

LEAVE MANAGEMENT SERVICES AGREEMENT

ReliaStar Life Insurance Company, Minneapolis, MN
ReliaStar Life Insurance Company of New York, Woodbury, NY
Members of the *Voya*® family of companies
(referred to herein as “Voya”)



This Agreement sets forth the agreed upon terms and conditions surrounding the Voya's, provision of Leave Management Services as described on Schedule I (collectively, "Services") to all employees of _____ (hereinafter referred to as "Customer") to begin _____, 20____ ("Commencement Date"). The terms and conditions are as follows:

1. **Term:** Initial term of _____ year(s) for the delivery of Services to Customer. After the expiration of the initial term this Agreement shall automatically renew for successive _____ year periods unless either party shall deliver to the other party written notice of non-renewal not less than one hundred and twenty (120) days prior to the expiration of the initial term or any applicable renewal term.
2. **Provision of Services by FMLASource®:** The Services are more specifically defined in Schedule I hereto. Customer acknowledges and agrees that the Services provided hereunder will be performed solely by FMLASource, a separate corporate entity, with which Voya has contracted to provide such Services to its Customers. In providing the Services hereunder, FMLASource employees will identify themselves as providing the Services as "Voya Absence Resources." Customer acknowledges that Voya Absence Resources is the internal name used by Voya to refer to the sub-contracted relationship it maintains with FMLASource to provide the Services. Voya Absence Resources does not operate as a separate entity or have any other legal standing. Customer acknowledges and agrees that materials, including marketing materials, communications, letters, emails and other correspondence describing or delivering the Services to Customer or customer's employees may refer to Voya Absence Resources with or without reference to FMLASource.
3. **Fees:**
 - (A) Customer agrees to pay Voya a fee of \$_____ per employee per month for Services. Customer represents that as of the Commencement Date, it has approximately _____ employees located in the United States. Customer agrees to provide Voya with monthly updated employee counts. Fees to be paid by Customer to Voya shall be adjusted monthly to reflect the updated employee counts. Payment for Services is due on a monthly basis beginning one month after the Commencement Date, and continuing on a monthly basis thereafter. If any payment due Voya is not received when due, a delinquency charge shall be assessed on each installment in default for not less than five days. The delinquency amount will not exceed five percent (5%) for each month the installment remains unpaid or the maximum amount allowed by law. This is in addition to attorney's fees and other costs and expenses incurred by Voya to collect any amounts due. In the event that any payment due Voya hereunder is not received within forty five (45) days of its due date, and notwithstanding any other remedy available by law, Voya may stop providing Services under this Agreement until payment in full is received by it. Voya reserves the right to amend its fees in the event of any program or administrative changes due to state or federal law.
 - (B) Travel expenses (associated with, for example, Customer-requested training or account management) will be billed separately and are due ten (10) days after receipt of invoice by Customer.
 - (C) If Customer fails to complete the implementation process within 60 days after the intended commencement date and such failure was within the Customer's reasonable control, Voya will charge Customer an implementation fee of \$2,000.
4. **Exclusivity:** During the term of this Agreement, Customer warrants that Voya shall be the exclusive provider of the Services under this Agreement to all employees of Customer.
5. **Services:** Services shall include those services described on Schedule I attached hereto. Customer understands that it is entitled to Services pursuant to the terms and conditions of this Agreement. In the event Customer desires to customize services, Customer agrees to pay all costs incurred by Voya to effectuate such customizations, including, but not limited to, charges associated with software programming, web-site development or process adjustments.
6. **Eligibility Files:** Customer must provide complete and accurate employee eligibility files on a monthly basis. Customer understands and agrees that neither Voya nor FMLASource shall be liable for any claims or losses resulting from or related to Customer's failure to provide such files or from Customer's provision of incomplete or inaccurate eligibility files.
7. **Force Majeure:** No failure, delay or default in performance of any obligation of Voya or FMLASource shall constitute an event of default or breach of the Agreement to the extent that such failure to perform, delay or default arises out of a cause, existing or future, that is beyond the control and without negligence of Voya and/or FMLASource, including, but not limited to: action or inaction of governmental, civil or military authority; fire, strike, lockout or other labor dispute; flood, war; terrorism; riot; theft; earthquake and other natural disaster.
8. **Taxes:** All fees quoted and payable under this Agreement exclude taxes. Customer will pay or reimburse Voya for all applicable sales, services and other taxes (excluding taxes on Voya's net income) that may be levied upon the performance of services under this Agreement.

