

**RETIREMENT PLAN
CONSULTING AGREEMENT
ERISA Sections 3(38) and 404(c)**

1. THE PLAN/PARTIES

Pivotal Planning Group, LLC, an SEC registered investment adviser (the “**CONSULTANT**”) has been engaged to provide consulting services to (Name of Plan Sponsor) (the “**SPONSOR**”) in connection with the **SPONSOR**’s “participant directed” retirement plan established pursuant to Section 404(c) of Employee Retirement Income Security Act (“ERISA”) (the “**PLAN**”).

2. OVERVIEW

Section 404(c) provides that when an ERISA retirement plan permits a participant or beneficiary to exercise control over assets in his or her account, and the participant or beneficiary in fact exercises control over assets in the account, fiduciaries of the **PLAN** are generally relieved from liability for losses resulting from the participant’s exercise of control.

An ERISA Section 404(c) plan is an “individual account plan” (i.e. a defined contribution plan) that gives participants a right to choose from a “broad range” of investment alternatives (i.e. at least 3 diversified investment choices) so as to afford participants the opportunity to construct for themselves investment portfolios that are suitable for their individual financial situations and investment objectives.

3. DISCLOSURE REQUIREMENTS

In accordance with ERISA requirements, **PLAN** participants must be given information about **PLAN** features and the available investment alternatives that is sufficient to enable participants to make informed investment decisions. The information that must be provided to the **PLAN** participants, to the extent applicable, in accordance with ERISA regulations includes the following:

- (a) an explanation that the **PLAN** is intended to qualify as an ERISA Section 404(c) plan;
- (b) descriptions of the investment alternatives offered;
- (c) the investment objectives of the different investment alternatives and the risk and return characteristics of the investment alternatives;
- (d) the identity of any investment managers that participants may select;
- (e) an explanation of the circumstances under which investment instructions may be given, including applicable restrictions on transfers; and
- (f) copies of mutual fund prospectuses and descriptions of any transaction fees (commissions, sales loads, etc.) charged against participant accounts.

The **SPONSOR** warrants and represents that it will fulfill the Disclosure Requirements to **PLAN** participants as required by ERISA for as long as the **CONSULTANT** provides services under this Agreement. In addition, the **SPONSOR** shall provide each **PLAN** participant, initially upon becoming a participant, and no less than annually thereafter, a copy of the “**Important Disclosure Information**” document attached hereto and made a part hereof as Schedule “A”, which document discusses the limited role for which the **CONSULTANT** has been engaged.

4. PLAN INVESTMENT POLICY/INVESTMENT OPTIONS

CONSULTANT shall provide its services consistent with the terms and conditions of an Investment **Policy Statement** to be prepared by **CONSULTANT** for review and adoption by the **PLAN**. The **CONSULTANT** shall review the **Investment Policy Statement** with the **SPONSOR** on an annual basis to determine if any changes are required. During the interim periods, in the event that the **PLAN**’s circumstances, financial situation or investment objective(s) change, it is the **SPONSOR**’s responsibility to notify the **CONSULTANT** accordingly for the purpose of the **CONSULTANT** reviewing/ evaluating/ revising the **Investment Policy Statement**.

Consistent with the parameters of the **Investment Policy Statement**, the **CONSULTANT** shall provide the **PLAN** with an initial (and ongoing) diversified platform of **PLAN** investment options from which **PLAN** participants may choose (which *may* include, at the discretion of the **CONSULTANT**, specific asset allocation programs devised and managed by **CONSULTANT** based upon various investment objectives). The **CONSULTANT** shall monitor the **PLAN** investment options on an ongoing and continuous basis, and shall be responsible for making additions/deletions thereto. The **SPONSOR** may, in writing, direct the **CONSULTANT** not to include among the **PLAN** investment options any asset allocation programs devised and managed by **CONSULTANT**

In addition, **CONSULTANT** shall provide **PLAN** participants with up to two (2) annual general informational seminars, to include materials which describe the various investment alternatives available under the **PLAN**, information about investing generally, including information about different types of investments, information about different investment allocation strategies, including information about historical returns, and interactive materials designed to help participants identify appropriate investment strategy.

