

Custodial Agreement and Disclosure Statement

Accountholder is establishing this Health Savings Account (“HSA”) exclusively for the purpose of paying or reimbursing qualified medical expenses of Accountholder, Accountholder’s spouse, and dependents. Accountholder represents that, unless this account is used solely to make rollover contributions, he or she is eligible to contribute to this HSA; specifically, that he or she (i) is covered under a high deductible health plan (HDHP), (ii) is not also covered by any other health plan that is not an HDHP (with certain exceptions for plans providing preventive care and limited types of permitted insurance and permitted coverage), (iii) is not enrolled in Medicare, and (iv) cannot be claimed as a dependent on another person’s tax return. Healthcare Bank is “Custodian” under this agreement and TPA is the “Designated Representative.”

Accountholder and Custodian make the following agreement:

Article I

Custodian will accept cash contributions for the tax year made by Accountholder or on behalf of Accountholder (by an employer, family member or any other person). No contributions will be accepted by the Custodian for any Accountholder that exceed the maximum amount for family coverage plus the catch-up contribution (for individuals who attain age fifty-five (55) before the close of the tax year).

Contributions for any tax year may be made at any time before the deadline for filing Accountholder’s federal income tax return for that year (without extensions).

Rollover or transfer contributions from an HSA, Health Care Flexible Spending Arrangement, Health Reimbursement Arrangement, Individual Retirement Account, or an Archer Medical Savings account (Archer MSA) are permitted subject to applicable rules.

Article II

Contributions to Accountholder’s HSA are subject to a maximum annual limit, based on whether Accountholder has elected single or family coverage under the HDHP. For calendar year 2009, the maximum annual contribution limit for an Accountholder with single coverage is \$3,000, and with family coverage is \$5,950. These limits are subject to cost-of-living adjustments after 2009. Eligibility and contribution limits are determined on a month-to-month basis.

Contributions to Archer MSAs or other HSAs count toward the maximum annual contribution limit to this HSA.

For calendar year 2009 and later years, an additional \$1,000 catch-up contribution may be made for an Accountholder who is at least age fifty-five (55) or older and not enrolled in Medicare. Contributions in excess of the maximum annual contribution limit are subject to an excise tax. However, the catch-up contributions are not subject to an excise tax.

Article III

It is the responsibility of Accountholder to determine whether contributions to this HSA have exceeded the maximum annual contribution limit described in Article II. If

contributions to this HSA, or any combination of your HSAs, exceed the maximum annual contribution limit, Accountholder shall remove the excess contributions. It is the responsibility of Accountholder to timely request the withdrawal of the excess contribution and any net income attributable to such excess contribution. Regardless of which year excess contributions were made, a withdrawal of excess contributions will be reported as having occurred in the tax year of such withdrawal.

Article IV

Accountholder's interest in the balance in this custodial account is nonforfeitable.

Article V

No part of the custodial funds in this account may be invested in life insurance contracts or in collectibles as defined in Section 408(m) of the Internal Revenue Code (the "Code").

The assets of this account may not be commingled with other property, except in a common trust fund or common investment fund.

Neither Accountholder nor Custodian will engage in any prohibited transaction with respect to this account (such as borrowing or pledging the account or engaging in any other prohibited transaction as defined in the Code Section 4975).

Article VI

Distributions of funds from this HSA may be made upon the direction of Accountholder.

Distributions from this HSA that are used exclusively to pay or reimburse qualified medical expenses of Accountholder, his or her spouse, or dependents are tax free. However, distributions that are not used for qualified medical expenses are included in Accountholder's gross income and are subject to an additional ten percent (10%) tax on that amount. The additional ten percent (10%) tax does not apply if the distribution is made after Accountholder's death, disability, or reaching age sixty-five (65).

Custodian is not required to determine whether the distribution is for the payment or reimbursement of qualified medical expenses. Only Accountholder is responsible for substantiating that the distribution is for qualified medical expenses and must maintain records sufficient to show, if required, that the distribution is tax free.

Article VII

If Accountholder dies before the entire interest in the account is distributed, the entire account will be disposed of as follows:

1. If the primary beneficiary is Accountholder's current spouse, the HSA shall become the spouse's HSA as of the date of death.
2. If the primary beneficiary is Accountholder's ex-spouse and the Accountholder has not completed a new beneficiary designation since the termination of the marriage to the ex-spouse, the HSA shall be treated as if there is no beneficiary (primary or contingent) and the entire account shall be paid to the Accountholder's estate.
3. If the primary beneficiary is not Accountholder's current spouse (which would include an ex-spouse of the Accountholder, if the Accountholder completed a new

beneficiary designation after the termination of the marriage), the HSA shall cease to be an HSA as of the date of death. The fair market value of the account is taxable to the non-spouse primary beneficiary in the tax year that includes such date.

4. If the primary beneficiary is Accountholder's estate or if there is no beneficiary, the fair market value of the account as of the date of death is taxable on Accountholder's final personal income tax return.

Article VIII

Accountholder agrees to provide the Custodian with information necessary for the Custodian to prepare any reports or returns required by the IRS.

The Custodian agrees to prepare and submit any reports or returns as prescribed by the IRS.

Article IX

Notwithstanding any other article that may be added or incorporated in this agreement, the provisions of Articles I through VIII and this sentence are controlling. Any additional article in this agreement that is inconsistent with the Code Section 223 will be void.

Article X

This agreement will be amended from time to time to comply with the provisions of the Code or IRS published guidance. Other amendments may be made with the consent of Accountholder. Your HSA is established with Custodian on the date it is set up with the Custodian. If the initial account is established after the first of the month, the HSA is established the first of the following month. Custodian makes no representation whether expenses incurred after the establishment date of an unfunded HSA may be reimbursed from contributions that are made on a later date.

Article XI

11.01 Definitions. In this part of the agreement, the words "you" and "your" shall mean Accountholder. Accountholder is the person who establishes the Custodian account. The words "we," "us" and "our" shall refer to the HSA Administrator and the Custodian.

