



PO Box 5420 · Cincinnati, Ohio 45201-5420  
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**Insurance Agency:** \_\_\_\_\_

**Financial Institution:** \_\_\_\_\_

**Insurance Company:** Great American Life Insurance Company

### DEPARTMENT OF LABOR FIDUCIARY RULE AGREEMENT

This Department of Labor Fiduciary Rule Agreement (“Agreement”) by and among Insurance Agency, and Financial Institution, and Insurance Company identified above (collectively, the “Parties”) is hereby entered into effective as of the Applicability Date, as defined below.

#### RECITALS

**WHEREAS**, Insurance Company and Insurance Agency have entered into an Agency Agreement with Power to Appoint (the “Agency Agreement”) for the sale and distribution of certain annuity products issued by Insurance Company (“Covered Annuities”) through subordinate agents, who are duly licensed and/or registered natural persons associated with Insurance Agency;

**WHEREAS**, Insurance Agency and its subordinate agents may sell Covered Annuities or provide advice to employer-sponsored plans and individual participant accounts thereunder subject to the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), and as individual retirement annuities and to individual retirement accounts and other plans subject to section 4975 of the Internal Revenue Code (“IRC”) (collectively, the “Covered Retirement Plans”);

**WHEREAS**, on April 6, 2016, the United States Department of Labor (the “DOL”) issued final rules, at 29 CFR section 2510.3-21, expanding the definition of an “investment advice fiduciary” under ERISA and section 4975 of the IRC, and adding, revoking, and amending certain prohibited transaction exemptions (“PTEs”) (together, with any future revisions, the “DOL Fiduciary Rule”), initially scheduled to be applicable as of April 10, 2017 (this date, or any extension thereof applicable to an expanded definition of an “investment advice fiduciary,” the “Applicability Date”);

**WHEREAS**, once the expanded definition of an “investment advice fiduciary” is applicable, the receipt of compensation by the Insurance Agency or its subordinate agents or any related person, the sale of a Covered Annuity to or as a Covered Retirement Plan and advice given in connection with a Covered Retirement Plan or a distribution, transfer, or rollover from a Covered Retirement Plan may be a prohibited transaction under sections 406(a) or (b) of ERISA

or section 4975(c) of the IRC unless the transaction or advice occurs in compliance with an applicable PTE;

**WHEREAS**, to utilize the Best Interest Contract PTE, as issued on April 6, 2016, a “financial institution” must take responsibility for the sale of a Covered Annuity to or as a Covered Retirement Plan and advice given in connection with a Covered Retirement Plan or a distribution, transfer, or rollover from a Covered Retirement Plan, and a revised or future PTE may also require a “financial institution” to take responsibility for that type of sale or advice;

**WHEREAS**, the Financial Institution identified above is an investment adviser, bank or broker-dealer that qualifies as a “financial institution” under the Best Interest Contract PTE, as issued on April 6, 2016, and is expected to continue to qualify as a “financial institution” under a revised or future PTE;

**WHEREAS**, the Financial Institution wishes to facilitate the sales of Covered Annuities by Insurance Agency and has agreed with Insurance Agency to serve as the “financial institution” for such sales and advice provided by Insurance Agency and its subordinate agents under the Agency Agreement as required under the Best Interest Contract PTE, or under a revised or future PTE; and

**WHEREAS**, the Parties wish to enter into this Agreement to supplement the Agency Agreement to address the Parties’ respective obligations and responsibilities with respect to the DOL Fiduciary Rule;

**NOW, THEREFORE**, in consideration of the mutual promises and covenants contained in this Agreement, the Parties agree as follows:

- 1. Responsibility for Fiduciary Compliance.** To the extent that Insurance Agency or its subordinate agents acts as an “investment advice fiduciary,” as defined pursuant to the DOL Fiduciary Rule, with respect to any Covered Retirement Plan in connection with the purchase, holding, or disposition of a Covered Annuity, Insurance Agency shall be responsible for complying with all conditions of an applicable PTE that covers the transaction or advice. In addition, to the extent that Insurance Agency or its subordinate agents acts as an “investment advice fiduciary,” as defined pursuant to the DOL Fiduciary Rule, with respect to any Covered Retirement Plan in connection with the purchase, holding, or disposition of a Covered Annuity, Financial Institution shall be responsible for complying with all conditions of an applicable PTE that requires a “financial institution” to take responsibility for that type of sale or advice if that is the only available PTE, or if it enters a contract intended to comply with that PTE, or if Insurance Agency or Financial Institution policy requires the use of that PTE.
- 2. Covered Annuities Issued Prior to Applicability Date.** With respect to any Covered Annuity acquired or held by or as a Covered Retirement Plan prior to the Applicability Date, Insurance Agency and Financial Institution understand that additional purchase payments made to the Covered Annuity and advice provided with respect to the Covered Annuity may be subject to the DOL Fiduciary Rule. If subject to the DOL Fiduciary Rule,

Insurance Agency and Financial Institution shall be responsible for complying with all conditions of an applicable PTE under Paragraph 1 above. It is understood and agreed that, unless Insurance Agency instructs Insurance Company otherwise in writing, Insurance Company will pay a commission on any purchase payment made after the Applicability Date to a Covered Contract issued before the Applicability Date, and will continue to pay any applicable trail commission after the Applicability Date on a Covered Annuity issued before the Applicability Date.

