

# Deposit Account Agreement and Disclosures For Health Savings Accounts

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We are pleased to provide you with this booklet that explains the terms and conditions of your Health Savings Account ("HSA"), Medical Savings Account ("MSA"), Medicare Savings Account ("MCSA") or similar tax-advantaged healthcare-related accounts. This agreement does not cover notional arrangements (e.g., health reimbursement arrangements, flexible spending arrangements) that you may have with us. Unless identified otherwise, the term "Account" refers to any of the account types described above. Options and features may vary and may not be available at all times. Please refer to your Welcome Letter or contact us at 1-855-731-5213 to find out the specific options and features available with your Account. Please read this booklet carefully and retain it for your records. Your Account is governed by the terms and conditions contained in this booklet; the laws of the United States; the laws of the state in which you opened your Account as indicated in our records, including the Uniform Commercial Code ("UCC"); the rules and regulations of the Federal Reserve System, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation; automated clearing house and local clearing house rules; and general banking practices in the area we serve. If a law is passed or regulation is promulgated that has the effect of making any provision contained in this booklet unenforceable or illegal, that provision will be invalid, but otherwise the terms and conditions in this booklet will remain in force.

In this booklet, unless otherwise indicated, the words "you" or "your" mean the person who establishes the Account with us. The words "we", "us", "our", or "HSA Bank" mean HSA Bank®, a division of Webster Bank, N.A. A "business day" includes every day except Saturdays, Sundays, and federal holidays.

## DEPOSIT ACCOUNT AGREEMENT

This Deposit Account Agreement (the "Agreement") contains general terms and conditions that apply to your Account. In addition, you have received a **Health Savings Account Fee and Interest Schedule, Privacy and Opt-Out Notice**, and other agreements and disclosures as applicable, which are considered to be part of your Agreement with us. This Agreement is updated and amended from time to time.

This Agreement, as supplemented by the additional agreements and disclosures specifically referenced herein, is the complete and exclusive agreement between you and us related to your Account. If a conflict arises between the general and specific terms and conditions of this Agreement relative to a particular Account, the specific terms and conditions will apply. If a conflict arises between this Agreement and the Health Savings Account Custodial Agreement, Electronic Fund Transfers Agreement and Disclosure included herein, the Online Services Agreement, or any other agreement specifically referenced herein, such other agreement, as applicable, will apply.

## General Terms and Conditions

### I. Establishing Your Account

**Opening Your Account.** By instructing us to open an Account, depositing funds in an Account, or having any interest in an Account, you agree to be bound by the terms and conditions of this Agreement. You agree that we may obtain reports from credit bureaus or consumer reporting agencies to investigate or reinvestigate any information that you provide. We also may verify your employment, pay, assets, debts, and references for purposes of considering your eligibility for products or services.

**Accurate Social Security Number, Name, and Address.** You agree that any information you supply to us is complete and correct. You must certify the accuracy of your social security number on all forms where it is requested. If you do not accurately furnish your social security number or you are currently subject or become subject in the future to backup withholding, we can withhold amounts from your Account as instructed by the Internal Revenue Service ("IRS"). You must inform us of all name and address changes to be assured that all appropriate statements and notices reach you. Whenever a statement is unclaimed or undeliverable because of your failure to provide adequate instructions or to notify us of a change in address, we may discontinue sending statements to you until otherwise instructed by you.

**Privacy, USA PATRIOT Act, and Opening an Account.** We respect and protect the confidentiality of customer information. We only request information that is necessary to open and service your Account. Some of the information we request is required by a federal law called the USA PATRIOT Act and the regulations adopted by governmental agencies to implement it. This law requires us to obtain, verify, and record information that identifies each person or entity that opens an Account. This information helps the government fight the funding of terrorism and money laundering activities.

When you open your Account, we will ask you for your name, street address, and date of birth. We also will ask you for an identification number, such as your social security number. This information allows us to identify you. In some instances, we also may ask to see your driver's license or other identifying documents. If your employer is facilitating your enrollment, you authorize your employer to provide us a copy of your U.S. Citizenship and Immigration Services Form I-9 employment eligibility document. If your identity cannot be authenticated, or your application for your Account is incomplete, your Account may be opened in a restricted status and/or closed at our discretion. This means that we will restrict access to your Account until we can verify your identity or we receive the necessary information to complete your application.

**Confidentiality.** Information about your Account and transactions in your Account are confidential. We will not disclose such information to third parties except: (1) when it is necessary to complete transfers or to collect a check or other item; (2) in order to verify the existence and condition of your Account for a third party, such as a credit bureau or payee, or in order to tell a third party who has one of your checks that we would be able to pay that check if that party presented it to us at that time for payment; (3) if you give us express permission, which we may require to have in writing; (4) in order to comply with government agency regulations or court orders; (5) in order to collect money you owe us, or in connection with a claim by us or against us concerning a deposit or withdrawal from your Account; (6) if we are presented with a legally enforceable instrument or court order, or in response to a proper governmental request under the USA PATRIOT Act; (7) if our officers, employees, or agents including accountants, auditors, service providers, attorneys, or collection agents, need information about your Account or transactions in the course of their duties or as part of their review of our business affairs; (8) in order to collect information for our internal use, the use of our service providers, and our servicing agents and contractors about our electronic fund transfers services; or (9) where otherwise required or permitted under applicable law or our **Privacy and Opt-Out Notice**.

We work with several parties to provide Account services to you. These may include your employer, health insurance carrier, third party administrator for your employer or your health insurance carrier, multi-purse card, debit card, or other methods provided to you to pay for health care expenses using your Account, and data service providers. In order for those parties to provide transaction-related services to your Account and information to you concerning your Account, we will provide non-public personal information concerning your Account to such parties, as appropriate to the type of Account program to which you belong and your services hereunder. Please rest assured that all customer information is kept in the strictest confidence, unless required by law to be disclosed. For additional information, please refer to your **Privacy and Opt-Out Notice**.

### II. Depositing Money in Your Account

**Making a Contribution.** You can make contributions into your Account by various methods depending on the type of Account that you have. We have the right to limit, refuse, or return any deposit. Please refer to the section of this Agreement entitled "**Withdrawals**" and to the sections of this Agreement following the heading "**Funds Availability**" for details concerning how and when we will make funds available to you, including when funds are considered to be deposited.

**Online Contribution.** Through our internet/online portal, you have the ability to make transfers between eligible accounts if your Account includes the ability to do so. A money transfer request may not result in immediate funds availability because of the time required to process the transaction. If you schedule a money transfer between eligible accounts on a day that is not a Business Day, the transfer will not be processed until the next Business Day. If you schedule a money transfer Monday through Friday after 2:00 p.m. Central Time, the transfer will not be processed until the next Business Day. A "Business Day" is every day except Saturdays, Sundays and legal banking holidays observed by the Federal Reserve Bank. If there are insufficient funds in an eligible account from which you are requesting a money transfer, the transfer will not be

processed. We reserve the right to limit the frequency and dollar amount of transactions from your eligible accounts for security reasons, or to prevent you or us from incurring a loss.

**Direct Deposit.** If you have arranged with a third party to have payments directly deposited into your Account, there may be special conditions concerning the deposited funds. If you have authorized direct deposit into an Account that is closed or otherwise unavailable to receive any deposit, we may elect, in our discretion, to return the deposit to the source.

**Deposit by Mail.** To make a deposit by mail, you will need to use a deposit ticket or contribution form if your Account includes the ability to do so. Please contact us for specific instructions related to making a deposit into your Account. Checks must be deposited into the Account of the party to whom the check is properly payable.

**Claim Against Deposited Item.** If a claim is made with respect to any item after final credit is given to your Account with regard to the item on the grounds that the item was altered, had a forged or unauthorized signature or endorsement, or was not properly payable for some reason, we can withhold the amount of that item from your Account until the claim is finally resolved. If we sustain any loss or damage as a result of relying on your representations or instructions regarding the item, you will be responsible for the costs and fees described in the section of this Agreement entitled

**“What Happens If You Owe Us Money or Cause Us to Sustain a Loss.”**

**Returned Items.** If a check you deposit into your Account or otherwise negotiate is found to have been drawn on an account with insufficient funds to pay it or is returned unpaid for any other reason, we may, in our discretion, do one of two things. First, we may deduct the amount of the returned item from your Account, return the item to you, and charge a fee, if applicable. Second, we may redeposit it and charge a fee, if applicable. If we choose the latter option, you expressly agree that you have consented to this action and further agree that we have not waived or forfeited our right to chargeback your Account by exercising the option to redeposit.

**Agent.** You authorize us to act as your agent with regard to the processing and collection of items to deposit or otherwise negotiate. We are not responsible for losses which happen during collection of a check that are not caused by circumstances under our direct control. We will not be liable for the negligence of our correspondents or loss in transit of items deposited with us. You agree that we are legally entitled to supply any endorsement for you on any item you deposit or cash with us. If there is a qualified endorsement on any item, you agree that we may place your unqualified endorsement on the item. You are responsible for reconstruction and proof of loss of any items, including checks and other negotiable instruments, included in deposits that are lost or stolen in transit before we have received and accepted them. You also agree to cooperate fully and to assist in the reconstruction and proof of loss of any items, including checks and other negotiable instruments, included in deposits that are lost or stolen in transit after we have received and accepted them.