11.02 Delegation of Responsibility. The Custodian has delegated responsibility for certain recordkeeping and administration to the HSA Administrator. The HSA Administrator shall receive and forward contributions to your HSA, and make distributions from your HSA. All of your questions, comments, and instructions should be directed to the HSA Administrator through its website or by other means made available to you through the HSA Administrator. You have appointed TPA your Designated Representative to serve as HSA Administrator in the separate agreement titled "Designation of Representative By Accountholder."

When you provide instructions to the HSA Administrator regarding your HSA, the HSA Administrator will pass those instructions on to Custodian.

11.03 Notices and Change of Address. Any required notice regarding this HSA will be considered effective when sent to the intended recipient via e-mail or, at our discretion, via U.S. Mail to the last electronic or other mailing address maintained for you by the HSA Administrator in its records. Any notice to be given to HSA Administrator or Custodian will be considered effective when actually received. You or the intended

recipient must notify the HSA Administrator if you change your e-mail address or other mailing address. In the event of your death, your spouse or account beneficiary must notify the HSA Administrator of any corresponding change in e-mail or other mailing address. Any notice you provide to the HSA Administrator or Custodian will be considered effective when actually received.

11.04 Representations and Responsibilities. You represent and warrant that any information you provide us regarding your HSA with respect to this agreement is complete and accurate. Further, you agree that any directions you give the HSA Administrator or action you take will be proper under this agreement, and that we are entitled to rely upon any such information or directions. If we fail to receive directions from you regarding any transaction, or if we receive ambiguous directions regarding any transaction, or we in good faith believe that any transaction requested is in dispute, we reserve the right to take no action until further clarification acceptable to us is received from you or the appropriate government or judicial authority. We shall not be responsible in the event of any failure or interruption of services resulting from the act or omission of any third party service provider used to give such direction, and shall not be responsible for any losses. We shall not be responsible for losses of any kind that may result from your directions to us or your actions or failures to act, and you agree to reimburse us for any loss we may incur as a result of such directions, actions or failures to act. We shall not be responsible for any penalties, taxes, judgments or expenses you incur in connection with your HSA. We have no duty to determine whether your contributions or distributions comply with the Code, Treasury Regulations, IRS Rulings or this agreement. We have the right to require you to provide, on a form provided by or acceptable to us, proof or certification that you are eligible to contribute to this HSA, including, but not limited to, proof or certification that you are covered by a HDHP. In no event shall we be responsible to determine if contributions made by your employer to your HSA meet the requirements for comparable contributions, the rules of which are set forth in the Code and IRS published guidance.

You acknowledge that establishment of your HSA is completely voluntary on your part and that, to the best of your knowledge, your employer does not (i) limit your ability to move funds to another HSA beyond restrictions imposed by the Code; (ii) impose conditions on utilization of HSA funds beyond those permitted under the Code; (iii) make or influence the investment decisions with respect to funds contributed to an HSA; (iv) represent that the HSA is an employee welfare benefit plan established or maintained by the employer; or (v) receive any payment or compensation in connection with the HSA.

We may permit you to appoint, through written notice acceptable to us, an authorized agent (in addition to your Designated Representative) to act on your behalf with respect to this agreement (e.g., attorney-in fact, executor, administrator, investment manager); however, we have no duty to determine the validity of such appointment or any instrument appointing such authorized agent. We shall not be responsible for losses of any kind that may result from directions, actions or failures to act by your authorized agent, and you agree to reimburse us for any loss we may incur as a result of such directions, actions or failures to act by your authorized agent. You will have thirty (30) days after you receive any documents, account information or other information from us to notify us in writing of any errors or inaccuracies reflected in these documents, account information or other information. If you do not notify us within thirty (30) days, the documents, account information or other information shall be deemed correct and

accurate, and we shall have no further liability or obligation for such documents, account information, other information or the transactions described therein.

By performing services under this agreement, we are acting as your agent. You acknowledge and agree that we are not providing services to you or your HSA as a fiduciary under the Employee Retirement Income Security Act of 1974 ("ERISA") Section 3(21), under any comparable and applicable provisions of state or local law, or under the Investment Advisor's Act of 1940, and nothing in this agreement shall be construed as conferring fiduciary status upon us. We shall not be required to perform any additional services unless specifically agreed to under the terms and conditions of this agreement, or as required under the Code and the applicable guidance with respect to HSAs. You agree to indemnify and hold us harmless for any and all claims, actions, proceedings, damages, judgments, liabilities, costs and expenses, including attorneys' fees, arising from or in connection with this agreement. To the extent written instructions or notices are required under this Agreement, we may accept or provide such information in any other forms permitted by law, including through electronic mediums.

11.05 Service Fees. Custodian reserves the right to charge a periodic service fee or other designated fees (e.g., a transfer, rollover, investment management or termination fee) for maintaining your HSA. In addition, Custodian has the right to be reimbursed for all reasonable expenses, including legal expenses, it incurs in connection with the administration of your HSA. Custodian has the right to charge a \$75.00 per hour fee when it is required to pull documentation on your behalf. Custodian may charge you separately for any fees or expenses, or may deduct the amount of the fees or expenses from the assets in your HSA at its discretion. Custodian reserves the right to charge any additional fee upon thirty (30) days notice to you that the fee will be effective.

The HSA Administrator may charge a separate fee for administration and other services related to your HSA. You authorize the HSA Administrator to charge you separately for those fees, or to deduct the amount of the fees or expenses from the assets in your HSA. Your employer may also agree to pay these fees on your behalf. The amount of fees payable may be set forth in a separate fee schedule which may be part of your application.

To the extent that you direct investment of your HSA in mutual funds pursuant to Section 11.07, balances invested in those mutual funds are subject to investment fees and other charges and expenses as described by the applicable prospectuses. Any brokerage commissions attributable to the assets in your HSA will be charged to your HSA. You cannot reimburse your HSA for those commissions.

11.06 Definitions and How your HSA Operates.

Definitions.

a. "Cash Account" shall mean an account, or accounts held for the benefit of Accountholder into which HSA dollars are swept from Contribution Account and held until swept into Investment Account or Distribution Account. The Cash Account balance is utilized for authorizing distribution requests and purchases with a debit card.