3. **Investment Advice Provided Post-Applicability Date.** Insurance Agency and Financial Institution acknowledge and agree that Insurance Company shall not be required to, nor shall it, provide any investment advice, as defined under the DOL Fiduciary Rule, on or after the Applicability Date with respect to any Covered Annuity acquired or held by or as a Covered Retirement Plan for which Insurance Agency is the firm-of-record or for which the Financial Institution is a fiduciary under the DOL Fiduciary Rule. Insurance Agency and Financial Institution further acknowledge and agree that Insurance Company shall not be required, nor shall it have any responsibility, to determine if a transaction effected under a Covered Annuity on or after the Applicability Date was recommended by Insurance Agency or its subordinate agents or to otherwise provide any data or information regarding any Covered Annuities or any transactions therein.
4. **Supervision.** The Parties acknowledge and agree that Insurance Company does not have any supervisory authority over, or any supervisory responsibility for, Insurance Agency or its subordinate agents relating to their provision of investment advice, as defined in the DOL Fiduciary Rule, with respect to any Covered Annuity that is acquired or held by or as a Covered Retirement Plan, or compliance with applicable PTEs, notwithstanding Insurance Company's maintenance of a suitability supervision system for purposes of complying with laws, rules, and regulations adopted by states and their state insurance regulatory authorities relating to the suitability of recommendations of annuity and insurance transactions.
5. **Compliance with Other Applicable Laws.** The Parties acknowledge and agree that Insurance Agency and Financial Institution's compliance with the DOL Fiduciary Rule does not obviate the requirement to comply with any other applicable law, rule, or regulation.
6. **Representations and Warranties of Financial Institution and Insurance Agency.**
  - a. Financial Institution warrants that it is and shall remain:
    - i. a bank as defined in Section 202 of the Investment Advisers Act of 1940 ("Advisers Act") or similar institution that is regulated and supervised and subject to periodic examination by a state or federal agency;

- ii. an investment adviser registered under the Advisers Act or the laws of the state in which it maintains its principal office and place of business; and/or
    - iii. a broker-dealer registered under the Securities Exchange Act of 1934; and
  - b. With respect to any investment advice related to a Covered Annuity for which it is responsible under Paragraph 1 above, Financial Institution and Insurance Agency each warrants that it is:
    - i. independent of Insurance Company;
    - ii. capable of evaluating investment risks independently, both in general and with regard to particular transactions and investment strategies; and
    - iii. after the Applicability Date, a fiduciary under ERISA or the IRC, or both, with respect to, and are responsible for exercising independent judgment in evaluating, any transactions involving a Covered Annuity.
  - c. Financial Institution and Insurance Agency acknowledge that Insurance Company has a financial interest in the Covered Annuities and transactions therein and is not undertaking to provide impartial investment advice, or to give advice in a fiduciary capacity, in connection with a Covered Annuity for which Insurance Agency is the firm-of-record.
  - d. Financial Institution and Insurance Agency acknowledge that Insurance Company does not receive a fee or other compensation directly from a plan, plan fiduciary, plan participant, beneficiary, or IRA owner (as such terms are defined in 29 CFR section 2510.3-21) for the provision of investment advice in connection with a Covered Annuity for which Insurance Agency is the firm-of-record.
  - e. These representations and warranties shall continue for as long as this Agreement is in effect.
- 7. **Representation and Warranty of Insurance Company.** Insurance Company will perform its duties as set forth in the Agency Agreement with respect to the issuance of Covered Annuities to Covered Retirement Plans for as long as this Agreement remains in effect.
- 8. **Marketing Materials.** Financial Institution and Insurance Agency acknowledge and agree that any marketing materials provided by Insurance Company are not intended or designed to satisfy any disclosure provisions that may apply to Financial Institution, Insurance Agency, or its subordinate agents under the DOL Fiduciary Rule, or any disclosure conditions of any PTE.
- 9. **Indemnification.** Financial Institution and Insurance Agency each severally agrees to hold harmless, defend, and indemnify the Insurance

Company, its directors, officers, and employees against any and all liability, claim, loss, or cause of action (including regulatory and administrative proceedings), including costs and reasonable attorney fees, resulting from or arising out of the application of the DOL Fiduciary Rule to a Covered Annuity for which Insurance Agency was the firm-of-record at the time that a violation of the DOL Fiduciary Rule is alleged to have occurred.

This Agreement does not replace the Agency Agreement. In all cases of conflict with other terms of the Agency Agreement, the provisions of this Agreement shall control. All other terms and conditions of the Agency Agreement shall remain unchanged.

This Agreement shall be binding upon, and shall inure to the benefit of the Parties and their respective successors and assigns.

This Agreement may be amended by the Insurance Company upon written notice to the other parties hereto sent at least thirty (30) days before the effective date of such amendment; provided, however, that a party will not be bound by that amendment if before the effective date it sends written notice of its rejection of the amendment to the Insurance Company. This Agreement may also be amended at any time by a written instrument signed by all parties hereto. This Agreement may be terminated by any party hereto upon written notice to the other parties sent at least ninety (90) days before the effective date of such termination.

This Agreement shall be governed, construed and enforced in accordance with the Law section set out in the Agency Agreement.

If any provision of this Agreement is found to be invalid or unenforceable, the validity or enforceability of the remaining provisions shall not be affected. Failure to enforce any provision herein shall not be deemed a waiver of such provision or any right, privilege, or legal remedy.

*[The remainder of this page left blank intentionally. Signature page to follow.]*

**IN WITNESS WHEREOF**, the Parties have caused their duly authorized officers to execute this Agreement effective as of the Applicability Date.

**Financial Institution**

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

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

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

**Insurance Agency**

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

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

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

**Insurance Company**

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

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

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