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- 9. Notices:** Any notice required hereunder will not be effective unless in writing, signed by an authorized officer of the party delivering such notice, and sent by certified mail or recognized overnight carrier to the signatories below.
- 10. Assignment:** Customer must assign its rights and obligations under this Agreement to any successor by merger, consolidation or sale or other disposition of all or substantially all of its assets or stock.
- 11. Amendment:** Any changes, additions, or deletions to this Agreement will not be considered binding or agreed to unless the modifications have been initialed or otherwise approved in writing by the other party.
- 12. Facsimile or Scan/Counterparts:** Facsimile or electronically scanned transmission of an executed copy of this Agreement or any amendments hereto shall be accepted as evidence of a party's execution of the Agreement or amendment. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original.
- 13. Severability:** If and to the extent any provision of this Agreement is held illegal, invalid or unenforceable in whole or in part under applicable law, such provision or such portion thereof will be ineffective as to the jurisdiction in which it is illegal, invalid or unenforceable to the extent of its illegality, invalidity or unenforceability and will be deemed modified to the extent necessary to conform to applicable law so as to give the maximum effect to the intent of the parties. The illegality, invalidity or unenforceability of such provision in that jurisdiction will not affect the legality, validity or enforceability of such provision or any other provisions of this Agreement in any other jurisdiction.
- 14. Governing Law:** This Agreement will be governed by, construed, and enforced in accordance with the laws of the State of New York, excluding its principles of conflicts of law. The Parties hereby irrevocably and unconditionally consent to the exclusive jurisdiction of the courts of the State of New York and the courts of the United States of America located in the State of New York for any actions, suits, or proceedings arising out of or relating to this Agreement and the transactions contemplated hereby (and each Party agrees not to commence any action, suit, or proceeding relating hereto except in such courts), and further agree that service of any process, summons, notice, or document by U.S. registered mail, return receipt requested to the address set forth above, will be effective service of process for any action, suit, or proceeding brought against a Party in any such court. The Parties agree that the Uniform Computer Information Transactions Act or any version thereof adopted by any state in any form ("UCITA") will not apply to this Agreement. To the extent that UCITA is applicable, the Parties agree to opt out of the applicability of UCITA pursuant to the opt-out provision(s) contained therein. THE PARTIES HEREBY WAIVE TRIAL BY JURY IN ANY ACTION, SUIT, PROCEEDING, OR COUNTERCLAIM BROUGHT BY ANY OF THEM AGAINST ANY OTHER PARTY HERETO IN ANY MATTERS ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS AGREEMENT.
- 15. Clause Headings:** The clause headings appearing in this Agreement have been inserted for the purpose of convenience and ready reference. They do not purport to, and shall not be deemed to, define, limit or extend the scope or intent of the clauses to which they appertain.
- 16. Employment Decisions:** Customer understands that neither Voya nor FMLASource provides any legal advice. Customer further understands that decisions made regarding FMLA eligibility and/or ADAAA leave requests shall not be deemed by Customer to be a recommendation, suggestion or determination to take any employment action against an employee. Customer agrees to seek legal counsel prior to making any adverse employment determinations. Customer also agrees that it alone is responsible for engaging in the "interactive process" as that term is defined in the ADAAA and that Customer is responsible for making all accommodation decisions. Customer agrees that it shall provide Voya with at least five (5) business days' prior written notice in the event Customer intends to take an adverse employment action against an employee as a result of or reliance upon a leave decision.
- 17. Relationship of the Parties:** Voya and Customer agree that Voya is an independent contractor and neither party nor their respective employees or agents shall be deemed to be an employee of the other, nor shall this Agreement be deemed to create a partnership, joint venture, agency relationship or other association between the parties hereto. Voya and Customer also agree that FMLASource is an independent contractor of Voya. Neither Customer nor FMLASource shall be deemed to be in a contractual relationship with the other. Further, neither Customer's nor FMLASource's respective employees or agents shall be deemed to be an employee of the other. Nor shall this Agreement be deemed to create a partnership, joint venture, agency relationship or other association between Voya, Customer and FMLASource.
- 18. No Third Party Beneficiaries:** Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person or entity other than Customer and Voya any rights, remedies, obligations, or liabilities whatsoever, whether in contract, statute, tort (such as negligence) or otherwise, and no person or entity shall be deemed a third-party beneficiary under or by reason of this Agreement.
- 19. Indemnification:** Voya shall indemnify and hold harmless Customer from and against third party claims resulting solely from or arising out of Voya's gross negligence or willful misconduct relating to the Services provided hereunder. Voya's obligation to indemnify Customer will only apply if Customer notifies Voya promptly, in writing, as to any such claim and gives Voya the right to control and direct the investigation, preparation, defense, trial and settlement of each such claim. Customer will reasonably cooperate with Voya in the defense and/or settlement of any such claim. Customer shall indemnify and hold harmless Voya and FMLASource from and against claims resulting from or arising out of Customer's gross negligence or willful misconduct, employment-related decisions, or any claims or liabilities relating to work status, compensation, tax, insurance, or benefit matters by Customer employees under this Agreement. Customer's obligation to indemnify Voya and FMLASource will only apply if Voya or FMLASource notifies Customer promptly, in writing, as to any such claim and gives Customer the right to control and direct the investigation, preparation, defense, trial and settlement of each such claim. Voya and FMLASource will reasonably cooperate with Customer in the defense and/or settlement of any such claim.
- The indemnification obligations of Voya and Customer shall terminate upon the expiration of the Agreement except as to any matter concerning which a claim has been asserted by notice to the other party at the time of such expiration or within the applicable statute of limitation after the effective date of Agreement termination.