**Deposit Insurance.** HSA Bank is a division of Webster Bank, N.A. and is not separately insured by the Federal Deposit Insurance Corporation. All deposits held by HSA Bank are combined with deposits held by Webster Bank, N.A. to determine the amount of deposit insurance that is available to depositors for all deposits they hold in a particular capacity. Deposits in HSA Bank are insured to the maximum amount permissible under federal law. Self-directed retirement accounts, such as IRA and Keogh accounts, held by Webster Bank, N.A. are separately insured. Any nondeposit investment product that you purchase using funds in your Account, including mutual funds, stocks, and bonds, is not FDIC-insured, is not a deposit or other obligation of HSA Bank or Webster Bank, N.A. and is not guaranteed by HSA Bank, Webster Bank, N.A. or any of their affiliates, is not insured by any federal government agency, and is subject to investment risk, including the possible loss of the principal amount invested.

### III. Withdrawing Money from Your Account

**Withdrawals.** You can make withdrawals from your Account in various methods made available to you in conjunction with your Account. For your own protection, withdrawals from your Account will not be allowed if we are not satisfied that the withdrawal is authorized. If all or any part of an item is uncollected funds or otherwise unavailable for withdrawal, your use of those funds is subject to our right not to permit a withdrawal until the funds are collected. Federal regulations give us the right to require you to give notice in writing not less than 7 days before you intend to withdraw all or a part of your Account. Longer notification periods may be enforced under certain circumstances. Withdrawals made from your Account using a check or your debit card will be reported to the IRS as normal distributions and should be made only for qualified medical expenses under the applicable federal law. To ensure accurate reporting to the IRS, a withdrawal form should be submitted to HSA Bank for any non-qualifying or non-medical transaction. When you submit a withdrawal form to us, we will send you a check that you may use for such a transaction. A fee will be charged for the withdrawal form as provided in your **Health Savings Account Fee and Interest Schedule**. For withdrawals from your Account using a debit card, benefits card, or other device issued by a party other than HSA Bank, you should refer to your agreement for that card or device for additional rules of the issuer governing your withdrawals.

**Checks.** You can order a supply of checks and made check withdrawals if your Account allows for the ability to do so. The cost of the checks is listed in your **Health Savings Account Fee and Interest Schedule**. International transactions may have higher fees.

**Payment of Checks.** We may pay items drawn on your Account and presented on the same business day in any order determined by us, even if paying a particular item results in an insufficient balance in your Account to pay one or more other items that otherwise could have been paid. We may change the order of payment at any time without notice to you.

**Preauthorized or Automatic Transfers.** According to federal regulations, your Account is limited to no more than 6 preauthorized or automatic transfers from your Account during any monthly period. No more than 6 of those transfers may be made payable to third parties, such as point-of-sale (“POS”) transactions, checks, or drafts. If you make more transfers during any month than you are allowed to make, you may be charged a

fee and your privilege to make preauthorized or automatic transfers may be suspended or terminated, or your Account may be closed. If a fee is to be charged, it will be listed in your **Health Savings Account Fee and Interest Schedule**. You are not limited in the number of transfers you make through an ATM.

**Preauthorized Drafts.** You agree that, by giving your Account number information to a creditor, you authorize the debits made to your Account by that creditor. If there are duplicate or improper debits or other errors in the preauthorized drafts, you need to advise the creditor of the error and seek a recredit or other adjustment by the creditor. Transactions involving electronic fund transfers may be subject to other rules and regulations.

**Postdated Item.** We may charge against your Account a check dated after the date it is presented (a postdated check), unless you give sufficient prior notice to us of the postdated check. This notice must provide certain information and be given to us in sufficient time for us to act according to the notice.

**Stale Checks.** Under applicable law, we have no obligation to pay a check over 6 months old. We may choose, in our discretion and absent contrary instructions from you, to pay the check in good faith and charge your Account or to return the check unpaid.

**Stop Payments.** To stop payment on a check you have written or an ACH transaction (as defined in the Automated Clearing House ("ACH") Rules section below) you have initiated on your Account, you must notify us immediately. We will charge a fee as set forth in your **Health Savings Account Fee and Interest Schedule** to process a stop payment order. The stop order must be received before the close of banking business the day before the item is presented for payment in order for us to have time to act on the stop order. We may request you to place the stop order in writing. The stop order will remain in effect for 6 months and must be renewed in writing to stay in force. In your verbal or written stop payment order, you must accurately describe the item by check number, precise dollar amount, the payee, and the number of the account on which the item was drawn. If the information you give us is not correct or complete, or if you do not give us other reasonable information requested about the check, we will not be responsible if we are not able to stop the payment of the item.

**Overdrafts.** When a check or other item, including an electronic debit, is presented to us for payment, and there are not enough funds in your Account to pay it, we will do one of two things. First, we may pay it. If the item is paid, then your Account will be overdrawn. If your Account becomes overdrawn, you will be notified promptly and told how much money you have to deposit to cover the overdraft. You agree to reimburse us for the amount of the overdraft and fee charged, if applicable, without delay. Second, we may return the item or refuse the debit without paying it. It is in our discretion whether to pay or to return the item. In either case, you will be charged an overdraft fee, which will be taken directly out of your Account. The amount of the overdraft fee is listed in your **Health Savings Account Fee and Interest Schedule**.

**Automated Clearing House ("ACH") Rules.** All ACH credits and debits received for your Account are subject to the rules of the National Automated Clearing House Association and any other applicable ACH rules. You agree to be bound by the ACH rules. Any credit that we give you for an ACH credit is provisional until we receive final payment. If we do not receive final payment, we may charge your Account for the amount or otherwise obtain a refund from you, and the party making payment to you will not be deemed to have paid you the amount of the entry. Except as reported in your periodic Account statements, we will not notify you of the receipt of ACH transactions for your Account. HSA Bank does not originate outbound international (cross border) ACHs. You agree to indemnify and hold us and Webster Bank, N.A. harmless from and against all claims, demands, liabilities and expenses (including reasonable attorneys' fees and costs) resulting from any error on your part, or any failure on your part to exercise reasonable care, in the provision, transmission, or processing of data provided to us or Webster Bank, N.A. thereunder or in complying with any ACHA rules or in our or Webster Bank, N.A.'s relying on your request and instruction or complying with obligations under the Electronic Fund Transfer Act, the Office of Foreign Assets Control ("OFAC"), UCC Article 4A, or other applicable law.

**Manual Withdrawal Request:** If you want to manually withdraw money from your Account, you must fill out and sign a withdrawal form. Please contact us for specific instructions on how to obtain the manual withdrawal form. The amount of the manual withdrawal fee is listed in your **Health Savings Account Fee and Interest Schedule**.

#### IV. General Account Administration

**Interest Information.** We may, in our discretion, change interest rates and annual percentage yields at any time unless stated otherwise in this Agreement. Such changes are generally based on economic conditions. There is no minimum balance required to earn interest. For additional interest information, please refer to your **Health Savings Account Fee and Interest Schedule**.

**Statement of Accounts.** A statement of your Account will be sent at least quarterly to the most recent address for notices that we have for you in our records, which may be an email address if you have elected to receive statements electronically. If any statement is returned to us because of an incorrect address, we may stop sending statements to you. You agree to examine the statement carefully and reconcile the Account. You also agree to carefully examine the items returned to you and to compare the items with the statement for problems, such as unauthorized signatures, alterations, or missing endorsements, and errors in the Account balance that may indicate a bank error in crediting your Account. You agree to contact us immediately about any error or problem with a statement or an item. This examination of your statement and items is called exercising "Reasonable Care." If you fail to exercise Reasonable Care in examining your statement or fail to report forgeries, alterations, or errors of any kind to us within 60 days of the mailing date of the earliest statement containing the item(s) in question, you waive any and all claims based on such problems.

We use automated systems in the processing of checks in order to handle a high volume of items. You agree that, to the extent that such systems are comparable to those used in general banking practice, their use constitutes ordinary care, and we will not be liable to you for

forgeries, alterations, or other discrepancies not detected by such systems. We will not be liable for losses due to a forgery or an alteration that is of a nature that a bank could not be reasonably expected to detect the fraud, or for forged or altered checks if the forgery or alteration arose from your negligence.

**Check Imaging.** Check imaging is a computer-generated image of the front of a check or draft. If your Account includes the ability to have check imaging, your statement will include images of all the checks and drafts presented for payment during your statement cycle. You authorize us to retain and copy at our expense all checks and drafts drawn on your Account. At any time within 7 years after a check or draft is presented, you may obtain a copy of the item upon a written request that sufficiently identifies the requested item. A charge may be imposed for each copy. You agree that by retaining the original check or draft or a copy, we have made the item available to you in a reasonable manner. After a reasonable period of time as determined by us, the original items will be destroyed. If for any reason we cannot provide a copy of an item or satisfy your request by other means, we may be liable for no more than the face amount of the item or your actual damage, whichever is less.