Your HSA funds in Cash Account will be separately accounted for, credited to your HSA balance, and insured by the Federal Deposit Insurance Corporation (“FDIC”) up to \$100,000, or the maximum limits allowable by law pursuant to FDIC insurance coverage rules. For information about FDIC insurance coverage, see the “Your Insured Deposits” information at FDIC’s website: <http://www.fdic.gov/deposit/deposits/insured/>. Funds invested in Cash Account are used by Custodian in its general banking business, which may generate income to the Custodian; such income is considered part of the fees for the Custodian’s services.

- b. “Cash Account Maximum Threshold” shall mean the amount in Cash Account that triggers money movement from Cash Account to Investment Account.
- c. “Cash Account Minimum Threshold” shall mean the amount in Cash Account that triggers money movement from Investment Account to Cash Account.
- d. “Cash Account to Investment Account Trigger” shall mean when Cash Account balance exceeds Cash Account Maximum Threshold by an amount equal to or more than Minimum Auto-Sweep Amount, HSA dollars are auto-swept from Cash Account to Investment Account.
- e. “Contribution Account” shall mean an account, or accounts, into which Accountholder and employer contributions are deposited by TPA, and from which HSA dollars are swept into Cash Account.
- f. “Default Portfolio” shall mean the standard offering of mutual funds, as chosen by the Custodian or as agreed upon by the Custodian and TPA.
- g. “Distribution Account” shall mean an account, or accounts, from which distributions, rollovers and transfers are made to Accountholder, and into which HSA dollars are swept from Cash Account.
- h. “Investment Account” shall mean an account, or accounts, into which HSA dollars are swept from Cash Account. Dollars swept into Investment Account are initially invested in a FDIC-insured interest-bearing account on behalf of Accountholder. Accountholder has the ability to invest these dollars into a variety of investment funds.
- i. “Investment Account to Cash Account Trigger” shall mean when Cash Account balance falls below Cash Account Minimum Threshold by an amount equal to or more than Minimum Auto-Sweep Amount, investments are sold to bring Cash Account back to Cash Account Maximum Threshold. If it is necessary to liquidate one or more of your investments, the Custodian will follow the procedure in Section 11.17.
- j. “Minimum Auto-Sweep Amount” shall mean minimum amount of money required to move HSA dollars between the Cash Account and Investment Account once the applicable thresholds are met.

How your HSA Operates.

TPA will receive contributions (including rollovers, transfers, and mistaken distributions) from you and your employer and transfer them to Contribution Account. Based on your account balances and instructions, Custodian will move monies between accounts based on threshold and trigger amounts, as described below. TPA will issue distributions (including rollovers, transfers, and mistaken contributions) to you from Distribution Account.

Custodian will transfer contributions from Contribution Account into Cash Account on a daily basis.

When your Cash Account balance meets or exceeds Cash Account to Investment Account Trigger amount, Custodian will transfer funds from Cash Account to Investment Account in an amount equal to or more than Minimum Auto-Sweep Amount, and place these funds in an interest-bearing account and/or in such investment fund(s) as you elect.

When you request a distribution from your HSA that is less than the balance in your Cash Account, Custodian will transfer the distribution amount from Cash Account to Distribution Account.

When you request a distribution from your HSA that is more than the balance in your Cash Account, Custodian will transfer sufficient funds from Investment Account to Cash Account to cover the amount of the distribution, and transfer the distribution amount to Distribution Account.

If, for any reason, your Cash Account balance drops below Investment Account to Cash Account Trigger amount, Custodian will transfer such funds in an amount equal to or more than Minimum Auto-Sweep Amount from Investment Account to Cash Account as needed to bring Cash Account balance to Cash Account Minimum Threshold. If it is necessary to liquidate one or more of your investments, the Custodian will follow the procedure in Section 11.17.

11.07 HSA Investment Options. HSA investment options include shares or participations of one or more investment companies as defined in the Investment Company Act of 1940, as amended (such funds are often referred to as “mutual funds”). Mutual funds made available as HSA investment options may include funds for which Custodian serves as investment advisor, custodian, and/or distributor, and receives compensation for such services, as disclosed in the current prospectus for such mutual fund. Custodian may also provide administrative, shareholder, or sub-transfer agency services, for other mutual funds that are available as HSA investment options, and Custodian may receive compensation from third parties for those services, as disclosed in the current prospectus for such mutual fund or as disclosed by us from time to time. All dividends, including capital gain distributions, paid on mutual fund shares shall be reinvested in full and fractional shares of the mutual fund paying the distribution in the manner specified in the prospectus of the mutual fund. It will be your responsibility to exercise all conversion, subscription, voting and other rights pertaining to any securities held in your HSA, if applicable. You may invest in other investment vehicles (for example, stocks, bonds, savings accounts or other investment vehicles) only if Custodian makes such investments available as investment options. Unless you make changes, your investment allocations will remain in effect and be applied to both current and future contributions to your account.

You have exclusive responsibility for and control over the investment of the assets of your Investment Account. All transactions shall be subject to any and all restrictions or limitations, direct or indirect, which are imposed by our charter, articles of incorporation, or bylaws; any and all applicable federal and state laws and regulations; the rules, regulations, customs and usages of any exchange, market or clearing house where the transaction is executed; our policies and practices; and this agreement. Neither Custodian nor the HSA Administrator shall have discretion to direct any investment in your HSA. Neither Custodian nor the HSA Administrator assumes any responsibility for rendering investment advice with respect to your HSA, nor will Custodian or the HSA Administrator offer any opinion or judgment to you on matters concerning the value or suitability of any investment or proposed investment for your HSA. In the absence of instructions from you (as delivered to Custodian from the HSA Administrator), or if your instructions are not otherwise in a form acceptable to us, Custodian shall have the right to hold these amounts in the interest-bearing account, and shall have no responsibility to invest these amounts in anything other than the interest-bearing account unless and until directed by you. Neither Custodian nor the HSA Administrator will exercise the voting rights and other shareholder rights with respect to investments in your HSA. You will select the type of investment for your HSA assets, provided, however, that your selection of investments shall be limited to those types of investments that Custodian is authorized by its charter, articles of incorporation or bylaws to make available and does in fact make available for investment in HSAs. Custodian may, in its sole discretion, make available to you, additional investment offerings, which shall be limited to publicly traded securities, mutual funds, money market instruments and other investments that are obtainable by Custodian and that it is capable of holding in the ordinary course of its business.

