in no event shall Adviser be liable for any indirect, special consequential or exemplary damage with respect to its Services.

With regard to Adviser activity arising from other than Fiduciary Services, Plan Sponsor and Client agree to indemnify and hold Adviser harmless from any and all liabilities and claims, including, but not limited to, damages, court costs, reasonable legal fees and costs of investigation which directly or indirectly are

related to the Plan, its investments, expenses or other operations and administration provided that such losses or damages are not directly caused by Adviser's intentional misconduct or gross negligence.

With regard to Fiduciary Services, Plan Sponsor and Client agree to indemnify and hold Adviser harmless from any such liabilities and claims, so long as they are not caused by Adviser's failure to fulfill its fiduciary duties under this Agreement.

9. Termination. Either party may terminate this Agreement upon thirty (30) days prior written notice to the other party. Such termination will not, however, affect the liabilities or obligations of the parties arising from transactions initiated prior to such termination, and such liabilities and obligations (together with the provisions of sections 5 and 11) shall survive any expiration or termination of this Agreement.
10. Receipt of Disclosure. Client undertakes to review and consider the disclosures made by Adviser (including in this Agreement and the Form ADV Part II), in particular the portions related to Fiduciary Services, compensation, interests in transactions and potential conflicts of interest, as well as the remainder of the disclosures concerning, among other matters, background information such as educational and business history, business practices such as the types of advisory services provided, the methods of securities analysis used, and the like. Client shall be entitled to terminate this Agreement within five (5) business days of the execution of this Agreement without incurring a penalty or charge.
11. Miscellaneous.
  - (A) Notices. Any and all notices required or permitted under this Agreement shall be in writing and shall be sufficient in all respects if (i) delivered personally, (ii) mailed by registered or certified mail, return receipt requested and postage prepaid, (iii), sent via email, or (iv) sent via a nationally recognized overnight courier service to the address on the first page of this Agreement, such other address as any party shall have designed by notice in writing to the other party.
  - (B) Assignability. This Agreement is not assignable by either Party hereto without the prior written consent of the other Party.
  - (C) Effect. This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective heirs, successors, survivors, administrators and assigns.
  - (D) Entire Understanding and Modification. This Agreement constitutes and contains the entire understanding between the parties and supersedes all prior oral or written statements dealing with the subject matter herein. This Agreement can be amended or modified by the written consent of the Parties.
  - (E) Severability. If any one or more of the provisions of this Agreement (other than the provisions of Section 7) shall, for any reason, be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Agreement and this Agreement shall be enforced as if such illegal or invalid provision had not been contained herein.
  - (F) Headings. All headings used herein are for ease of reference only and in no way shall be construed as interpreting, decreasing or enlarging the provisions of this Agreement.
  - (G) Applicable Law; Forum. The laws of the State of Florida shall govern this Agreement in all respects, including but not limited to the construction and enforcement thereof, unless otherwise preempted by federal law.
  - (H) Arbitration Agreement. To the extent permitted by law, all controversies between Client and Adviser, which may arise out of or relate to any of the Services provided by Adviser under this Agreement, or the construction, performance or breach of this or any other Agreement between Adviser and Client, whether entered into prior to, on or subsequent to the date hereof, shall be settled by binding arbitration in Washington, D.C., under the Commercial Arbitration Rules of the American Arbitration Association. Judgment upon any award rendered by the arbitrator(s) shall be final, and may be entered into any court having jurisdiction.

- (I) Amendment Process. The Agreement may also be modified, including without limitation the services to be provided by Adviser or the fees charged by Adviser, in the manner set forth herein and consistent with the procedure described in Department of Labor Advisory Opinion 97-16A.

Adviser may propose to increase or otherwise change the fees charged, to change the services provided or otherwise modify this Agreement by giving Client reasonable advance notice of the proposed change. The notice shall be given in the manner described in this Agreement. The notice will (1) explain the proposed modification of the fees, services or other provisions; (2) fully disclose any resulting changes in the fees to be charged as a result of any proposed change in the services or other changes to this Agreement; (3) identify the effective date of the change; (4) explain Client's right to reject the change or terminate this Agreement; and (5) state that pursuant to the provisions of this Agreement, if Client fails to object to the proposed change(s) before the date on which the change(s) become effective Client will be deemed to have consented to the proposed change (s).

If Client objects to any change to this Agreement proposed by Adviser, Adviser shall not be authorized to make the proposed change. In that event Client shall have an additional sixty (60) days from the proposed effective date (or such additional time beyond 60 days as may be agreed by Adviser) to locate a service provider in place and instead of Adviser. If at the end of such additional sixty (60) day period (or such additional time period as agreed by Adviser), the parties have not reached Agreement on the proposed changes, this Agreement shall automatically terminate.