**Abandoned Accounts.** An Account may be considered inactive and abandoned when: You fail to notify us in writing of any change to your mailing address, we are unable to verify an existing address, or you have not made a deposit or withdrawal from your Account for one year or longer and after several attempts we are unable to verify you still intend to keep the Account. Accounts that are considered abandoned are subject to escheatment in accordance with the applicable law of your state of residence. We will attempt to contact you prior to turning any deposit Account over to the state. You agree that we are not responsible for any funds turned over to the state pursuant to applicable laws and regulations. If your funds are turned over to the state, you must apply to the applicable state agency to reclaim your funds. If your balance is zero or falls below zero for two consecutive months, HSA Bank reserves the right to close your Account. Please refer to your **Health Savings Account Fee and Interest Schedule** regarding fees that may apply.

**Right to Refuse Any Deposit, to Close Any Account, or to Terminate Account Services.** We reserve the right, in our discretion, to refuse to accept your deposit, including a new Account deposit, to offer an account service, such as a debit card, or to close your Account at any time. If we close your Account and you owe us money for any reason, you will still be responsible for paying the money due. We reserve the right to prevent your access to your Account or to close your Account without notice when we reasonably believe we will otherwise sustain a loss. We also may prevent your use of your Account without prior notice pending the resolution of a claim, investigation, or dispute concerning the Account.

**Right To Discontinue Program.** We reserve the right, in our discretion, to discontinue our Account program and related services without prior notice unless longer notice is required by law.

**Account Transfer.** You may not transfer, assign, or pledge your Account without our prior written approval. We may transfer your Account or assign or delegate any or all of our rights and responsibilities to any third party, without notice to you.

**What Happens if You Owe Us Money or Cause Us to Sustain a Loss.**

You agree to pay us for any costs incurred in collecting items you deposit or because you withdraw funds from your Account in excess of your available Account balance, for any items that are returned unpaid, or for any other transactions that result in a loss to us. These costs may include the cost of the item, related fees including research fees, and other fees. You also agree to pay interest at the rate of 12% or the statutory rate per annum, whichever is higher, for each day you have the use of funds that may not be fully collected. You also agree to pay our attorney fees and court costs in the event we hire an attorney to protect or assert against you any of our rights in this Agreement. Attorney fees, however, will not exceed the maximum fee allowable under applicable law.

**Limits of Liability.** Unless expressly prohibited or otherwise restricted by applicable law or otherwise provided in this Agreement, our liability and the liability of our officers, directors, employees, or agents is limited as follows: We will not be liable to you for our performance of, or our failure to, perform any service under or in connection with this Agreement unless we have acted in bad faith or failed to exercise ordinary care. Without limiting the above, we will not be liable for delays or mistakes which happen because of reasons which are beyond our control, including, without limitation, acts of civil, military, or banking authorities, national emergencies, insurrection, war, riots, transportation failures, acts of God, including fires, floods, and other natural disasters, communication or power supply failure, or malfunction of or unavoidable difficulties with our equipment, including computer malfunction or shutdown. If a court or arbitrator finds that we are liable to you because of what we did or did not do under or in connection with this Agreement, you may recover from us only your actual damages. In no event will you be able to recover from us consequential, punitive, or exemplary damages or lost profits, either in tort or contract, even if you advise us of the possibility of such damages, injury, or loss. Some jurisdictions do not allow the exclusion or limitation of implied warranties or liability for incidental or consequential damages, so the above exclusions or limitations may not apply to you.

**Legal Power of Attorney.** Authorizing someone else to act in your place with respect to your Account under a Legal Power of Attorney is acceptable, provided it is permitted by law and further provided: (1) there is express language in the Power of Attorney, in proper legal form and in full force and effect, authorizing another person to act for you; (2) the nature of the authority granted is specific as to banking transactions or otherwise authorizes access to your Account; and (3) the Power of Attorney is either an original or a certified copy of the original document(s). Upon receiving an acceptable Power of Attorney, we may rely on it as valid and in force unless and until written notice of its revocation or termination is actually received by us. Under certain circumstances, additional information or documentation concerning the appointment, revocation, or termination of a Power of Attorney may be required.

**Authorized Signer.** Authorizing someone else to act in your place with respect to your Account as an Authorized Signer is acceptable, provided it is permitted by law, your Account includes the ability to have an authorized signer, and further provided that the authorized signer has been indicated on your application form or on a supplemental authorized signer form and you accept the terms provided on the form.

**Research Assistance and Processing Attachments, Levies, and Executions.** A fee may be charged for researching or reconciling your

Accounts or other transactions and for assistance with your banking business. Unless otherwise prohibited pursuant to applicable law, a processing fee will be charged in connection with a levy, execution, or other pre-judgment or post-judgment process on your Account by a creditor. Any applicable research and processing fees can be found in your **Health Savings Account Fee and Interest Schedule**. If we incur any expense including, without limitation, reasonable attorney fees and costs of litigation, in responding to an attachment, garnishment, or other levy that is not otherwise reimbursed, we may charge such expenses against your Account without prior notice to you.

**Changes to This Agreement.** We reserve the right to change this Agreement from time to time. Before imposing any new deposit Account charge or increasing any current charge, we will give you notice before the effective date of the change. Unless we determine that failure to make such change may present a risk to us, we will send notice of any change to this Agreement effective 10 calendar days, unless longer notice is required by law, after the date of mailing or sending notice to you. You agree that 10 calendar days is a reasonable time period for such notice. Any change or amendment to this Agreement, when it takes effect, will apply to all Accounts and the funds in them even though the Accounts were opened, or funds deposited, before the notice of the change was posted or the change took effect. If you do not agree to any change, you must notify us before the effective date of the change and terminate your Account.

**Address for Notices.** For purposes of this Agreement, notices to us should be mailed to **HSA Bank, P.O. Box 939, Sheboygan, WI 53082**. Any notice to be given to you regarding your Accounts will be considered effective when we mail or send it to the last address that we have for you in our records. Any notice to be given to us will be considered effective when we actually receive it and have had a reasonable time to act upon it. You must notify us of any change of your address as soon as possible.

## V. Substitute Checks

**Substitute Checks and Your Rights.** This notice describes your rights in connection with a disputed transaction involving a substitute check received from us. The rights in this notice do not apply to original checks or to electronic debits to your Account. However, you have rights under other law with respect to those transactions.

**What Is a Substitute Check?** To make check processing faster, federal law permits banks to replace original checks with "substitute checks." These checks are similar in size to original checks with a slightly reduced image of the front and back of the original check. The front of a substitute check states: "This is a legal copy of your check. You can use it the same way you would use the original check." You may use a substitute check as proof of payment just like the original check. Some or all of the checks that you receive back from us may be substitute checks.

**What Are Your Rights Regarding Substitute Checks?** In certain cases, federal law provides a special procedure that allows you to request a refund for losses you suffer if a substitute check is posted to your Account (for example, if you think that we withdrew the wrong amount from your Account or that we withdrew money from your Account more than once for the same check). The losses you may attempt to recover under this procedure may include the amount that was withdrawn from your Account and fees that were charged as a result of the withdrawal (for example, bounced check fees). The amount of your refund under this procedure is limited to the amount of your loss or the amount of the substitute check, whichever is less. You also are entitled to interest on the amount of your refund if your Account is an interest-bearing Account. If your loss exceeds the amount of the substitute check, you may be able to recover additional amounts under other law. If you use this procedure, you may receive up to \$2,500 of your refund (plus interest if your Account earns interest) within 10 business days after we receive your claim and the remainder of your refund (plus interest if your Account earns interest) not later than 45 calendar days after we receive your claim. We may reverse the refund (including any interest on the refund) if we later demonstrate that the substitute check was correctly posted to your Account.

**How Do You Make a Claim for a Refund?** If you believe that you have suffered a loss relating to a substitute check that was posted to your Account, please contact us at: **HSA Bank, P.O. Box 939, Sheboygan, WI 53082 or 1-855-731-5213**. You must contact us within 40 calendar days of the date that we mailed or otherwise provided the substitute check in question or the Account statement showing that the substitute check was posted to your Account, whichever is later. We will extend this time period if you were not able to make a timely claim because of extraordinary circumstances. Your claim must include:

- A description of why you suffered a loss (for example, you think the amount withdrawn was incorrect);
- An estimate of the amount of your loss;
- An explanation of why the substitute check you received is insufficient to confirm that you suffered a loss;
- A copy of the substitute check and/or the following information to help us identify the substitute check:
  - Identifying information, for example, the check number;
  - The name of the person to whom you wrote the check;
  - The amount of the check.