Unless specifically subject to a separate written agreement executed by both parties, the **PLAN** acknowledges that **CONSULTANT's** services **shall not** include any **PLAN** administration, legal or accounting services, or proxy voting services.

5. **COMMISSIONS/TRANSACTION FEES**

Commissions and/or transaction fees may be charged by the **PLAN's** designated broker-dealer/custodian for the purchase and/or sale of the **PLAN** investment options. The **CONSULTANT** shall review all such expenses/charges with the **SPONSOR**. In addition, participants shall also incur charges imposed directly at the mutual fund and exchange traded fund levels (i.e. advisory fees and other fund expenses).

6. **CONSULTANT's ANNUAL FEE/SOURCES OF COMPENSATION**

CONSULTANT shall be compensated by the **SPONSOR** and/or from each participant's account for its consulting services, as determined by the **SPONSOR**, in accordance with the fee schedule attached hereto and made a part hereof as Schedule "C", which *may* include, to the extent directed by the **SPONSOR**, the receipt of 12b-1 and/or shareholder servicing fees to offset a portion of **CONSULTANT's** annual fee. Other than its fee as disclosed on Schedule "C" (including any source[s] of fees other than asset based fees paid directly from the **PLAN** and/or its participant accounts), the **CONSULTANT** shall not receive any other compensation in conjunction with its services under this Agreement. In addition to payment of the **CONSULTANT's** annual fee, the **SPONSOR** shall remain responsible for reimbursement of all travel-related expenses incurred by the **CONSULTANT** for **PLAN**-related travel.

7. **CONFLICTS OF INTEREST**

Other than as may be disclosed on Schedule "C" and its written disclosure statement (see paragraph 18 below), the **CONSULTANT** is not subject to any conflicts of interest in conjunction with the services to be provided under this Agreement.

8. **FIDUCIARY STATUS**

With respect to its obligation to provide the **PLAN** with an initial (and ongoing) diversified platform of **PLAN** investment options, **CONSULTANT** is a "fiduciary" to the **PLAN** consistent with Section 3(38) of ERISA. **CONSULTANT's** fiduciary duty does not, and will not, extend to a participant's investment decision making process as to how he/she chooses to allocate any portion of his/her **PLAN** assets among any **PLAN** investment alternative, including (to the extent applicable) **CONSULTANT's** asset allocation programs, it being understood that the participant retains all such investment decision making authority and responsibility.

9. **CONSULTANT LIABILITY**

The **CONSULTANT**, acting in good faith, shall not be liable for any action, omission, investment recommendation/decision, or loss in connection with this **Agreement**. **CONSULTANT** shall only be responsible for those assets that the **PLAN** has designated to be the subject of the **CONSULTANT's** services under this **Agreement** without consideration to any additional assets not so designated by the **SPONSOR**. The **SPONSOR** acknowledges that investments have varying degrees of financial risk, and that

CONSULTANT shall not be responsible for any adverse financial consequences resulting to the **PLAN** or any of its participants provided that the **CONSULTANT** has discharged its obligations consistent with the **Investment Policy Statement**. The federal securities laws impose liabilities under certain circumstances on persons who act in good faith, and therefore nothing herein shall in any way constitute a waiver or limitation of any specific rights which the **PLAN, SPONSOR,** or any participant may expressly have under any federal securities laws, ERISA, or the Pension Protection Act of 2006.