20. Limitation of Liability: NOTWITHSTANDING ANYTHING TO THE CONTRARY SET FORTH HEREIN, NEITHER VOYA NOR FMLASOURCE SHALL BE LIABLE, WHETHER UNDER CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR OTHER LEGAL OR EQUITABLE THEORY, FOR ANY AMOUNTS IN EXCESS OF THE FEES PAID BY CUSTOMER TO VOYA FOR THE SERVICES SET FORTH HEREIN DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO ANY LIABILITY. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES EVEN IF A PARTY HAS BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

21. Entire Agreement: This Agreement, together with the Schedules attached hereto, shall constitute the entire Agreement by and between the parties with respect to the subject matter hereof. There are no promises, terms, conditions, or obligations other than those contained herein and, this Agreement shall supersede all prior and contemporaneous communications, representations or agreements, either verbal or written, by and between the parties hereto, all of which are merged herein.

Accepted and Agreed to:

Policyholder Name (*Please print.*) _____

➔ Policyholder Authorized Signature _____ Date _____

Print signer's name and title _____

RELIASTAR LIFE INSURANCE COMPANY
RELIASTAR LIFE INSURANCE COMPANY OF NEW YORK

➔ Company Authorized Signature *Mona Zielke* _____ Date _____

Print signer's name and title **Mona Zielke, Vice President** _____

SCHEDULE I COVERED SERVICES

Provision of Services: All Services provided hereunder are being provided by FMLASource on behalf of Voya and under the moniker of Voya Absence Resources.

Covered Services (*Select all that apply*): FMLA Administration (which includes any State FML) Jury Duty Witness Leave Military Leave
 Bereavement Personal Leave of Absence (not including vacation or sick leave)
 Non-FMLA Medical Leave Other _____

SCHEDULE I COVERED SERVICES *(Continued)*

Account Management: Customer will be assigned an account manager who will serve as the contact person and provide Customer with reports and feedback on the Services. Customer's Account Management staff will be provided consultative guidance on leave reporting and how the Customer may make improvements to its leave programs.

Implementation Support: Customer will be provided expert Customer implementation support and guidance, including, but not limited to:

- Detailed implementation plan showing all Customer requirements and draft timelines;
- Review of all Customer leave-related policies;
- Review of all employee leave communications; and
- Implementation support such as weekly phone calls, FAQs and e-mail access for questions.

Employee Service Access: Customer's employees will be provided toll-free telephonic access, web access, and mobile app access for the purposes of: reporting a leave; asking leave-related questions, and leave management.

Employer Service Access: Customer will be provided toll-free telephonic access to leave management experts.

Reporting

- Customer will be provided with agreed-upon standard absence management reports.
- Customer's employees will be provided with web access, which includes the last fifteen (15) days of tracked time, as well as leave letters and notices/decisions.

Leave Administration: With respect to Leave Administration Services, Voya Absence Resources will:

- Receive leave requests.
- Determine leave eligibility based upon relevant laws, and Customer's guidelines, by utilizing Customer-provided eligibility files to garner relevant eligibility information, or by contacting Customer as needed. Any eligibility decisions outside of the guidelines shall be referred to Customer for final determination. Eligibility determinations will be made within all legally required time frames, provided Supplier receives required information in a timely manner.
- Provide eligibility confirmation and applicable rights and responsibilities information to the Customer's employees within the legally-required time frames, provided Supplier receives required information in a timely manner.
- Utilize Company approved medical certification forms to gather medical information, potentially utilizing decisions made by Voya's disability partner, to approve requested leaves.
- Utilize Company-approved letters for leave communications and recommend changes to letters as needed for relevant changes in law. Customer will be offered reasonable customization opportunity. Voya may charge Customer according to the Fee Schedule for extensive customization requests, or may reject a customization request if it cannot be supported.
- Issues timely leave determination decisions according to all applicable laws and Customer guidance, when sufficient information is available to make such a decision.
- Provide all leave determination communications to Customer and Customer's employees.