## VI. Wire Transfers

If you use our wire transfer service and request nonrecurring fund transfers, the following terms and conditions will govern all transactions for our acceptance and processing of your fund transfers, payment orders, credits, and related requests. HSA Bank will not initiate or receive wire transfer requests for you unless you have an open Account relationship with us. Repetitive funds transfers to an Account are not permitted. Wire transfers will be governed by the laws of the state in which you opened your Account as indicated in our records,

including Article 4A of the UCC. Unless otherwise defined, the terms used herein will have the same meaning as defined in Article 4A of the UCC. Notwithstanding the foregoing, to the extent that Federal Reserve Regulation J governs some aspects of FedFunds transfers and New York Clearing House Interbank Payment Systems ("CHIPS") rules govern some aspects of CHIPS transfers, those respective rules will control.

**Authorization and Security Procedure.** We have established rules and security procedures for you to initiate and receive funds transfers from your Account. You must confirm your identity in a manner acceptable to HSA Bank to place a payment order. You agree that this security procedure is commercially reasonable in view of the type, value, and frequency of the payment orders you request. We may, in our discretion, adopt additional security procedures. You are responsible for the accuracy of the information in the payment order and for the completion of the form, and we are entitled to rely upon the content thereof.

**Instructions or Changes.** By complying with our authorization and security procedure, you authorize and direct us to debit your Account and transfer the funds. We may handle payment orders received from you and other customers in any order selected by us, unless otherwise instructed by you. The transfer of funds may be affected through any one, or a series of, correspondent banks of the beneficiary's bank in a manner deemed most appropriate and effective by us or by any other bank participating in the funds transfer. If you as the originator of the payment order require us to use a specific intermediary bank and the intermediary bank fails, you agree that you will nonetheless be obliged to pay your payment order and we will have no liability for any loss resulting from the failure of the intermediary bank. We will have the maximum protection afforded under applicable law in the event of a failure of a bank that is a party to a funds transfer.

**Canceling or Amending an Order.** We are not obligated to attempt to cancel or amend a payment order. If we elect to attempt to cancel or amend an order, the rules below apply. By requesting cancellation or amendment of a payment order, you realize that you may be liable under the UCC and agree that you accept such liability. Any communication seeking to cancel or amend a payment order will not be effective to cancel or amend the order unless (1) the communication is in writing and presented in the same manner in which the payment order was placed, and (2) either (a) HSA Bank and all other receiving banks, including the beneficiary's bank, have a reasonable amount of time to respond before the order has been accepted, or (b) HSA Bank and all such other banks agree to the cancellation or amendment and such amendment or cancellation is allowed by law.

**Complete Discretion to Accept or Reject Orders.** We may, in our discretion and without liability of any kind to you, accept or reject any payment order requested. We will make reasonable attempts to provide you with a notice of rejection by telephone on the same funds transfer business day as the request for the payment order is received. If we receive a payment order from a third party for which you are the intended beneficiary, we have no obligation to accept the payment order, unless we have agreed with you to accept the order or we are bound by a funds transfer system rule or by law to do so.

**Cutoff Time.** We will make reasonable efforts to execute orders on the same funds transfer business day. An order must be received by us before the applicable cutoff time on that funds transfer business day in order to make a "same day transfer" possible. We do not guarantee the funds transfer transaction will be completed on the same funds transfer business day. For domestic funds transfers our "funds transfer business day" is that part of a business day prior to 2:00 p.m., Central, Monday through Friday, that we are open for processing and transmittal of wire transfer payment orders and other communications relating to payment orders. **International** funds transfers are not available.

**Identifying Numbers Supersede Identified Names.** If there is any inconsistency in a payment order between an identifying number and a name given in the payment order, we may use the identifying number in executing the payment order without verifying that the number is correct. You expressly acknowledge that when a payment order identifies a beneficiary, beneficiary's bank, or intermediary bank inconsistently by name and an identifying number, payment may be made by the intermediary or beneficiary bank on the basis of the identifying number, even if the identifying number identifies a person or entity different from the named beneficiary in your payment order. Your obligation to pay the payment order shall not be excused by your error. **HSA Bank and other banks accepting the orders are not required to check or verify any identifying or Account number given by you with any name given.** You agree, therefore, that HSA Bank and others may rely on identifying or Account numbers that you provide to us.

**Notification of Discrepancy and Refunds.** You agree to examine your receipt, statement, or passbook, as applicable, and give us prompt notice of any error or discrepancy. Unless prohibited by applicable law, in the event that the beneficiary does not receive payment of the transfer and you are entitled to a refund, we will refund the amount to you upon our receipt of the returned funds, less any expenses associated with the recovery. We will notify you of a refund as soon as reasonably practical.

**Liability.** This provision is in addition to the section included in Part IV of this Agreement entitled "Limits of Liability." We will exercise reasonable care in providing the services hereunder, but in no event will we be liable for any consequential, exemplary, or indirect damages or lost profits except where required by law. We will not be liable for any error, delay, or default on our part or any third party used by us in the execution of any transfer or related act, except to the extent such liability is required by law and cannot legally be varied or waived by agreement. In no event will attorney fees be recoverable without first making demand for, and then being refused, recovery. In no event will we be liable for any consequential, exemplary, or indirect damages or lost profits except where required by law. You agree that you have waived our liability to the maximum extent allowed by law. We will not be responsible for your acts or omissions (including, without limitation, the amount, accuracy, timeliness of transmittal, or due authorization of any payment order received from you) or those of any other person, beneficiary, or intermediary or beneficiary's bank (including, without limitation, the return or rejection of

a payment order by such beneficiary's bank), and no such person will be deemed to be our agent. Without limiting the generality of the foregoing provisions, we shall be excused from failing to act or delay in acting if such failure or delay is caused by legal constraint, interruption of transmission or communication facilities, equipment failure, emergency conditions or other circumstances beyond our control. You agree to indemnify us against any loss, liability, or expenses (including attorneys' fees and expenses) resulting from or arising out of any claim of any person that we are responsible for any act or omission other than those acts and omissions for which we are responsible as provided in this section.

**Interest.** You agree that in the event we become liable to you for the payment of interest as the result of a complete or incomplete funds transfer, interest will be paid at the lowest rate of interest then being paid on deposits by us.

**Amendment.** We may amend this agreement at any time. An amendment will not affect the rights or liabilities of either party created prior to the amendment.

## VII. Funds Availability

Our policy regarding funds availability is designed to make funds available as soon as possible and to protect our customers' deposits. When a deposit is received, the availability of funds may be delayed consistent with funds availability laws. During this period, we will not use the funds to pay checks that you have written. If you need immediate availability from a deposit, please ask us when the funds will be available for withdrawal. Not all checks will clear during the applicable check hold period. You are responsible for returned items that have been credited to and withdrawn from your Account. **Determining the Availability of a Deposit.** The length of the delay is counted in business days from the day of your deposit. Every day is a business day except Saturdays, Sundays, and federal holidays. **Same Day Availability.** Funds from the following deposits are available on the day of your deposit:

- Cash.
- Wire transfers.
- Electronic direct deposits and transfers.
- Checks drawn on U.S. banks.

Checks drawn on foreign banks will be handled on a collection basis and will be available when we receive payment.

### **Funds You Deposit by Check May Be Delayed for a Longer Period under the Following Circumstances.**

1. We believe a check you deposit will not be paid.
2. You deposit checks totaling more than \$5,000 on any one day.
3. You redeposit a check that has been returned unpaid.
4. You have overdrawn your Account repeatedly in the last 6 months.
5. There is an emergency, such as failure of communications or computer equipment.

We will notify you in writing if your ability to withdraw funds is delayed for any of these reasons, and we will tell you when the funds will be available. Funds will generally be available no later than the fifth (5<sup>th</sup>) business day after the day of your deposit.

### **If You Are a New Customer, the Following Special Rules May Apply During the First Thirty (30) Calendar Days Your Account Is Open.**

At our discretion, funds from electronic direct deposits to your Account and funds from deposits of cash and wire transfers will be available on the day that we receive the deposit. Funds from the first \$5,000 of a day's total deposits of Cashier's, Certified, Teller's, travelers, and federal and state, and local government checks will be available on the first Business Day after the day of your deposit, if the deposit meets certain conditions. For example, the checks must be made payable to you, and you may be required to use a special deposit ticket. The excess over \$5,000 will be available on the second or third Business Day after the day of your deposit, depending upon the type of check, your use of the special deposit ticket, and the routing number. If your deposit of these checks (other than a U.S. Treasury check) is not made in person through a Webster teller, the first \$5,000 will not be available until the second Business Day after the day of your deposit. Funds from all other check deposits will be available on the fifth Business Day after the day of your deposit.