Mutual funds that are made available as HSA investment options may change from time to time. We will provide you with reasonable advance notice of such changes and give you the opportunity to change your investment allocations accordingly. If a mutual fund is eliminated as an HSA investment option and replaced with another mutual fund Custodian determines has similar risk and return characteristics ("replacement fund"), you direct us to liquidate your investment in the original mutual fund and reinvest the proceeds in the replacement fund. Unless you make changes, your existing investment allocation will be modified to recognize the replacement fund, so that current and future contributions will be invested in the replacement fund. If a mutual fund is eliminated as an HSA investment option and is not replaced with another mutual fund Custodian determines has similar risk and return characteristics, you direct us to liquidate your HSA funds invested in the mutual fund and transfer those funds to an interest-bearing FDIC-insured account. Unless you make changes, your existing investment allocation will be modified, so that current and future contributions to the eliminated mutual fund will be invested in an interest-bearing FDIC-insured account. You may direct Custodian to redeem any or all mutual fund shares held in your HSA and to invest the proceeds in any other available mutual funds, subject, however, to the applicable terms and conditions of the prospectus for each mutual fund involved.

You understand and acknowledge that some mutual funds (their managers, servicing agents, advisors, distributors or other affiliates) that may be held in the HSA may pay, directly or indirectly, as administrative expenses of the mutual fund, pursuant to a written plan described in Securities and Exchange Commission Rule 12b-1, or in another manner, fees or other compensation to Custodian or its affiliates in recognition of shareholder services and recordkeeping services provided ("12b-1 fees"). Custodian will

allocate 12b-1 fees to your HSA based on your holdings in each mutual fund. Accountholder acknowledges 12b-1 fees or other compensation are described in the prospectus or other disclosure materials made available to Accountholder, and that administrative and management fees hereunder would otherwise be higher if 12b-1 fees were not payable to Custodian or its affiliates. The 12b-1 fees are remitted by the mutual fund companies on a random basis during the year. The 12b-1 fees received during each calendar quarter will be allocated to your HSA by the end of each quarter as additional earnings.

Accountholder agrees that Custodian will on a quarterly basis deduct a management fee from your HSA equal to one-quarter of one-quarter of one percent (.0625%) per annum or equal to an annual fee of one-quarter of one percent (.25%) on balances invested in mutual funds in your HSA Investment Account. All or a portion of the management fees will be offset by the amount of 12b-1 fees received.

Different fees and rebate structures may apply to Accountholders with investment alternatives other than Default Portfolio.

Some mutual funds may charge a redemption fee. Redemption fees, if any, will be charged to your HSA. You cannot reimburse your HSA for redemption fees. For further information on redemption fees, please see the mutual fund prospectus.

You understand that the value of your HSA and the growth in value of the HSA are dependent solely on the performance of the investment options you select. You acknowledge that investment options available under this HSA such as mutual funds and other securities (but not Cash Account) are not insured by FDIC or other agency, are not guaranteed by Custodian or any affiliate of Custodian, HSA Administrator, or your employer, and may lose value. You also acknowledge that past investment performance is not a guarantee of future investment results with respect to an investment option and that you will review investment information about the investment options before investing. You should seek the assistance of a financial professional to address any questions or concerns you may have about your investment options and the selection of investments for your HSA.

11.08 HSA Investment Account. The HSA Investment Account is only available online through a link in your personal website account. Accordingly, all investment transactions in the HSA Investment Account must be initiated and conducted through your personal website account or by telephone, if available through TPA. Your investment in the HSA investment options may constitute the purchase of securities. As a holder of securities, you may be entitled to receive certain documents, including but not limited to prospectuses and proxies. Any securities-related documents required to be transmitted to you as a result of your investment in the HSA investment options will be transmitted to you electronically via your personal website account. As a condition to opening an HSA Investment Account, you will be required to consent to the electronic delivery of all documents of any issuer whose securities are made available to your HSA, including issuers and securities made available after the date your account is opened. If you become unable to access your personal website account, or if you revoke your consent to electronic disclosure of investment information, you must contact your HSA Administrator immediately. At that time you will be given the option to terminate your account (and, if you choose, roll it over to another provider), or to liquidate your

investment in the investment options and hold your HSA entirely in Cash Account (and in the interest-bearing account, to the extent your HSA exceeds the minimum amount).

11.09 Personal Website Account. Records of your HSA contributions, distributions, investment activity and earnings and balances will be made available exclusively on your personal website account. Before being granted online access to your HSA records, it will be necessary to enter a personal identification number ("PIN"), user ID and/or enhanced online security feature that you will receive prior to logging onto your personal website account.

By executing this HSA Custodial Agreement and Disclosure Statement, you agree that all account information from the Custodian shall be made available exclusively in electronic form. Account information may be viewed at any time by logging into your personal website account. Any notices related to your HSA will be posted on your personal website account or, at our discretion, provided either by e-mail to the e-mail address we have on file for you, or by U.S. Mail to your mailing address we have on file for you. For an additional fee, if applicable, HSA Administrator will send paper account information to your address by U.S. mail. You are responsible to advise HSA Administrator in writing of any change to either your e-mail or mailing address.

Account information, notices and communications will be accessible in a form you can view, save to your computer or print as paper copies. A link will be provided to any software necessary to view, print, and/or save your HSA account information.

Your personal website account will have information about your account balance, contributions, distributions, and recent amendments to your Custodial Agreement and Disclosure Statement and Designation of Representative by Accountholder readily available for review. Your personal website account will provide a link or links to other websites for you to obtain specific information about your investments, including prospectuses. It may be necessary for you to establish a separate PIN, user ID and/or enhanced online security feature for this purpose and complete additional forms.

You agree to check your personal website account no less frequently than monthly to view your HSA account activity and other communications and information. You are responsible for keeping your HSA, PIN user ID and/or enhanced online security feature confidential, and we are not responsible for any other person's use of your PIN, user ID and/or enhanced online security feature.

