

HEALTH SAVINGS ACCOUNT CUSTODIAL AGREEMENT

The account owner (or Member) named is establishing this health savings account (hereafter HSA or Account) exclusively for the purpose of paying or reimbursing qualified medical expenses of the Account owner, his or her spouse, and dependents. The Account owner represents that, unless the Account is used solely to make rollover contributions, he or she is eligible to contribute to this HSA; specifically, that he or she: (1) is covered under a high deductible health plan (HDHP); (2) is not also covered by any other health plan that is not an HDHP (with certain exceptions for plans providing preventive care and limited types of permitted insurance and permitted coverage); (3) is not enrolled in Medicare; and (4) cannot be claimed as a dependent on another person's tax return.

The Account owner and HealthEquity, Inc. (Custodian) make the following Agreement:

Article I. Contributions

1. Custodian will accept additional cash contributions for the tax year made by the Account owner or on behalf of the Account owner (by an employer, family member, or any other person). No contributions will be accepted by Custodian for any Account owner if the amount would result in total contributions that exceed the maximum amount for family coverage plus the catch-up contribution.
2. Contributions for any tax year may be made at any time before the deadline for filing the Account owner's federal income tax return for that year (without extensions).
3. Rollover contributions from an HSA or an Archer Medical Savings Account (Archer MSA) (unless prohibited under this Agreement) need not be in cash and are not subject to the maximum annual contribution limit set forth in Article II.
4. Qualified HSA distributions from a health flexible spending arrangement (FSA) or health reimbursement arrangement (HRA) must be completed in a trustee-to-trustee transfer and are not subject to the maximum annual contribution limit set forth in Article II.
5. Qualified HSA funding distributions from an individual retirement Account (IRA) must be completed in a trustee-to-trustee transfer and are subject to the maximum annual contribution limit set forth in Article II.

Article II. Contribution Limits

1. For calendar year 2009, the maximum annual contribution limit for an Account owner with single coverage is \$3,000. This amount increases to \$3,050 in 2010. For calendar year 2009, the maximum annual contribution limit for an Account owner with family coverage is \$5,950. This amount increases to \$6,150 in 2010. These limits are subject to cost-of-living adjustments after 2010.
2. Contributions to Archer MSAs or other HSAs count toward the maximum annual contribution limit to this HSA.
3. For the calendar year 2009 and in later years, an additional \$1,000 catch-up contribution may be made for an Account owner who is at least age 55 or older and not enrolled in Medicare.
4. Contribution limits for the current tax year may be found at www.treasury.gov or in IRS Publication 969.
5. Contributions in excess of the maximum annual contribution limit are subject to an excise tax. However, the catch-up contributions are not subject to an excise tax.

Article III. Account Owner Responsibilities

It is the responsibility of the Account owner to determine whether contributions to this HSA have exceeded the maximum annual contribution limit described in Article II. If contributions to this HSA exceed the maximum annual contribution limit, the Account owner shall notify the Custodian that there exist excess contributions to the HSA. It is the responsibility of the Account owner to request the withdrawal of the excess contribution and any net income attributable to such excess contribution.

Article IV. Nonforfeitable

The Account owner's interest in the balance in this custodial Account is nonforfeitable.

Article V. Investment Limitations

1. No part of the custodial funds in the Account may be invested in life insurance contracts or in collectibles as defined in IRC section 408(m).
2. The assets of the Account may not be commingled with other property except in a common trust fund or common investment fund.
3. Neither the Account owner nor Custodian will engage in any prohibited transaction with respect to the Account (such as borrowing or pledging the Account or engaging in any other prohibited transaction as defined in IRC section 4975).