**Automated Teller Machine Deposits.** Deposits to HSA Bank may not be made by deposit at an ATM.

## VIII. Binding Arbitration

You and HSA Bank agree that if a Dispute arises between you and HSA Bank which you are not able to resolve informally, upon demand by either you or HSA Bank, the Dispute shall be resolved by the following arbitration process. A "Dispute" is any unresolved disagreement between you and HSA Bank. It includes any disagreement relating in any way to Accounts or services; to custodial services under your HSA; your use of any of HSA Bank's banking locations or facilities; or to any means you may use to access an Account at HSA Bank. It includes claims based on broken promises or contracts, torts, or other wrongful actions. It also includes statutory, common law, and equitable claims, provided however, to the extent that you or HSA Bank seek relief that is not expressly stated as a dollar amount

(including without limitation repossession, replevin, set-off, recoupment, attachment or injunctive or other equitable relief), the claim, dispute or controversy shall not be a claim subject to arbitration. It specifically includes any claims or dispute arising under this Deposit Account Agreement, the Health Savings Account Custodial Agreement, Electronic Fund Transfers Agreement and Disclosure included herein, the Online Services Agreement, or any other agreement between you and HSA Bank. A Dispute also includes any disagreements about the meaning, application or enforceability of these arbitration provisions. These arbitration provisions shall survive the payment or closure of your Account. **YOU UNDERSTAND AND AGREE THAT YOU AND HSA BANK ARE WAIVING THE RIGHT TO A JURY TRIAL OR TRIAL BEFORE A JUDGE IN A PUBLIC COURT.**

The only other exception, to these arbitration provisions that is in addition to the exclusions listed above, is that you and HSA Bank retain the right to pursue in small claims court any Dispute that is within that court's jurisdiction. If either you or HSA Bank fails to submit to binding arbitration following lawful demand, the party so failing bears all costs and expenses incurred by the other in compelling arbitration.

#### **Arbitration Procedure; Severability**

You or HSA Bank may submit a Dispute to binding arbitration at any time notwithstanding that a lawsuit or other proceeding has been previously commenced.

**NEITHER YOU NOR HSA BANK SHALL BE ENTITLED TO JOIN OR CONSOLIDATE DISPUTES BY OR AGAINST OTHERS IN ANY ARBITRATION, OR TO INCLUDE IN ANY ARBITRATION ANY DISPUTE AS A REPRESENTATIVE OR MEMBER OF A CLASS, OR TO ACT IN ANY ARBITRATION IN THE INTEREST OF THE GENERAL PUBLIC OR IN A PRIVATE ATTORNEY GENERAL CAPACITY.** Each arbitration, including the selection of the arbitrator(s), shall be administered by the American Arbitration Association (AAA), or such other administrator as you and HSA Bank may mutually agree to (the AAA or such other mutually agreeable administrator to be referred to hereinafter as the "Arbitration Administrator"), according to the Commercial Arbitration Rules and the Supplemental Procedures for Consumer Related Disputes ("AAA Rules"). To the extent that there is any variance between the AAA Rules and these arbitration provisions, these arbitration provisions shall control. Arbitrator(s) must be members of the state bar where the arbitration is held, with expertise in the substantive laws applicable to the subject matter of the Dispute. No arbitrator or other party to an arbitration proceeding may disclose the existence, content, or results thereof, except for disclosures of information by a party required in the ordinary course of its business or by applicable law or regulation. You and HSA Bank agree that in this relationship: (1) you and HSA Bank are participating in transactions involving interstate commerce; and (2) these arbitration provisions and any resulting arbitration are governed by the provisions of the Federal Arbitration Act (Title 9 of the United States Code), and, to the extent any provision of that Act is inapplicable, unenforceable or invalid, the laws of the state that govern the relationship between you and HSA Bank. If any provision of these arbitration provisions dealing with class action, class arbitration, private attorney general action, other representative action, joinder, or consolidation is found to be illegal or unenforceable, that invalid provision shall not be severable and these entire arbitration provisions shall be unenforceable.

**Rights Preserved.** These arbitration provisions do not prohibit you or HSA Bank from exercising any lawful rights or using other available remedies to preserve, foreclose, or obtain possession of real or personal property; exercise self-help remedies, including setoff and repossession rights; or obtain provisional or ancillary remedies such as injunctive relief, attachment, garnishment, or the appointment of a receiver by a court of competent jurisdiction. Any statute of limitations applicable to any Dispute applies to any arbitration between you and HSA Bank. The provisions of this arbitration agreement shall survive termination, amendment, or expiration of the Account or any other relationship between you and HSA Bank.

**Fees and Expenses of Arbitration.** Arbitration fees shall be determined by the rules or procedures of the Arbitration Administrator, unless limited by applicable law. Please check with the Arbitration Administrator to determine the fees applicable to any arbitration you may file. We agree to reimburse you, at the conclusion of the arbitration, within thirty (30) days of the issuance of the decision of the arbitrator, all of the filing, administration and arbitrator fees unless the arbitrator determines that the claim was frivolous or brought for an improper purpose (as measured by the standards set forth in Rule 11(b) of the Federal Rules of Civil Procedure). If the applicable law of the state that governs the relationship between you and HSA Bank limits the amount of fees and expenses to be paid by you, then no allocation of fees and expenses to you shall exceed this limitation. Unless inconsistent with applicable law, each party shall bear the expense of their attorney, expert and witness fees, regardless of which party prevails in the arbitration. We hereby agree not to seek an award of attorneys' fees and/or expenses if we prevail in Arbitration.

#### **HEALTH SAVINGS ACCOUNT CUSTODIAL AGREEMENT**

This Custodial Agreement applies to all persons establishing an HSA under Section 223(a) of the Internal Revenue Code ("Code")

exclusively for the purpose of paying or reimbursing qualified medical expenses of the person and his or her spouse and dependents. This Health Savings Account Custodial Agreement does not apply to any other type of Account. A separate custodial agreement will be provided for other Accounts as applicable. By submitting an application for your HSA, you appoint us, and we, by accepting the application and accepting delivery of Account items for your HSA, agree to serve as custodian of your HSA pursuant to the terms of this Custodial Agreement.

**Eligibility.** You have assigned to the HSA established pursuant to this Custodial Agreement the sum indicated on your application ("Application"). Unless the HSA is used solely to make rollover contributions, you represent that you are eligible to contribute to the HSA; specifically, you represent that you: (1) are (or as of the effective date set forth in the Application will be) covered under a high deductible health plan ("HDHP"); (2) are not also covered by any other health plan that is not an HDHP (with certain exceptions for plans providing preventative care and limited types of permitted insurance and permitted coverage); (3) are not enrolled in Medicare; and (4) cannot be claimed as a dependent on another person's tax return. It is your responsibility to determine your eligibility to make contributions to your HSA.

**Contributions.** We may accept additional cash contributions for the tax year that are made by you or on your behalf (by an employer, family member, or any other person). **You will be responsible for any tax consequences if you exceed the Contribution Limits set annually by the Internal Revenue Service for single or family coverage.** Contributions for any tax year may be made at any time before the deadline for filing your federal income tax return for that year (without extensions). Rollover contributions from an HSA, an Archer Medical Savings Account ("Archer MSA"), Flexible Spending Arrangement ("FSA"), Health Reimbursement Arrangement ("HRA"), need to be in cash and are not subject to the maximum annual contribution limit set forth under "Contribution Limits." Transfers from an Individual Retirement Account ("IRA") need to be in cash but are subject to the maximum annual contribution limit. Additional limitations, restrictions, and conditions apply. Please consult your tax consultant prior to initiating any transfer or rollover of funds.

**Contribution Limits.** You can make contributions up to the maximum annual contribution limit as defined in the Code. Contribution limits are subject to a cost-of-living adjustment each year. To view the current limits, please visit our website at [www.hsabank.com](http://www.hsabank.com) or the IRS at [www.irs.gov](http://www.irs.gov). For tax years 2007 and later, contributions do not need to be prorated as long as you maintain HSA coverage for the appropriate testing period as outlined in the Health Opportunity Patient Empowerment Act of 2006. Contributions to Archer MSAs, other HSAs, and transfers from an IRA count toward the maximum annual contribution limit to this HSA. If you are age 55 or older and not enrolled in Medicare, an additional \$1,000 catch-up contribution may be made by you or on your behalf. Contributions in excess of the maximum annual contribution limit (other than catch-up or rollover contributions) are subject to an additional tax penalty in addition to bank fees incurred to remove such excess contributions.

**Excess Contributions.** It is your responsibility to determine the limit under the Code for each tax year for all contributions to your HSA and whether contributions to your HSA exceed the maximum annual contribution limit (and catch-up contribution limit, if you are eligible). If contributions to your HSA exceed the applicable maximum annual contribution limit, it is your responsibility to request the withdrawal of the excess contributions and any net income attributable to such excess contributions.

**Claims Against Your HSA.** Your interest in your HSA is non-forfeitable.

**Prohibited Transactions.** No part of the custodial funds may be invested in life insurance contracts or in collectibles as defined in Code Section 408(m). The assets of your HSA may not be commingled with other property except in a common trust fund or common investment fund. Neither you nor we will engage in any prohibited transaction with respect to your HSA (such as borrowing or pledging the Account or engaging in any other prohibited transaction as defined in Code Section 4975).

**Distributions.** Distributions of funds from your HSA may be made upon your direction. Distributions from your HSA that are used exclusively to pay or reimburse qualified medical expenses for you, your spouse, or dependents are tax-free. Distributions must occur after the establishment date of the Account in order to qualify as a tax-free distribution. Please consult a tax advisor regarding the tax treatment of any distributions from your Account. Distributions that are not used for qualified medical expenses are included in your gross income and are subject to an additional 20 percent tax on those distributions. The additional 20 percent tax does not apply if the distribution is made after your death, disability, or reaching age 65. We are not required to determine whether the distribution is for the payment or reimbursement of qualified medical expenses. You alone are responsible for substantiating that the distribution is for qualified medical expenses and you must maintain records sufficient to show, if required to do so, that the distribution is tax-free.