11.10 Earnings on HSA Funds. In connection with the investment, contribution and distribution of funds in the ordinary course of our duties, we are authorized to deposit cash in checking or other disbursement accounts in our name or in the name of an affiliate. Until such time that a check is presented for payment, HSA Administrator (or an affiliate) will receive an earnings credit that is calculated using a tiered rate which is based on the 91-day Treasury Bill index (after a ten percent (10%) reserve requirement). Any such earnings credit received by the HSA Administrator on HSA funds held in contribution or distribution accounts, and any revenue earned by Custodian from the use of funds deposited in Cash Account, shall be part of our compensation for servicing this HSA, and you acknowledge and understand that compensation otherwise charged by us for services under this agreement would be higher if we did not earn interest on HSA funds we deposit in accounts to accommodate HSA contributions or distributions or did not earn revenues from HSA funds deposited in Cash Account. If a check drawn on

Distribution Account is not presented for payment within a maximum of one hundred eighty (180) days of the date it was written, the check shall be deemed invalid and the funds will be transferred from Distribution Account back to your Cash Account as soon as reasonably practicable. After the maximum number of days has passed, you may contact the HSA Administrator to request a replacement check.

11.11 Custodian Powers. Custodian may register securities in its name or in the name of its nominee without disclosing that such securities are held as custodian or as nominee. Except as expressly provided otherwise in this agreement, Custodian shall have all of the powers generally conferred on custodians under the laws of the State of North Dakota. Additionally, Custodian shall also have the power to perform any and all acts that it deems necessary or appropriate for the proper custodial servicing of your HSA. Custodian may adjust the balance of your HSA as necessary to correct administrative errors, including improperly allocated contributions, distributions, earnings or losses. In the event a check or other instrument is returned for insufficient funds, any corresponding contributions to your HSA are also subject to adjustment by the Custodian.

11.12 Beneficiary(ies). If you die before you receive all of the funds from this HSA, payments from your HSA will be made to your death beneficiary(ies). You may designate one (1) or more persons or entities as death beneficiary of your HSA. This designation can only be made on a form provided by or acceptable to us, and it will only be effective when it is filed with the HSA Administrator during your lifetime. Unless otherwise specified, each death beneficiary designation you file with the HSA Administrator will cancel all previous ones. The consent of a death beneficiary(ies) shall not be required for you to revoke a death beneficiary designation. If you have designated both primary and contingent death beneficiaries and no primary death beneficiary(ies) survives you, the contingent death beneficiary(ies) shall acquire the designated share of your HSA. If you do not designate a death beneficiary, or if all of your primary and contingent death beneficiary(ies) predecease you, your estate will be the death beneficiary.

You understand that if you designate your spouse as primary death beneficiary or contingent death beneficiary of this HSA, the dissolution, termination, annulment or other legal termination of your marriage will automatically revoke all beneficiary designations, both primary and contingent. After such revocation and until such time as a new beneficiary designation is completed, the HSA shall be treated as if there is no beneficiary designated

Based on the above, if your current spouse acquires the interest in this HSA by reason of being the death beneficiary at your death, this HSA shall be treated as if the surviving spouse were Accountholder. If the death beneficiary is your ex-spouse, and you did not complete a new beneficiary designation since the termination of your marriage to your ex-spouse, then this HSA shall be treated as if there is no death beneficiary (primary or contingent) and the entire HSA shall be treated as if your estate is the death beneficiary. If the death beneficiary is not your current spouse (which would include your ex-spouse if you completed a new beneficiary designation after the termination of the marriage) the HSA (or in accordance with rules established by the IRS the relevant portion thereof) will cease to be an HSA as of the date of death. Upon learning of Accountholder's death, we may, in our complete and sole discretion, make a final distribution to a death beneficiary (other than Accountholder's spouse) of his or her interest in the HSA. This distribution

may be made without the death beneficiary's consent and may be placed in an interest-bearing (or similar) account that we choose.

11.13 Termination of Agreement, Resignation, or Removal of Custodian. You may terminate this agreement at any time by giving written notice to the HSA Administrator. Custodian may resign at any time effective thirty (30) days after it mails written notice of its resignation to you. Upon receipt of that notice, you must make arrangements to transfer your HSA to another financial organization. If you do not complete a transfer of your HSA within thirty (30) days from the date Custodian mails the notice to you, Custodian has the right to transfer your HSA assets to a successor HSA custodian or trustee that it chooses in its sole discretion, or it may pay your HSA to you in a single sum. Custodian shall not be liable for any actions or failures to act on the part of any successor custodian or trustee, nor for any tax consequences you may incur that result from the transfer or distribution of your assets pursuant to this section.

If this agreement is terminated, Custodian may charge to your HSA a reasonable amount of money that it believes is necessary to cover any associated costs.

11.14 Successor Trustee or Custodian. If Custodian changes its name, reorganizes, merges with another organization (or comes under the control of any federal or state agency), or if the entire organization (or any portion which includes your HSA) is bought by another organization, that organization (or agency) shall automatically become the trustee or custodian of your HSA, but only if it is the type of organization authorized to serve as an HSA trustee or custodian.

11.15 Amendments. Custodian has the right to amend this agreement at any time. Any amendment Custodian makes to comply with federal or state law does not require your consent. You will be deemed to have consented to any other amendment unless, within thirty (30) days from the date of notice of the amendment, you notify the HSA Administrator in writing that you do not consent.

11.16 Distributions. All requests for distributions or direct transfer to another HSA shall be made via electronic transfer, debit card, or on a form made available through the HSA Administrator and acceptable to Custodian. The Social Security Number or tax identification number of the recipient must be provided to Custodian before it is obligated to make a distribution. Distributions shall be subject to all applicable tax and other laws and regulations, including possible early distribution penalties or surrender charges and withholding requirements.

You agree not to withdraw or attempt to withdraw amounts in excess of the balance of the HSA. In the event that an overdraft occurs, you will immediately contribute an amount to the HSA equal to the amount of the overdraft and any outstanding fees assessed against the HSA, including any overdraft fees. Such contributions made by you to the HSA shall be applied, first, to any outstanding fees (including overdraft fees) payable to Custodian, and second, to the negative balance of the HSA. Until you contribute the necessary funds to have the account become positive, all account activity shall be suspended. If after ninety (90) days you have not contributed the above required amounts, then Accountholder agrees to be subject to any and all collection actions needed to recover such amounts and the account shall be closed.