Article VI. Distributions

1. Distributions of funds from this HSA may be made at any time upon the direction of the Account owner.
2. Distributions from this HSA that are used exclusively to pay or reimburse qualified medical expenses of the Account owner, his or her spouse, or dependents are tax-free. However, distributions that are not used for qualified medical expenses are included in the Account owner's gross income and are subject to an additional 10 percent tax on that amount. The additional 10 percent tax does not apply if the distribution is made after the Account owner's death, disability, or reaching age 65.
3. Custodian is not required to determine whether the distribution is for the payment or reimbursement of qualified medical expenses. Only the Account owner is responsible for substantiating that the distribution is for qualified medical expenses and must maintain records sufficient to show if required, that the distribution is tax-free.

Article VII. Payable upon Death

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

1. If the beneficiary is the Account owner's spouse, the HSA will become the spouse's HSA as of the date of death.
2. If the beneficiary is not the Account owner's spouse, the HSA will cease to be an HSA as of the date of death. If the beneficiary is the Account owner's estate, the fair market value of the Account as of the date of death is taxable on the Account owner's final return. For other beneficiaries, the fair market value of the Account is taxable to that person in the tax year that includes such date.

Article VIII. Reporting Requirements

1. The Account owner agrees to provide Custodian with information necessary for Custodian to prepare any report or return required by the IRS.
2. Custodian agrees to prepare and submit any report or return as prescribed by the IRS.

Article IX. Controlling Provisions

Notwithstanding any other article that may be added or incorporated in this Agreement, the provisions of Articles I through VIII and this sentence are controlling. Any additional article in this Agreement that is inconsistent with IRC section 223 or IRS published guidance will be void.

Article X. Amendments

This Agreement will be amended from time to time to comply with the provisions of the Internal Revenue Code (IRC) or IRS published guidance. Other amendments may be made with the consent of the persons whose accounts are represented in this Agreement.

Article XI. Additional Provisions

11.01 Definitions.

Family Coverage. Coverage that includes Member and other family members.

High Deductible Health Plan (HDHP). Health plan for self-only coverage that, in 2009, has a minimum annual deductible of \$1,150 for individuals and \$2,300 for families, and an annual out-of-pocket maximum (deductibles, co-payments, and other amounts, but not premiums), of \$5,800 for individuals and \$11,600 for families. In 2010, minimum annual deductibles will increase to \$1,200 for individuals and to \$2,400 for families, and annual out-of-pocket maximums will increase to \$5,950 for self-only coverage and \$11,900 for family coverage. These limits are subject to cost of living increases; specific guidance for a given tax year can be found at www.treasury.gov.

Member. Person who establishes the HSA or Account as Account owner.

Custodian. HealthEquity, Inc.

Qualified Medical Expenses. Amounts paid for medical care as defined in IRC section 213(d) for Member, his or her spouse, or dependents (as defined in IRC section 152) but only to the extent that such amounts are not compensated for by insurance or otherwise. With certain exceptions, health insurance premiums are not qualified medical expenses.

11.02 Notices, Change of Address, Materials, and Communication.

Any notice regarding this HSA will be considered effective when Custodian mails it to the last address of Member or intended recipient which Custodian has in its records or sends it by email if Member has consented to electronic delivery. Any notice given to Custodian will be considered effective when Custodian actually receives it in writing at its place of business. Member must notify Custodian in writing of any changes of address at: HealthEquity, Inc., Attn: Account Inquiry, 15 West Scenic Point Drive, Suite 400, Draper, UT 84020.

Member agrees that Custodian may, but shall not be required (unless required under applicable law), to inform Member by forwarding materials or otherwise communicating with Member as to any questions, decisions or other matters for which a vote may be requested, necessary or helpful, and Custodian shall thereafter have no responsibility whatsoever with respect thereto.

11.03 Representations and Responsibilities.

Member represents and warrants that any information given or to be given with respect to this HSA is complete and accurate and Custodian is entitled to rely upon any such information or directions given it by Member or Member's authorized agent. Custodian shall not be required to determine the validity or sufficiency of any receipt, affidavit, notice or other paper or agreement required to be delivered to Custodian under this Agreement.