**Successor in Interest.** If you die before the entire interest in your HSA is distributed, the entire remaining interest will be disposed of as follows:

- If your spouse is the beneficiary, your HSA will become your spouse's HSA as of the date of your death.
- If your spouse is not the beneficiary or you have no spouse, your HSA will cease to be an HSA Account as of the date of your death.
- If your estate is the beneficiary, the fair market value of your HSA as of the date of your death is taxable on your final tax return. For other beneficiaries, the fair market value of your HSA is taxable to that person in the tax year that includes the date of your death.

**Preparation of Reports.** You agree to provide us with information necessary for us to prepare any report or return required by the IRS. We agree to submit any report or return as prescribed by the IRS.

**Integration with Other Provisions.** Notwithstanding any other section that may be added or incorporated in this Custodial Agreement, the

preceding sections of this Custodial Agreement and this sentence are controlling. Any section in this Custodial Agreement that is inconsistent with Code Section 223 or IRS published guidance will be void.

**Amendments.** This Custodial 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 mutual consent of you and us.

**General Provisions.** The following general terms apply:

- **Notices and Changes of Address.** All notices to us should be mailed to **HSA Bank, P.O. Box 939, Sheboygan, WI 53082**. Any notice to be given to you regarding your Accounts will be considered effective when we mail or send it to the last address that we have for you in our records. Any notice to be given to us will be considered effective when we actually receive it and have had a reasonable time to act upon it. You must notify us of any change of your address as soon as possible.
- **Representations and Responsibilities.** You represent and warrant to us that any information you have given or will give us with respect to this Custodial Agreement is complete and accurate. Further, you agree that any directions you give us, or any action you take will be proper under this Custodial Agreement and that we are entitled to rely upon any such information or directions. 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 losses 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, regulations, rulings, or this Custodial Agreement.
- **Service Fees.** We have the right to charge an annual service fee or other designated fees (for example, a transfer, withdrawal, or termination fee) for maintaining your HSA. If your employer or a third party has elected to pay any of the fees associated with your Account and this changes in the future, you will be charged the standard monthly fee as outlined in our fee schedule. In addition, we have the right to be reimbursed for all reasonable expenses we incur in connection with the administration of your HSA. We may charge you separately for any fees or expenses, or we may deduct the amount of the fees or expenses from the assets in your HSA, at our discretion. We reserve the right to charge any additional fee, upon 30 days notice to you that the fee will be effective. Any brokerage commissions attributable to the assets in your HSA will be charged to your HSA. You cannot reimburse your HSA for those commissions. Please refer to the **Health Savings Account Fee and Interest Schedule** in your welcome kit for specific fees related to your Account.
- **Investment of Amounts in Your HSA.** If your Account includes the ability to have investments, you will select the type of investment for your HSA assets; provided, however, that your selection of investments will be limited to those types of investments that we are authorized by our charter to offer and do in fact offer for investment in HSAs. Any investment that you select for your HSA will be subject to any and all restrictions or limitations, direct or indirect, that are imposed by or flow from our charter or bylaws and all federal and state laws and regulations that apply to us.
- **Account Management.** To the extent not prohibited by law, you authorize us to liquidate and transfer the cash proceeds of any investment you have selected for your HSA in the event that a negative cash balance exists in your HSA for more than 10 business days. We will notify you of the negative cash balance to give you the opportunity to make additional contributions, if allowable, or sell the investments of your choice to resolve the negative cash balance. If the negative balance is not corrected within a reasonable time after we notify you, we will liquidate any of your HSA investments, at our discretion, to the extent necessary to bring your balance to a positive amount. In the event that liquidating all of your HSA investments is not sufficient to resolve the negative balance, you will be responsible for any remaining deficiency.
- **Beneficiaries.** You may designate one or more persons or entities as the beneficiary(ies) of your HSA. This designation can only be made on a form prescribed by us and will only be effective when filed with us during your lifetime. Except when adding beneficiaries, each beneficiary designation you file with us will cancel all previous designations. Unless otherwise provided under applicable state law, you may alter or revoke a beneficiary designation without the consent of any beneficiary previously named. You may designate one or more primary beneficiaries and one or more contingent beneficiaries. Your benefit will be paid in equal shares to your primary beneficiary(ies) who survive you unless your beneficiary designation provides otherwise. If a primary beneficiary does not survive you, his or her interest will lapse and the interest of any remaining primary beneficiaries shall be increased on a pro rata basis unless your beneficiary designation provides otherwise. Contingent beneficiaries shall be treated as primary beneficiaries only if all primary beneficiaries die before you. If you do not file a beneficiary designation form with us, if you file an incomplete or invalid form, or if no designated beneficiary survives you, your beneficiary shall be your estate. We will determine who the beneficiaries are in each case, consistent with your designation and this Agreement, and our determination will be final and binding on all parties in interest. We will not be liable to any beneficiary for paying your surviving spouse any amount that may be required to satisfy state marital or community property laws, and we may delay all or a portion of any payment while we make this determination.

- **Termination.** Either you or we may terminate this Custodial Agreement at any time by giving written notice to the other party. We can resign as custodian at any time effective 30 days after we mail or send written notice of our 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 30 days from the date we mail or send the notice to you, we have the right to transfer your HSA assets to a successor HSA custodian or trustee that we choose in our sole discretion, or we may pay your HSA to you in a single sum. We 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, we may hold back from your HSA a reasonable amount that we believe is necessary to cover any one or more of the following:

- Any fees, expenses or taxes chargeable against your HSA.
- Any penalties associated with the early withdrawal of any savings instrument or other investments in your HSA.

If we merge with another organization (or come under the control of any federal or state agency) or if our 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 that organization is the type of organization authorized to serve as an HSA trustee or custodian. If we fail to comply with certain Treasury regulations, or we are not keeping the records, making the returns, or sending the statements that are required by forms or regulations, the IRS may, after notifying you, require you to substitute another custodian or trustee.

- **Amendments.** We have the right to amend this Custodial Agreement at any time. Any amendment we make to comply with the Code and related regulations does not require your consent. You will be deemed to have consented to any other amendments unless, within 30 days from the date we mail or send the amendment, you notify us in writing that you do not consent. Refer to the Termination clause in the Custodial Agreement.
- **Withdrawals.** All requests for withdrawal must be in writing on a form provided by or acceptable to us. The method of distribution must be specified in writing. The tax identification number of the recipient must be provided to us before we are obligated to make a distribution. Any withdrawals will be subject to all applicable tax and other laws and regulations, including possible early withdrawal penalties and withholding requirements. We reserve the right to reasonably restrict the frequency and/or minimum amount of distributions.
- **Transfer from Other Plans.** We can receive amounts transferred to your HSA from the custodian or trustee of another HSA or Medical Savings Account. However, we also reserve the right not to accept any transfer.
- **Liquidation of Assets.** We have the right to liquidate assets in your HSA if necessary to make distributions or to pay fees, expenses, or taxes properly chargeable against your HSA. If you fail to direct us to which assets to liquidate, we will decide in our complete and sole discretion, and you agree not to hold us liable for any adverse consequences that result from our decision.
- **Restrictions on the Fund.** Neither you nor any beneficiary may sell, transfer, or pledge any interest in your HSA in any manner whatsoever, except as provided by law or this Custodial Agreement. The assets in your HSA will not be responsible for the debts, contracts, or torts of any person entitled to distributions under this Custodial Agreement.
- **What Law Applies.** This Custodial 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 Custodial Agreement, the law of the State of Connecticut will govern. If any part of this Custodial Agreement is held to be illegal or invalid, the remaining parts will 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 Custodial Agreement will be construed as a waiver either of such provisions or of your or our right thereafter to enforce each and every such provision.
- **Identifying Number.** Your social security number will serve as the identification number of your HSA. If you are married and your spouse is eligible to open an HSA and wants to contribute to an HSA, he or she must establish his or her own Account. An employer identification number is required only for an HSA for which a return is filed to report unrelated business taxable income. An employer identification number is required for a common fund created for HSAs.
- **Limitations of Liability.** We will not be liable to you for any losses, damages, costs, penalties, or expenses you may incur as a result of your employer's failure to make any employer contributions to your HSA. We are not responsible for monitoring or notifying you of your employer's contributions to your HSA. You are responsible for contacting your employer regarding its contributions and monitoring those contributions. We will provide statements to you on at least a quarterly basis. We will not be liable to you for any statements, representations, actions, or inactions of any insurance agent or agency that sells you an insurance plan in connection with your HSA. The insurance agent or agency is not our partner, agent, affiliate, representative, or co-venturer.