10. **ARBITRATION**

Subject to the conditions and exceptions noted below, and to the extent not inconsistent with applicable law, in the event of any dispute pertaining to **CONSULTANT's** services under this **Agreement**, both **CONSULTANT** and the **SPONSOR** agree to submit the dispute to arbitration in accordance with the auspices and rules of the American Arbitration Association (“AAA”), provided that the AAA accepts jurisdiction. **CONSULTANT and SPONSOR understand that such arbitration shall be final and binding, and that by agreeing to arbitration, both CONSULTANT and SPONSOR are waiving their respective rights to seek remedies in court, including the right to a jury trial. SPONSOR** acknowledges that it has had a reasonable opportunity to review and consider this arbitration provision prior to the execution of this **Agreement**.

11. **APPLICABLE LAW/VENUE**

This **Agreement** supersedes and replaces, in its entirety, all previous retirement plan consulting agreement(s) between the parties. To the extent not inconsistent with applicable law, this **Agreement** shall be governed by and construed in accordance with the laws of the New York. In addition, to the extent not inconsistent with applicable law, the venue (i.e. location) for the resolution of any dispute or controversy between **CONSULTANT** and the **SPONSOR/PLAN** shall be the County of Nassau State of New York.

12. **AMENDMENTS**

The **CONSULTANT** may amend this **Agreement** upon written notification to the **SPONSOR**. Unless the **SPONSOR** notifies the **CONSULTANT** to the contrary, in writing, the amendment shall become effective thirty (30) days from the date of mailing.

13. **CUSTODIAN**

PLAN investment assets shall be held by an independent custodian, not **CONSULTANT**.

14. **REPORTS**

The independent custodian and/or third party administrator shall provide the **PLAN** and/or its participants with periodic investment reports regarding **PLAN** assets and/or the underlying individual participant accounts. In addition, the **CONSULTANT** shall provide the **SPONSOR** with quarterly reports regarding the performance of the **PLAN** investment options.

15. **PRIVACY NOTICE**

The **PLAN** acknowledges prior receipt of the **CONSULTANT's Privacy Notice**.

16. **ASSIGNMENT**

This **Agreement** may not be assigned by either the **PLAN** or the **CONSULTANT** without the prior consent of the other party. The **SPONSOR** acknowledges and agrees that transactions that do not result in a change of actual control or management of the **CONSULTANT** shall not be considered an assignment.

17. **SEVERABILITY**

Any term or provision of this **Agreement** which is invalid or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms or provisions of this **Agreement** or affecting the validity or enforceability of any of the terms or provisions of this **Agreement** in any other jurisdiction.

18. **DISCLOSURE STATEMENT**

The **PLAN** hereby acknowledges prior receipt of a copy of the Disclosure Statement. The **PLAN** further acknowledges that the **PLAN** has had a reasonable opportunity to review said Disclosure Statement, and to discuss the contents of same with professionals of **PLAN's** choosing, prior to the execution of this **Agreement**.

19. **ELECTRONIC DELIVERY**

The **PLAN** authorizes the **CONSULTANT** to deliver, and the **PLAN** agrees to accept, all required regulatory notices and disclosures via electronic mail and/or via the **CONSULTANT'S** internet web site, as well as all other correspondence from the **CONSULTANT**. **CONSULTANT** shall have completed all delivery requirements upon the forwarding of such document, disclosure, notice and/or correspondence to the **PLAN's** last provided email address (or upon advising the **PLAN** via email that such document is available on the **CONSULTANT's** web site).

20. **TERM.**

This **Agreement** shall commence upon the execution of this **Agreement** by both the **PLAN** and the **CONSULANT** and shall continue until terminated by either party upon thirty (30) days written notice.

IN WITNESS WHEREOF, the **PLAN** sponsor and **CONSULTANT** have each executed this **Consulting Agreement** on the day, month, and year set forth below. The effective date of the **Agreement** shall be that date on which it is executed by the **CONSULTANT**.

For the **PLAN** sponsor:
XYZ Company

_____ Date: _____

PIVOTAL PLANNING GROUP, LLC

By: _____ Date: _____