In the event that Member has provided an electronic signature to Custodian in connection with an account application or other click sign agreement, Member agrees Custodian may rely on such electronic signature for purposes of Member's authorization of withdrawals or third party transfers, notices to change of name or address, or other instructions to Custodian. Custodian shall not be required to obtain Member's physical signature for such purposes or any other purpose, except as may be required by law.

Anything in this Agreement to the contrary notwithstanding, Custodian may choose to request direction from Member as to any specific action or situation that arises with the HSA, and if a request for direction is made, Custodian shall incur no liability for following Member's direction or for taking no action if no such direction is furnished to Custodian.

11.04 Cash Account, Investment Account, Funds Availability and Funds Movement. (See also Article XIII).

All contributions to the Account shall be made into a FDIC insured Cash Account (Cash Account); all distributions shall be made from the same Cash Account. Member is responsible for reviewing all provided materials and understanding generally how medical expenses may be paid from the Cash Account, and how funds are made available for investment. Member and Member's Account will be liable for any overdraft charges imposed by Custodian.

Funds on deposit in Member's Account will generally be available for withdrawal from the Account within two (2) business days of Member's initial deposit. Unless otherwise instructed by Member, deposits received during non-business hours will be considered to be made on the next full banking day.

If the funds in Member's HSA exceed a certain threshold as specified by Custodian, Member may be given the option of investing any balance above that threshold in certain available mutual funds (Investment Account). If sufficient funds are not available, no purchases will be allowed. Member has the sole authority and responsibility to select and to direct the investment in the Investment Account. Any income or dividends generated by the Investment Account shall be reinvested in the same fund which initially paid the dividends. Custodian will not act as an investment advisor to Member and Custodian will not review nor recommend any investment in the Investment Account. Custodian shall have no duty to disclose any risks associated with any investment and shall not have any liability for any loss of principal or income, nor for any expense which Member may incur relating to any investment.

11.05 Interest on HSA Accounts.

Interest is credited to Member's Account monthly as of the last day of the statement cycle. If the Account is closed before accrued interest is credited, no interest will be paid or accrued for that month. Interest accrues no later than one business day after the day Custodian receives the funds provided the Account has been opened. The current interest rate payable is listed in Member's monthly statement and is subject to change at any time without prior notice by Custodian.

11.06 Service Fees and Compensation.

Custodian may charge maintenance, service and other designated fees (for example, a transfer, withdrawal or termination fee) or expenses for maintaining Member's HSA as set forth in Custodian's written schedule of fees then in effect, which is provided in Member's Welcome Kit, which fees may be changed upon written notice to Member. Monthly maintenance fees will be charged for any month that the Account is opened. Custodian may deduct such fees or expenses from the funds in Member's HSA or, at its discretion, charge Member separately for any fees or expenses. Custodian may also allow fees to be paid from other sources, such as Member's employer or health plan. Custodian also receives as additional compensation including (i) the difference between the interest received by Custodian on Cash Accounts and the amount paid to Member, (ii) interchange fees arising from HealthEquity Visa® Health Account Card transactions, and (iii) management fees paid by brokers to Custodian on the Investment Accounts.

11.07 Amendments.

Except for those amendments allowed under Article X, Member will be deemed to have consented to any other amendments to this Agreement, unless within 30 days from the date Custodian provides a copy of such amendment (by mail or electronic delivery), Member notifies Custodian that he/she does not consent to the amendment. In that event, the Account will be closed.

11.08 Distributions.

Only Member is responsible for substantiating that the distribution is for qualified medical expenses and must maintain records sufficient to show, if required, that the distribution qualifies to be tax-free. Member represents and warrants that each self-initiated distribution will be for qualified medical expenses for purposes of tax reporting to the IRS unless Member provides written notification to Custodian to the contrary before the end of the tax year.

Custodian may make any distributions required or authorized hereunder by mailing Custodian's check, or other property, or by ACH, or by Fed wire, or other electronic transfer to the payee at the address last furnished to Custodian.