Custodian may allow the return of mistaken distributions provided there is clear and convincing evidence that the amount(s) distributed from the HSA was because of a mistake of fact due to reasonable cause. In determining whether this standard has been met, Custodian shall have the ability to rely on your representation that the distribution was, in fact, a mistake. Custodian may not permit return of mistaken distributions that relate to a calendar year after December 31st of that year.

In no event shall we restrict or limit HSA distributions to the payment or reimbursement of your qualified medical expenses. However, we may, on a case-by-case basis or as a matter of policy, place reasonable restrictions on both the frequency and the minimum amount of distributions from the HSA.

11.17 Liquidation of Assets. Custodian has the right to liquidate assets in your HSA if necessary to make distributions or to pay fees, expenses, taxes, penalties or surrender charges properly chargeable against your HSA. Custodian will liquidate your investments in the same proportion as your investment holdings, and you agree not to hold us liable for any adverse consequences that may result from our decision to liquidate investments in this order. You understand that you might not receive the total amount of your requested distribution due to market fluctuations during the time period for processing your distribution request.

11.18 What Law Applies. This agreement is subject to all applicable federal and state laws and regulations. If it is necessary to apply any state law to interpret and administer this agreement, the laws of the State of North Dakota shall govern. If any part of this agreement is held to be illegal or invalid, the remaining parts shall not be affected. Neither your nor our failure to enforce at any time or for any period of time any of the provisions of this agreement shall be construed as a waiver of such provisions, or your right or our right thereafter to enforce each and every such provision.

11.19 Disclaimers. The HSA established by this agreement is intended not to constitute an “employee welfare benefit plan” or an “employee pension benefit plan” as defined by ERISA. Regardless of the status of the HSA under ERISA, we are not an “employer” or “plan sponsor” of the HSA or of any arrangement or plan of which the HSA is a part. We expressly disclaim responsibility for ERISA’s participation, vesting, funding, reporting, disclosure, and fiduciary requirements as they may apply to your HSA, including but not limited to any requirement to provide notices or election forms regarding continuation coverage under ERISA. If and to the extent that the HSA is deemed to be part of an arrangement or plan subject to ERISA, including any determination that the HSA is subject to ERISA’s continuation coverage requirements, this agreement may be amended or terminated at our sole discretion as of the effective date of such determination or on such later date, as we deem appropriate.

We will maintain all confidential information in accordance with all applicable banking laws and regulations. The HSA established by this agreement, however, is not intended to be a “health plan” as defined by final regulations interpreting the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”). Regardless of the status of the HSA under HIPAA Privacy Rules, we are not a “plan administrator” or “plan sponsor.” We expressly disclaim responsibility for the duties imposed upon “covered entities” under HIPAA Privacy Rules, except as may be agreed upon pursuant to a business associate agreement between us and a covered entity or any third party subject to the HIPAA Privacy Rules. If and to the extent that we are determined to be responsible for HIPAA

compliance beyond the duties assumed pursuant to a business associate agreement, this agreement may be amended or terminated at our sole discretion as of the effective date of such determination or such later date, as we deem appropriate.

HSAs are personal health savings vehicles rather than group employee benefits. Although with respect to this HSA, your employer may have agreed to forward contributions through its payroll system to Custodian, either directly or through HSA Administrator, you are not restricted from moving funds to another HSA custodian or trustee (but your employer is not required to forward payroll contributions to another HSA provider).

Some states and localities may have tax laws that are different from the federal laws for HSAs. You should consult with your tax or legal advisor with questions about state and local laws that may affect your HSA.

11.20 Disclosure Statement.

1. Requirements of an HSA.

a. **Cash Contributions.** Regular or annual HSA contributions must be in cash, which may include a check, money order, ACH or wire transfer. It is within Custodian's discretion to accept in-kind contributions for rollovers or transfers.

b. **Maximum Contribution.** Except as provided in paragraph d. below, the total amount that may be contributed to your HSA for any taxable year is the sum of the limits determined separately for each month. The determination for each month is based on whether, as of the first (1st) day of such month, you are eligible to contribute and whether you have individual or family coverage under a HDHP. The maximum monthly contribution is adjusted each year for cost-of-living increases. In 2009, the maximum monthly contribution is one-twelfth (1/12th) of \$3,000 for single coverage, and one-twelfth (1/12th) of \$5,950 for family coverage. In addition, if you have attained age fifty-five (55) before the close of the taxable year, and are not enrolled in Medicare, the contribution limit is increased on a monthly basis by an additional amount not to exceed \$1,000 for 2009 and thereafter. The annual limit is decreased by aggregate contributions to another HSA or to an Archer MSA.

c. **Contribution Eligibility.** You are an eligible individual for any month if you (i) are covered under an HDHP on the first day of such month; (ii) are not also covered by any other health plan that is not an HDHP and that provides coverage for any benefit covered under the HDHP (with limited exceptions such as a Limited Purpose Health Flexible Spending Account); (iii) are not enrolled in Medicare; and (iv) are not claimed as a dependent on another person's tax return.

In general, an HDHP is a health plan that satisfies certain requirements with respect to deductibles and out-of-pocket expenses, as adjusted for inflation. In 2009, an HDHP has an annual deductible of at least \$1,150 for single coverage and at least \$2,300 for family coverage. In addition, the sum of the annual out-of-pocket expenses required to be paid in 2009 (deductibles, co-payments and amounts other than premiums) cannot exceed \$5,800 for single coverage and

\$11,600 for family coverage. All of these dollar amounts are adjusted for cost-of-living increases.

d. **HSAs Established Mid-Year.** If you are an eligible individual during the last month of the taxable year, you will be treated as (i) as having been an eligible individual during each of the months in such taxable year, and (ii) as having been enrolled, during each of the months you are treated as an eligible individual solely by reason of item (i) above, in the same high deductible health plan in which you are enrolled for the last month of such taxable year. Under these circumstances, and subject to the requirement that you remain an eligible individual during the testing period, you may contribute the maximum amount to your HSA as though you were an eligible individual throughout the entire taxable year. The “testing period” means the period beginning with the last month of the taxable year referred to above, and ending on the last day of the twelfth (12th) month following such month.