## ELECTRONIC FUND TRANSFERS AGREEMENT AND DISCLOSURE

### I. General Terms and Conditions

This EFT Agreement explains your rights, liabilities, and responsibilities for electronic fund transfers related to your Accounts. For electronic fund transfers that you direct through the Internet, the HSA Bank Online Services Agreement also is applicable. For withdrawals from your Account using a debit card, benefits card, or other device issued by a party other than HSA Bank, you should refer to your agreement for that card or device for additional rules of the issuer governing your withdrawals.

**Electronic Banking Services Available.** The following services will be available if and to the extent your Account includes these services and subject to application or approval:

- **Telephone Banking.**
- **Automatic and Preauthorized Transfers.** You can make automatic and preauthorized transfers to and from your Account if your Account includes the ability to do so.
- **Electronic Check Conversion.** You may authorize your personal check to be used as a source of information for the check number, your checking Account number, and the number that identifies us. This information is then used by the merchant or payee to make a one-time electronic payment from your Account, an electronic fund transfer.
- **ACH Transfers.** You can authorize a transfer over the Internet or by telephone through the ACH network by providing a third party with your Account number and the number that identifies us. External transfers will be electronically processed with the third party's financial institution through a secure network called the Automated Clearing House (ACH) system. Although we cannot guarantee when a financial institution will post these transactions, they are normally processed within three business days.
- **Debit Card.** We may issue you a debit card that may be used to initiate transactions that may be processed through either the Visa® network or the MasterCard® network (as applicable, depending on the logo that appears on the front of your debit card). Visa® means Visa Inc. and MasterCard® means MasterCard Incorporated. We may choose in our discretion whether to issue you a debit card, and what type of debit card to issue. You may use your debit card with your personal identification number ("PIN") to withdraw cash from an ATM and to debit your Account in connection with POS transactions if your Account includes the ability to perform these types of transactions. When you use your debit card to make purchases (with or without your PIN), you are requesting us to withdraw funds from your checking Account to pay for the purchases.
- **Limits on Electronic Banking Services.** In addition to any conditions listed above, the following transactions are subject to the conditions described:
  - **Debit Card Limits.** If your Account includes the ability to make a cash withdrawal you may use your debit card with your PIN to withdraw up to a total of \$300 from your Account on any one calendar day at ATMs and POS terminals. Your debit card may not be used for any illegal transaction. For security or other reasons, there may be other limits on your debit card transactions. We reserve the right to impose or change such limitations or restrictions at any time without notice.
  - **Debit Card Purchases.** A debit card is issued exclusively for use with your Account. You may use your debit card (with or without your PIN) to make purchases at any merchant location that accepts Visa® debit cards or MasterCard® debit cards (as applicable, depending on the logo that appears on the front of your debit card) in an amount of up to \$3,000 on any one calendar day. When your debit card is used without your PIN for a purchase through an EFT network (including the Visa® network or the MasterCard® network, if applicable), we may place a hold on the funds available in your Account that may be necessary to cover the transaction. The hold will be in the amount of the transaction request that has been submitted by the merchant for authorization. Held funds will not be available for withdrawal or check writing purposes during the period the hold is in effect. The hold will be in effect for no more than 7 business days. You are responsible for resolving with a merchant that accepts the card all disputes concerning the quality of goods and services purchased.
  - **International Transactions Exchange Rate.** The exchange rate between the transaction currency and the billing currency used for processing international transactions is a rate selected by an EFT network (including the Visa® network or the MasterCard® network, if applicable) from the range of rates available in wholesale currency markets for the applicable central processing date, which rate may vary from the rate the EFT network receives, or the government mandated rate in effect for the applicable central processing date, in each instance, plus or minus any adjustment determined by the issuer.
- **ATM Networks.** If your Account includes the ability to make cash withdrawals at ATMs, you may use your debit card with your PIN at certain regional, national, and international ATM networks. Those network logos appear on the back of your debit card. The amount, dollar denominations, and daily limit you may transfer each time you use your debit card at ATMs depends on the network agreement and prevailing law governing the shared use of other terminals and limitations of the ATM or terminal you are using. A fee may be imposed for electronic fund transfers initiated at an ATM operated by an entity other than Webster Bank, N.A.
- **Other Limits.** We own the debit card issued by us to you for use with your Account. If we ask for the debit card, you must give it back to us. We also reserve the right to refuse to offer you a debit card, or to terminate the debit card without notice. If there are not enough funds in your Account when a debit card transaction is performed, we may, in our discretion, do one of two things.

First, the transaction may be paid. If it is paid and your Account is overdrawn, you will be notified promptly and told how much money you have to deposit to cover the overdraft. You agree to promptly reimburse us any overdrawn amount and pay applicable fees; the fees are listed in your **Health Savings Account Fee and Interest Schedule**. Just because we honor an overdraft on a particular transaction does not mean we will do so in the future. We may also refuse to pay the transaction.

- **Termination of Service.** We reserve the right to terminate without notice any of the described electronic fund transfer services. Termination will not affect any of our rights or your obligations arising under this EFT Agreement prior to termination, or any rights and liabilities hereunder arising out of completed transactions, whether such transactions occur before or after termination. If we terminate, you agree to surrender your card(s) immediately. We also reserve the right to renew all cards at our discretion.
- **Fees.** There may be a fee for certain services. Please see your **Health Savings Account Fee and Interest Schedule**. Additionally, when you use an ATM not owned by Webster Bank, N.A., you may be charged a fee by the ATM operator.

## SERVICES GOVERNED BY SPECIAL RULES NOT INCLUDED IN THIS AGREEMENT

**Online Services.** Online Services has a separate agreement that governs its use. To the extent that there is a conflict between the Online Services Agreement and the Electronic Funds Transfer Agreement, the Online Services Agreement will control.

### II. Liability

**Your Liability.** You agree to protect your debit card and PIN and to sign the signature panel on the back of your card immediately upon receiving it. Do not keep your debit card and PIN in the same place. You agree to memorize your PIN and destroy any paper on which it is written. Do not give your debit card or PIN to anyone. Do not let anyone see you enter your PIN. If someone uses your debit card or its number without your consent, you agree to give us a written sworn statement detailing the wrongful use and help us in investigating the circumstances. The statement will be in the form prescribed by us and completed by you. We do not have to credit you for your losses before you give us the required statement.

You agree to look at your Account statements as soon as you receive them. If a statement shows a transfer not made by you, you will tell us promptly. If you do not tell us within 60 days after we mail or send the statement to you, the statement will be deemed to be correct, and you will not be able to challenge any errors.

**Receipts.** Always take your ATM receipt(s) before leaving an ATM. Keep the merchant receipt(s) and destroy copies and receipts to safeguard your Account number.

**Unauthorized Transfers.** You must tell us AT ONCE if you believe your debit card and/or your PIN has been lost or stolen or obtained without your permission, or if you believe that an electronic fund transfer has been made without your permission using information from your check. Notifying us by telephone immediately is the best way of limiting your possible losses. You could lose all of the money in your Account. If you believe your debit card or your PIN has been lost or stolen and you tell us within two (2) business days after you learn of the loss or theft, you can lose no more than \$50 if someone used your card or your PIN without your permission. If you do NOT tell us within two business days after you learn of the loss or theft, and we can prove we could have stopped someone from using your card or your PIN without your permission if you had told us, you could lose as much as \$500. Your liability will not exceed the lesser of \$500 or the sum of (1) \$50 or the amount of unauthorized transactions that occur within the first two business days after you learn of the loss or theft, whichever is less; and (2) the amount of unauthorized transactions that occur after the close of two business days and before such notice to HSA Bank, provided HSA Bank establishes that the transfers would not have occurred had you notified HSA Bank within that two day period. Also, if your Account statement shows electronic transactions or transfers that you did not make, including those made with your debit card, PIN, or other means, tell us AT ONCE. If you do not tell us within sixty (60) days after the statement was mailed or sent to you, your liability will not exceed the amount of the unauthorized transactions that occur after the close of the 60 days and before notice to HSA Bank. You may not get back any money you lost after the 60 days if we can prove that we could have stopped someone from taking the money if you had told us in time. If a good reason (such as a long trip or a hospital stay) kept you from telling us, we will extend the time periods for a reasonable period of time. If you believe your debit card or your PIN has been lost or stolen or that someone has transferred or may transfer money from your Account without your permission, notify us immediately by telephoning or writing us.

Under certain situations, your liability for unauthorized debit card use may be zero depending on the type of debit card.

For a Visa<sup>®</sup> debit card, unless you have been grossly negligent or have engaged in fraud, you are eligible for additional limits on liability for Visa debit card transactions routed via the Visa network. An example of a transaction routed via the Visa network is a Visa debit card merchant purchase that requires your signature rather than your PIN to complete. Online or telephone purchases when you are providing your Visa debit card number as the method of purchasing are also examples of transactions routed via the Visa network. These transactions are eligible for the Visa zero liability policy. The policy provides Visa debit cardholders with full protection against unauthorized

transactions processed through the Visa network. This additional limit on liability does not apply to ATM transactions or to PIN transactions not processed by Visa®. This additional limit on liability also does not apply if you delay in reporting unauthorized use, loss, or theft of your debit card, or if your Account is not in good standing or has an unacceptable (excessive) recent history of unauthorized transactions. If your Visa debit card is lost or stolen, or you discover an unauthorized transaction on your statement, you agree to immediately notify us. You also agree to assist us in our attempts to recover any losses from unauthorized users and to assist in their prosecution.