11.09 **HealthEquity Visa Health Account Cards.**

The HealthEquity Visa Health Account Card is issued by The Bancorp Bank pursuant to a license from Visa U.S.A. Inc. The Bancorp Bank; Member FDIC. Member agrees that he/she may make HealthEquity Visa Health Account Card transactions only to the extent there are sufficient available funds in the HSA. Custodian has no obligation to permit any withdrawal at a time when there are insufficient funds in Member's HSA. In the event there is an overdraft in a Member's Account, Member shall be liable for any overdraft or collection fees. The use of any HealthEquity Visa Health Account Card in connection with the HSA may be limited to eligible merchants that provide, among other things, health care related goods and services. Member is responsible for notifying Custodian as soon as possible if the HealthEquity Visa Health Account Card is lost or stolen, to avoid potential losses. Notification must be made by calling HealthEquity at the number printed on the back of Member's HealthEquity Visa Health Account Card, on Member's statement, or on the HealthEquity website provided to log into Member's Account.

11.10 **Transfer/Rollover.**

Custodian can receive amounts transferred to this HSA from the custodian or trustee of another HSA or certain other types of accounts. However, Custodian also reserves the right not to accept any transfer.

11.11 **Verification of Accounts.**

To help the government fight the funding of terrorism and money laundering activities, Federal law requires Custodian to verify certain information provided by Member for identification purposes including Member's name, address, taxpayer identification number (TIN), and date of birth. Until this information has been verified pursuant to applicable federal laws, the Account may not be used to pay for any medical expenses. During such time, Custodian will charge its customary fees for maintaining the Account; upon request from Member, Custodian will close the Account and return funds to the original contributor.

11.12 **Governing Law; Invalidity; Waiver.**

The terms of this Agreement shall be governed by and construed in accordance with the laws of the State of Utah without giving effect to principles of law regarding conflicts of laws. If any part of this Agreement is held to be illegal or invalid, the remaining parts shall not be affected. Neither Member nor Custodian's failure to enforce at any time or for any period of time any of the provisions of the Agreement shall be construed as a waiver of such provisions.

11.13 **Employer Contributions.**

Custodian shall not be liable for any losses, damages, costs, penalties or expenses Member incurs as a result of any employer's failure to make any contributions to Member's HSA. Custodian is not responsible for monitoring employer's HSA contributions or notifying any Member of employer contributions. Member is responsible for contacting his/her own employer regarding its contributions and monitoring those contributions. In considering whether contributions have exceeded the allowable annual contribution limit, Member must take into account any employer contributions as well as any transfers or contributions previously made by Member that also count towards the annual contribution limit.

11.14 **Additional Parties on the Account and Beneficiaries.**

If Member has added a spouse and/or another third party to write checks and/or use the HealthEquity Visa Health Account Card, including a second HealthEquity Visa Health Account Card if one has been requested on Account, then Member acknowledges and agrees (a) it is Member's sole responsibility to inform the authorized individual(s) about the purpose of the HSA and the tax consequences of using checks and HealthEquity Visa Health Account Card for items that are not qualified expenses, (b) to be bound by, and to have the HSA bound by, any action taken by such authorized individual(s), and (c) to indemnify and hold harmless Custodian from any damages or expenses resulting from any actions taken by such authorized individual(s).

At any time, and from time to time, Member shall have the right to designate one or more beneficiaries to whom distribution of the balance of the HSA shall be made in the event of death prior to the complete distribution of the Account. Any such beneficiary designation shall not be deemed valid until Custodian receives a signed designation in form satisfactory to Custodian. If Member designates his or her spouse, then, upon Member's death, the HSA will become the spouse's HSA as of the date of death. If no beneficiary has been designated, the HSA will pass to Member's estate and be distributed as directed by the personal representative of the estate.

11.15 **Additional Distributions.**

Custodian may make a distribution absent instruction from Member, if directed to do so pursuant to a court order, garnishment, IRS levy or other levy. In such event, Custodian shall not incur any liability for acting in accordance with such court order or levy.