If at any time during the testing period you cease to be an eligible individual, then your gross income in the taxable year in which you cease to be an eligible individual will be increased by the amount of all contributions to your HSA which could not have been made but for the rule above in this paragraph d., and you will be required to pay a penalty tax equal to ten percent (10%) of the amount of such increase. These amounts will not be included in gross income or subject to the ten percent (10%) penalty tax if you cease to be an eligible individual because of death or because you become disabled (within the meaning of Section 72(m) of the Code).

e. **Nonforfeitable.** Your interest in your HSA is nonforfeitable.

f. **Eligible Custodians.** The custodian of your HSA must be a bank, savings and loan association, credit union, or a person approved by the IRS.

g. **Commingling Assets.** The assets of your HSA cannot be commingled with other property, except in a common trust fund or common investment fund.

h. **Life Insurance.** No portion of your HSA may be invested in life insurance contracts.

2. **Income Tax Consequences of Establishing an HSA.**

a. **Tax Treatment of HSA Contributions.** If you are eligible to contribute to an HSA for any month during the taxable year, amounts contributed to your HSA are deductible in determining adjusted gross income up to the maximum contribution limits discussed above. The deduction is allowed regardless of whether you itemize deductions. Employer contributions to your HSA are excludable from your gross income and you cannot deduct such amounts on your tax return as HSA contributions.

b. **Tax-Deferred Earnings.** The investment earnings of your HSA are not subject to federal income tax until distributions are made (or, in certain instances, when distributions are deemed to be made).

c. **Taxation of Distributions.** The taxation of HSA distributions depends on whether the distribution is for a qualified medical expense. Generally, distributions paid due to qualified medical expenses are excluded from your gross income. Qualified medical expenses are amounts you pay for medical care (as defined in the Code Section 213(d)) for yourself, your spouse and your dependents (as defined in the Code Section 152), but only to the extent that such amounts are not covered by insurance or otherwise. Distributions made for purposes other than qualified medical expenses are included in your gross income and are subject to an additional ten percent (10%) tax on the includable amount.

d. **Rollovers and Transfers.** Your HSA may be rolled over to another HSA of yours, or may receive rollover contributions, provided that all of the applicable rollover rules are followed. Rollover is a term used to describe a tax free movement of cash or other property between any of your HSAs or other tax favored accounts. The rollover rules are generally summarized below. These transactions are often complex. If you have any questions regarding a rollover, please see your tax advisor.

Funds distributed from your HSA may be rolled over to an HSA of yours if the requirements of the Code Section 223(f)(5) are met. A proper HSA to HSA rollover is completed if all or part of the distribution is rolled over not later than sixty (60) days after the distribution is received. You may not have completed another HSA to HSA rollover from the distributing HSA during the twelve (12) months preceding the date you received the distribution. Further, you may roll over the same dollars or assets only once every twelve (12) months. Finally, current IRS-published guidance indicates that you may make only one rollover contribution to an HSA during a one (1) year period.

Funds distributed from your Archer MSA may be rolled over to your HSA. A proper MSA to HSA rollover is completed if all or part of the distribution is rolled over not later than sixty (60) days after the distribution is received. Rollovers from an IRA, Health Reimbursement Arrangement (HRA), or a Health Flexible Spending Arrangement (FSA) to an HSA are also permitted subject to the requirements and limitation under the Tax Relief and Health Care Act of 2006 and IRS guidance issued thereunder.

At the time you make a proper rollover to an HSA, you must designate to Custodian, in writing, your election to treat that contribution as a rollover. Once made, the rollover election is irrevocable.

e. **Carryback Contributions.** A contribution is deemed to have been made on the last day of the preceding taxable year if you make a contribution by the deadline for filing your income tax return (not including extensions), and you designate that contribution as a contribution for the preceding taxable year. For example, if you are a calendar year taxpayer and you make your HSA contribution on or before April 15th, your contribution is considered to have been made for the previous tax year if you designated it as such.

f. **Death Beneficiary Issues.** You understand that if you designate your spouse as primary death beneficiary or contingent death beneficiary of this HSA,

the dissolution, termination, annulment or other legal termination of your marriage will automatically revoke all beneficiary designations, both primary and contingent. After such revocation and until such time as a new beneficiary designation is completed, the HSA shall be treated as if there is no beneficiary designated

If you die and your death beneficiary is your current spouse, your HSA shall become your spouse's HSA as of the date of your death. If the death beneficiary is your ex-spouse and you have not completed a new beneficiary designation since the termination of your marriage to your ex-spouse, then this HSA shall be treated as if there is no death beneficiary (primary or contingent) and the entire HSA shall be treated as if your estate is the death beneficiary.

If your death beneficiary is not your current spouse (which would include your ex-spouse if you completed a new beneficiary designation after the termination of your marriage to your ex-spouse), the value of your HSA on your date of death will be taxable to your death beneficiary in the year you die and your HSA (or the relevant portion thereof) will cease to be an HSA as of the date of death.

If the death beneficiary is your estate or you do not have a death beneficiary, the fair market value of the account as of the date of death is taxable on Accountholder's final return. For other death beneficiaries, the fair market value of the account is taxable to that person in the tax year that includes such date.

3. **Limitations and Restrictions.**

a. **Deduction of Rollovers and Transfers.** A deduction is not allowed for rollover or transfer contributions.

b. **Prohibited Transactions.** If you or your death beneficiary engage in a prohibited transaction with your HSA, as described in Code Section 4975, your HSA will lose its tax-exempt status and you must include the value of your account in your gross income for that taxable year and pay all applicable taxes and penalties.

c. **Pledging.** If you pledge any portion of your HSA as collateral for a loan, the amount so pledged will be treated as a distribution and will be included in your gross income for that year and may be subject to the additional ten percent (10%) tax.