For a MasterCard® debit card, if you exercised reasonable care in safeguarding your debit card from risk of loss or theft and notify us promptly after becoming aware of a loss or theft, then you are eligible for MasterCard zero liability limitation. This does not apply to (i) a debit card issued to an entity other than a natural person or for a commercial purpose, except it will apply to a transaction conducted with a debit card for a "small business" program as described on <http://www.mastercardbusiness.com>; or (ii) issued or sold to a person until such time as that person's identity is registered with the financial institution that issued the debit card.

**Please contact us at our address and telephone number listed below.**

Debit Card & Other Electronic Services 1-855-731-5213 (Business hours) HSA Bank, P.O. Box 939, Sheboygan, WI 53082-0939

**Liability.** If we do not complete a transfer to or from your Account on time or in the correct amount according to our agreement with you, we will be liable for your losses or damages. However, there are some exceptions. For example, we will not be liable in the following circumstances:

- Through no fault of ours, you do not have enough available funds in your Account to make the transfer, or you have closed the designated Account.
- The funds required to cover the transaction are subject to a hold, dispute, lien, legal process, or other encumbrance restricting the transfer.
- The ATM where you are making the transaction does not have enough cash. The ATM or system, the POS terminal or system, or other electronic system was not working properly and you knew of, or had reason to question the possibility of, the malfunction while you attempted to make the transfer.
- We have identified you as a credit risk and have chosen to close your Account.
- We are otherwise exempted from liability under applicable laws and regulations.

There also may be other exceptions.

**Error Resolution Notice.** In case of errors or questions about your electronic transfers or your statements or receipts, telephone us or write us as soon as you can. **Our address and telephone number are listed previously.** We must hear from you no later than 60 days after we send the FIRST statement on which the problem or error appeared.

- Tell us your name and Account number.
- Describe the error or the transfer you are unsure about, and explain as clearly as you can why you believe it is an error or why you need more information.
- Tell us the dollar amount of the suspected error.

If you tell us orally, we will require that you send us your complaint or question in writing within 10 business days. Generally, we will tell you the results of our investigation within 10 business days after we hear from you and will correct any error promptly. If we need more time, however, we may take up to 45 calendar days to investigate your complaint or question. If we decide to do this, we will recredit your Account within 10 business days for the amount you think is in error, so that you will have the use of the money during the time it takes us to complete our investigation. If we ask you to put your complaint or question in writing, and we do not receive your complaint or question in writing within 10 business days, we may choose not to credit your Account. For POS transactions and for transactions that were initiated in a foreign country, the investigation period is extended to 90 calendar days. If you are a new customer to HSA Bank and you place a claim during the first 30 calendar days your Account is open, the investigation period is 90 calendar days and the time period to recredit your Account may be extended to 20 business days. We will send you a written explanation of our determination within 3 business days after we finish our investigation. You may ask for copies of the documents we used in our investigation. If we have provisionally recredited your Account during the investigation and determine that there was no error, you will be required to return any credit of funds you have received from us. If you do not return the funds, and subject to certain restrictions, we have the right to take the funds out of your Account.

### III. Other Information

**Right to Receive Documentation of Transfers.** You will get an Account statement on at least a quarterly basis. You can get a receipt at the time you make a transfer from your Account using an ATM or a POS terminal. If you have arranged to have direct deposits made to your Account at least once every 60 days from the same person or company, you can call us to find out whether or not the deposit has

been made.

**Stop Payments and Notice of Varying Amounts.** Unless otherwise provided in this EFT Agreement, you understand that you cannot stop an electronic fund transfer. When a preauthorized electronic fund transfer from your Account will vary in amount from the previous transfer under the same authorization or from the preauthorized amount, the designated payee is required to send you written notice of the amount and the date of the transfer at least 10 calendar days before the scheduled date of transfer. If you agreed to a preauthorized electronic funds transfer from your Account, you are responsible for notifying the merchant when you want to stop the preauthorized electronic funds transfer or if any of your Account identifying information you gave to the merchant has changed.

**When You Owe Us Money.** If you owe us money for fees or because an unauthorized transfer or an error that you reported is not supported by our investigation, you agree to pay us the amount of the provisional credit. You also may be responsible for costs we incur, including attorney fees, to collect the debt you owe.

**For Your Safety When Using an ATM, Please Observe the Following:**

- Choose a well-lighted ATM and park close to it. Have someone come with you when using an ATM at night.
- If the ATM you are using is inside a building, close the entry door completely upon entering.
- When using a drive-up ATM, keep your engine running, lock your doors, and roll up all the windows, with the exception of the driver's window.
- Be aware of your surroundings. If you believe you are being watched or followed, cancel your transaction, then go to a well-populated area. If necessary, call the police.
- Do not write your PIN on or near your debit card. Do not give your PIN or your debit card to anyone. Have your debit card and any paperwork ready before you get to the ATM. This will save you time, and allow you to pay more attention to your surroundings. Place withdrawn cash out of sight in a secure place before stepping away from an ATM.

## HOW TO AVOID BECOMING A VICTIM OF IDENTITY THEFT

**Identity Theft.** Identity theft is the fraudulent use of a person's personal identifying information. Often, identity thieves will use another person's personal information, such as a social security number, mother's maiden name, date of birth, or Account number, to open fraudulent new credit card accounts, charge existing credit card accounts, open bank accounts, write checks, or obtain new loans. Thieves may obtain this information by:

- Stealing wallets that contain personal identification information and credit cards.
- Stealing bank statements from the mail.
- Diverting mail from its intended recipients by submitting a change of address form.
- Rummaging through trash for personal data.
- Stealing personal identification information from workplace records.
- Intercepting or otherwise obtaining information transmitted electronically.

**Pretext Calling.** Pretext calling is a fraudulent means of obtaining a person's personal information. Pretext callers may contact bank employees, posing as customers, to access customers' personal account information. Information obtained from pretext calling may be sold to debt collection services, attorneys, and private investigators to use in court proceedings. Identity thieves may also engage in pretext calling to obtain personal information to create fraudulent accounts.

**Avoid Becoming a Victim of Identity Theft and Pretext Calling.** Here are some basic steps you can take to avoid becoming a victim of identity theft and pretext calling:

- **Do not give personal information**, such as account numbers or social security numbers, over the telephone, through the mail, or over the internet, unless you initiated the contact or know with whom you are dealing.
- **Store personal information in a safe place** and tear up old credit card slips, ATM receipts, old account statements, and unused credit card offers before throwing them away.
- **Protect your PINs and other passwords.** Avoid using easily available information, such as your mother's maiden name, your birth date, the last four digits of your social security number, your phone number, etc.
- **Carry only the minimum amount of identifying information** and number of credit cards that you need.
- **Pay attention to billing cycles and statements.** Inquire of the bank, if you do not receive a quarterly statement. It may mean that an identity thief diverted the statement.

- **Check account statements carefully** to ensure all charges, checks, or withdrawals were authorized.
- **Guard your mail from theft.** If you have the type of mailbox with a flag to signal that the box contains mail, do not leave bill payment envelopes in your mailbox with the flag up. Instead, deposit them in a post office collection box or at the local post office. Promptly remove incoming mail.
- **Order copies of your credit report** from each of the three major credit bureaus once a year to ensure that they are accurate. You may request a free credit report once a year from each major credit bureau online, by telephone, or by mail.

**Victim of Identity Theft.** If you believe that someone has stolen your identity, you should:

- **Contact the fraud department** of each of the three major credit bureaus to report the identity theft and request that the credit bureaus place a fraud alert and a victim's statement in your file. The fraud alert puts creditors on notice that you have been the victim of fraud, and the victim's statement asks them not to open additional accounts without first contacting you.
- **The telephone numbers for the fraud departments** of the three national credit bureaus are:  
Trans Union 1-800-680-7289  
Equifax 1-800-525-6285  
Experian 1-888-397-3742

You may request a free copy of your credit report. Credit bureaus must provide a free copy of your report if you have reason to believe the report is inaccurate because of fraud and you submit a request in writing.

- **Review your report** to make sure no additional fraudulent accounts have been opened in your name or unauthorized changes made to your existing accounts. Also, check the section of your report that lists "inquiries" and request that any inquiries from companies that opened the fraudulent accounts be removed.
- **Contact any bank or other creditor where you have an account** that you think may be the subject of identity theft. Advise them of the identity theft. Request that they restrict access to your account, change your account password, or close your account, if there is evidence that your account has been the target of criminal activity.
- **File a report with your local police department.**

Contact the Federal Trade Commission's Identity Theft Hotline toll-free at 1-877-ID-THEFT (438-4338) or **1-866-653-4261 (TTY)**. The Federal Trade Commission enters the information into a secure consumer fraud database and shares it with local, state, and federal law enforcement agencies.

HSA Bank®  
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