Article XII. General Powers and Duties of Custodian and Limits Thereon

12.01 **Custodian's Authorization and Empowerment:**

Member hereby authorizes and empowers Custodian:

- To hold funds received from time to time from Member or another source, such as rollovers and HSA account transfers on behalf of Member's HSA. The Cash Account shall hold all the assets of the HSA other than the available mutual funds maintained in the Investment Account pursuant to the terms of this Agreement and Member's directions. Custodian shall hold all funds received from Member, or other sources into the Cash Account, until such time as Custodian shall be directed to invest such funds otherwise in the Investment Account.
- To invest and reinvest the Investment Account only at Member's direction from the list of available mutual funds, or to sell investments to cover fees or overdrafts without any investment responsibility on the part of Custodian.
- To reinvest all dividends paid from Member's mutual funds in the same fund which initially paid the dividends.
- To collect any income generated from the Investment Account or the Cash Account; to make payments, disbursements or distributions from the HSA as directed by Member or authorized agent, and in conformity with the terms of this Agreement and federal regulations of Health Savings Accounts.
- To perform any and all other acts which in its judgment may be necessary or appropriate for the proper administration of the HSA and the custodial assets including correcting errors made by either Custodian or employer, or employing such attorneys, agents and vendors as Custodian feels appropriate without notice to Member.
- To seek, at the expense of the HSA, direction or approval from a court of competent jurisdiction whenever Custodian shall, in its sole discretion, deem it appropriate.
- To request such documentation and certification deemed appropriate within Custodian's discretion to verify and establish the identity of the beneficiary or the estate upon death of Member, if the assets are to be distributed to Member's estate.
- To pay any estate, inheritance, income, or other tax or assessment attributable to any property, or interest held in the HSA out of the assets of the HSA upon such information or direction as Custodian may require.
- To require releases or other related documentation from the taxing authority, beneficiaries or other payee and require indemnification from such payee as may be necessary for Custodian's protection against tax liability.
- To close the Account in Custodian's sole discretion if the Account is delinquent in the payment of any Account fees.

- 12.03 **Binding Effect.**
The terms of this Agreement shall be binding upon Custodian and Member and their respective successors and assigns.
- 12.04 **Indemnification.**
Member, and his/her authorized agents and representatives, and Member's designated beneficiaries shall at all times fully indemnify and hold harmless Custodian and its affiliates, successors and assigns, from any liability arising from withdrawals so made or actions so taken, and from any and all other liability, damages, losses (including losses on the Investment Account), costs, legal fees, taxes, penalties and expenses (collectively, Damages) whatsoever which may arise in connection with this Agreement, except Damages arising from the gross negligence or willful misconduct of Custodian. Custodian shall not be responsible for any taxes, penalties, judgments and expenses incurred by Member's HSA.

Custodian shall have the right to bring suit against Member in a court of competent jurisdiction for the recovery of any sums owed to Custodian under this Agreement, including, but not limited to, fees, costs, overdrafts, expenses and sums paid by Custodian in error to or for the benefit of the Account. In such event all court costs, legal expenses, reasonable compensation of time expended by Custodian in the performance of its duties, and other appropriate and pertinent expenses and costs may be collected by Custodian from the HSA.

Article XIII. Records, Reports and Valuation of Custodial Accounts

13.01 Statements and Reporting Written Objections or Exceptions.

Custodian shall furnish or cause to be furnished to Member statements concerning the status of the Account at least quarterly. Member can access and retrieve the statements through Custodian's website or other internet portal, or choose to have such statements mailed at an additional cost as provided for on the written schedule of fees provided in the Welcome Kit.