4. **Federal Tax Penalties.**

a. **Ten Percent (10%) Penalty.** If you receive a distribution that is included in your gross income, you are subject to an additional tax of ten percent (10%). This additional ten percent (10%) tax will apply unless a distribution is made on account of (i) attainment of age sixty-five (65) (or, if different, the age specified under Section 1811 of the Social Security Act), (ii) death, or (iii) disability.

b. **Excess Contribution Penalty.** An excise tax of six percent (6%) is imposed upon any excess contribution you make to your HSA. This tax will apply each year in which an excess remains in your HSA. An excess contribution is

any contribution amount which exceeds your contribution limit, excluding rollover and direct transfer amounts.

5. Other.

a. **Important Information about Procedures for Opening and Maintaining your Account.** To help the government fight the funding of terrorism and money laundering activities, federal law requires all financial organizations to obtain, verify, and record information that identifies each individual who opens an account. What this means for you, when you open an account, you are required to provide your name, residential address, date of birth, and identification number. As part of the ongoing maintenance of your account we may require other information or documentation that allows us to identify you. You understand that your HSA may be closed if additional verification is not possible. Upon such closure, funds deposited in your HSA will be returned to you, less any fees or expenses chargeable against your HSA, or penalties or surrender charges associated with the early withdrawal of any savings instrument or other investment in your HSA account. Custodian shall not be liable for any tax consequences or tax withholdings you may incur as a result of the transfer or distribution of your assets.

b. **Important Information about your Account.** The maximum balance allowed in your Cash Account is based on the designated threshold established by your TPA and agreed upon by Bank. Amounts over this balance will be automatically swept to your Investment Account as described in this Agreement.

c. **Healthcare Bank, a Division of State Bank & Trust PRIVACY POLICY.** Your privacy is important to us, and our employees will be held to the highest standard of conduct in ensuring the confidentiality of your personal information. Healthcare Bank, a division of State Bank & Trust, has never sold and will never sell confidential information to any outside company for marketing purposes.

NOTICE OF YOUR FINANCIAL PRIVACY RIGHTS

We, our, and us, when used in this notice, mean Healthcare Bank, a division of State Bank & Trust.

This is our privacy notice for our customers. When we use the words “you” and “your”, we mean the following types of customers:

- Our customers who have an HSA through Healthcare Bank, a division of State Bank & Trust.

We will tell you the sources of information we collect about you. We will tell you what measures we take to secure that information.

DEFINITIONS:

Nonpublic personal information means information about you that we collect in connection with providing a financial product or service to you.

Nonpublic personal information does not include information that is available from public sources, such as telephone directories or government records. Hereafter, we will use the term “information” to mean nonpublic personal information as defined in this section.

An **affiliate** is a company we own or control, a company that owns or controls us, or a company that is owned or controlled by the same company that owns or controls us. Ownership does not mean complete ownership, but means owning enough to have control.

A **nonaffiliated third party** is a person we do not employ or a company that is not an affiliate of ours. This is also known as nonaffiliated third party, or simply, an “other party.”

A **service provider/joint marketer** is a nonaffiliated third party that performs services for us in order to transact business on your behalf or assists us in marketing our own products.

THE INFORMATION WE COLLECT

We collect information about you from the following sources:

- Information you give us on applications or other forms
- Information about your transactions with us, our affiliates, or others
- Information from a consumer reporting agency

YOUR INFORMATION AND OUR AFFILIATES

We may disclose information about you within the State Bank family of companies (for example Lighthouse1, LLC).

Federal law allows us to disclose the information listed below to our affiliates. Here are the kinds of information we may disclose to our affiliates:

- Information from our account records about your transactions and experience with us, such as:
 - Name
 - Address
 - Account balances
 - Account activity
 - Types of accounts
 - Parties to the transaction
 - Payment history
 - Deposit history

YOUR INFORMATION AND OUR SERVICE PROVIDERS/JOINT MARKETERS

We may disclose information we collect about you (as described above) with service providers/joint marketers that perform services on our behalf. We require our service providers/joint marketers to comply with our standards regarding security and confidentiality, and permit them to only use your information for purposes authorized by us.

YOUR INFORMATION AND OTHER PARTIES

We do NOT disclose any information about you to anyone except as permitted by law.

Examples of this exception might include disclosures necessary to service your account or prevent unauthorized transactions. For example, we may share personal information with:

- Credit bureaus
- ATM network providers

THE CONFIDENTIALITY, SECURITY, AND INTEGRITY OF YOUR INFORMATION

Access to information about you is restricted to those employees who need that information to provide products and services to you. We maintain physical, electronic, and procedural safeguards to protect this information.

INFORMATION ABOUT FORMER CUSTOMERS

We do not disclose information about former customers except as permitted by law.

By executing this agreement, you acknowledge receipt of the Privacy Policy. You agree to receive future notices of any updates to the Privacy Policy at www.healthcarebank.com, and to review the Privacy Policy no less frequently than annually.

d. **Sweep Disclosure Notification.** As set forth under this agreement, you may make contributions to your HSA. Based on the value of your HSA and certain threshold and trigger amounts defined under this Agreement, funds may be moved between your Cash Account and Investment Account. These funds may either be in a deposit account at Custodian or an Investment Account at an outside investment company, at your direction.

If you direct that the funds be in a deposit account at Custodian, then these funds will be insured by the FDIC to the extent of the deposit insurance limits. In the event of the failure of Custodian, you will be a secured creditor of Custodian to the extent of the FDIC deposit insurance limits. If the funds are in excess of the FDIC deposit insurance limits, you will be an unsecured creditor with respect to the excess.

If you direct that the funds be at an outside investment company, then these funds are not considered a deposit account of Custodian and are not FDIC insured. In the event of the failure of Custodian, these funds will remain your separate funds at the outside investment company and are subject to the provisions of the outside investment company.

By executing this agreement, you acknowledge receipt of the Sweep Disclosure Notification and agree to receive future notices of any updates to the Sweep Disclosure Notification at www.healthcarebank.com, and to review the Sweep Disclosure Notification no less frequently than annually.

e. **Custodian Information.** Healthcare Bank, 3100 13th Ave SW, Fargo, ND 58103. Healthcare Bank is a division of State Bank & Trust, a wholly owned subsidiary of State Bankshares, Inc.