- (J). Waiver of Limitation. Nothing in this Agreement shall in any way constitute a waiver or limitation of any rights which Client or Plan or any other party may have under ERISA or federal or state securities laws.

The Parties have caused this Agreement to be executed by their duly authorized officers as of the date set forth above.

Plan Sponsor:\*

\_\_\_\_\_

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

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Adviser:

FiduciaryPlanReview.com, LLC

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

Title: \_\_\_\_\_

\*The Plan Sponsor is signing this Agreement both as the employer that sponsors the Plan and as the fiduciary responsible for selecting the Plan's investments and engaging its service providers.

APPENDIX A:

FIDUCIARY SERVICES

Adviser is being retained to perform the following Discretionary Fiduciary Services; 3(38):

Adviser will make available to the responsible plan fiduciary (“RPF”) (or an authorized delegate thereof) an online plan profile that will be utilized to develop a customized investment policy statement (“IPS”). The IPS will set forth the number of general investment options and asset class categories to be offered to plan participants with a goal of providing a menu of investments that will allow for the creation of well-diversified portfolios designed to provide for long-term appreciation and capital preservation through a mix of equity and fixed income exposures.

Once the IPS is approved by the RPF, Adviser will review the investment options available through the plan and will notify the plan’s recordkeeper as to Adviser’s instructions to add, remove and/or replace specific “core” investment options to be offered to plan participants that meet the criteria set forth in the IPS. Adviser will monitor the core investment options and, on a regular basis, provide reports to the RPF and instructions to the plan’s recordkeeper to remove and/or replace investments that no longer meet the IPS criteria.

In providing Discretionary Fiduciary Services, Adviser will act as a fiduciary under the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), solely with respect to the provision of investment advice as that term is defined under ERISA and will serve as an “investment manager” as defined in Section 3(38) of ERISA.

Adviser will retain final decision-making authority with respect to removing and/or replacing investments in the core lineup, and the RPF will not have any further responsibility to communicate instructions to any third-party, including the plan’s recordkeeper, custodian and/or third-party administrator.

RPF to initial here for Discretionary Fiduciary Services \_\_\_\_\_

APPENDIX B:  
FEE SCHEDULE

**The annual fee for Fiduciary Services for plans with existing advisors shall be calculated as follows:**

*For the first year of the contract on plans below \$2million in assets, the entire annual fee is due upon signing.*

<b>Plan Assets</b>	<b>Annual Fee Paid Quarterly in Advance</b>
Up to \$2,000,000	\$750 flat fee (minimum annual fee)
Over \$2,000,000 - \$50,000,000	3.5 bps <sup>1</sup> annual fee
Over \$50,000,000	\$17,500 flat fee (maximum annual fee)

**The annual fee for Fiduciary Services for plans without existing advisors shall be calculated as follows:**

<b>Plan Assets</b>	<b>Annual Fee Paid Quarterly in Advance</b>
Up to \$1,000,000	\$1500 flat fee (minimum annual fee)
Over \$1,000,000 up to \$10,000,000	.15 bps <sup>1</sup> annual fee
Over \$10,000,000 up to \$25,000,000	Negotiated on a case-by-case basis

<sup>1</sup> The asset based annual fee for Fiduciary Services shall be calculated as follows:

All fee calculations will be based upon the market value of the plan assets on the date of execution of this agreement and remain at that level for the remainder of the calendar year for flat fee tiers and will be calculated as paid for asset based fee tiers. For plans below \$2,000,000, the initial annual fee is to be paid in advance for the first contract year. Subsequent yearly annual fees are based upon the market value of plan assets and are payable on a monthly, quarterly or annual basis in advance. Asset based tier fees will be calculated concurrent with the frequency by which they are paid.

APPENDIX C:

DISCLOSURE OF CONFLICTS AND POLICIES

FiduciaryPlanReview.com, LLC (“the Adviser”) maintains a Code of Ethics which establishes the standards of conduct applicable to the Adviser and its employees, and is available upon request.

The governing principle by which the Adviser conducts its business is that the Adviser is a fiduciary to its clients. As a fiduciary, the Adviser has a duty of care, loyalty, honesty, and good faith to its clients. Compliance with this duty can be achieved by trying to avoid conflicts of interest and by fully disclosing all material facts concerning any conflict that does arise with a client. Individuals subject to the Adviser’s code of ethics should conduct themselves at all times in a manner that avoids even the appearance of impropriety.

Adviser is not aware of any conflicts, other than those disclosed in this Agreement or in Form ADV.