Member shall have sixty (60) days after either (a) the date of mailing of a paper HSA statement or (b) the posting of an HSA statement online at Custodian's website to file any written or verbal objections or exceptions with Custodian. Written objections should be sent to HealthEquity, Inc., Attn: Account Inquiry, 15 West Scenic Point Drive, Suite 400, Draper, Utah 84020; oral objections should also be made to Member Services, which can be reached by calling the toll free phone number, 866-346-5800. The failure to file any objections or exceptions concerning errors or transactions within said sixty (60) day period shall signify Member's approval of the statement and preclude Member from making future objections or exceptions regarding the statement. Such approval by Member shall be a full release and discharge to Custodian of such statement and all transactions, deposits and disbursements disclosed on such statement.

13.02 Website Access.

Custodian may grant Member online access to the Account through Custodian's website. The website may be made available for view access only, or to allow Member to place trades in an Investment Account, as well as execute certain other services online. Custodian does not guarantee and is not liable for the performance or privacy of the online system, website or the internet. Website access may be unavailable at times such as when (a) systems require regular maintenance or upgrades; (b) unforeseen maintenance is necessary; or (c) major unforeseen events occur, such as earthquakes, fires, floods, computer failures, interruption in telephone service, electrical outages, civil unrest or riots, war, or acts or threatened acts of terrorism or other circumstances beyond Custodian's control. Custodian is in no way and under no circumstances liable for the unavailability of access to the website, data entry errors and other errors made by Member, or for any loss for any reason associated with website or online access or use.

Member shall have a password which will allow Member access to his/her HSA online. It shall be Member's responsibility to keep the password private. Member shall be responsible for all actions taken by any person using Member's password whether or not such use was authorized by Member.

13.03 Prevention of Account Owner Pledging Assets.

Member shall have no right to pledge, assign, anticipate, hypothecate, or in any manner create a lien upon any assets, payments, or benefits while such are held in the HSA. The assets in Member's Account shall not be subject to or responsible for the debts, contracts or torts of any person whether or not entitled to distributions under this Agreement.

Article XIV. Removal and Appointment of Successor Custodian

14.01 Termination.

Either Member or Custodian may terminate this Agreement for any reason at any time by giving written notice to the other. If Custodian terminates this Agreement, Member must make arrangements to transfer the Account to another custodian. If Member does not complete a transfer of the Account within 30 days from the date of the termination notice to Member, Custodian has the right to 1) transfer the Account to another HSA custodian or 2) pay the Account to Member in a single sum. If this Agreement is terminated, Custodian may hold back from Member's Account a reasonable amount of money that Custodian believes is necessary to cover any fees, account closure fees, and expenses or taxes chargeable against Member's Account or any penalties associated with the early withdrawal of any savings instrument or other investment in Member's Account. If the Account is terminated and funds had been placed in an Investment Account, that Account will be closed at the then current market value.

Pursuant to Custodian's IRS-awarded non-bank trustee license, if the IRS Commissioner notifies Custodian that a substitution is required due to Custodian failing to comply with the requirements of §1.408-2(e) of the regulations or not keeping such records, or making such returns or rendering such statements as are required by forms or regulations, Custodian will substitute another trustee or custodian.

Article XV. Privacy

15.01 Information Kept Confidential.

Custodian believes in maintaining the confidentiality of Member information, which is collected and retained when such information assists Custodian in (1) administering Member's Account, (2) providing relevant products and services, and (3) complying with applicable laws and regulations.

15.02 Treatment of Personal Information.

Custodian understands that Member expects that personal information will be handled with great care. Custodian does not disclose any non-public personal information (such as information about Member's Account balance, HealthEquity Visa Health Account Card use, medical claims and any Account transaction) about our Members or former Members to anyone, except as necessary to provide the services contemplated herein or as otherwise permitted or required by law unless requested specifically by Member.

15.03 Privacy Statement.

Custodian's full Privacy Statement, which is provided to Member as part of the Welcome Kit, and can also be viewed online at www.healthequity.com.

Article XVI. Consent to the Terms of Custodial Agreement

By accessing Member's Account by telephone, internet, check, EFT, or HealthEquity Visa Health Account Card, Member consents to the terms of this Custodial Agreement, including any amendments hereto.