

## Custodial and Deposit Agreement

This Custodial and Deposit Agreement (“Agreement”) sets forth the terms and conditions that govern your Health Savings Account (“Account” or “HSA”) with Optum Bank, Inc., Member FDIC. Throughout this Agreement, the words “Bank”, “we”, “us” or “our” means Optum Bank, Inc. its successors and assigns and “you”, “your” or “yours” means the owner of the HSA, any spouse beneficiary upon the death of the HSA owner, or any third party authorized or appointed to access and use the HSA, which third party will be considered the agent of the HSA owner.

### A. Establishment

1. By instructing us to open an HSA, depositing funds in or otherwise using the HSA or continuing to hold an HSA with us, you have consented to be bound by the terms and conditions of this Agreement, the Bank’s Privacy Notice (“Privacy Notice”), Electronic Communication Disclosure Information and Consent (“Electronic Communications”), the Health Savings Account Card Holder Agreement (“Card Agreement”), Truth In Savings New Account Disclosure (“Truth In Savings”), and all notices, disclosures and other documentation referenced herein or relating to the HSA as may be provided to you from time to time and made available at [www.OptumBank.com](http://www.OptumBank.com) (collectively the “HSA Documentation”).

2. If you have authorized your employer (“Agent”) to open an HSA with us on your behalf as part of your enrollment in the Agent’s health benefit plan, you hereby request that we issue you a debit card in connection with your HSA. Furthermore, you authorize and direct us to provide any information about your HSA, including your account number or any other non-public personal information, to your Agent and those acting on behalf of your Agent in connection with the establishment and maintenance of your HSA. Furthermore, you hereby authorize and direct that your Agent and those acting on behalf of your Agent may take any actions with regard to your HSA as deemed necessary and appropriate, including but not limited to, making deposits and correcting errors where necessary.

3. In order to establish and make contributions to an HSA, you agree and warrant that you are an HSA eligible individual according to the requirements set forth in the Internal Revenue Code of 1986 and the regulations issued thereunder (as amended from time to time) (the “Code”). Further you understand and agree that medical expenses incurred before your HSA is actually established under applicable Utah trust law are not qualified medical expenses and distributions taken to reimburse those expenses may be subject to taxes and penalties.

4. We assume no responsibility for tax or other consequences to anyone arising from the establishment or use of an HSA, including but not limited to determining any adverse tax or other consequences in connection with the HSA and any contributions thereto. You are solely responsible for any taxes, interest, penalties and other expenses which may be payable under applicable law in connection with your HSA. All materials provided by us are designed and distributed with the understanding that they do not constitute or include legal, tax, or other professional advice. Prior to the establishment or use of any HSA, you should consult with an attorney or other qualified tax professional to confirm eligibility requirements and applicable restrictions.

5. You acknowledge and agree that we are the custodian of your HSA and nothing in the HSA Documentation shall be construed to confer fiduciary status upon us for any purpose. We are not required to perform any services or undertake any fiduciary responsibility unless specifically agreed to in a separate agreement entered into and between you and the Bank.

6. The HSA is self-administered by you and your interest in your HSA is nonforfeitable. Notwithstanding the foregoing, if your employer contributes to your HSA, your employer may recoup those contributions in limited circumstances. Except as provided by law or in the HSA Documentation, neither you or the person you have chosen to receive the proceeds of your HSA, as shown on the Beneficiary Designation Form (“Beneficiary”) made available to you on our website and submitted to us as instructed on the form, may transfer, assign or pledge any interest in your HSA in any manner whatsoever, including but not limited to, using the funds in your HSA as security for any loan or other extension of credit, or engaging in or directing us to engage in any prohibited transaction, within the meaning of Section 4975 of the Code.

7. The HSA is established by you pursuant to federal tax law, and is neither endorsed by or sponsored by your employer or any other third party. Your HSA is an individual custodial account arrangement between you and us. As a result, the HSA is not part of an ERISA benefit plan, even if a third party contributes to your HSA, pays your HSA maintenance fee(s), or you make pre-tax contributions under your cafeteria plan.

8. To help the government fight the funding of terrorism and money laundering activities, the USA PATRIOT Act requires us to obtain, verify, and record information that identifies each person who opens an HSA. As a result, when you open an HSA, we will ask for your name, address, date of birth, Taxpayer Identification Number (“TIN”) and other information that will allow us to identify you. We may also ask to see your driver’s license or other identifying documents. You must have a physical address in the United States and we reserve the right to decline your HSA request if we are not able to fully verify your personal information.

### B. Eligibility

You acknowledge and agree that you are solely responsible for determining whether you are eligible to have an HSA as defined in the Code and that we are not responsible for verifying your status as an eligible individual. By instructing us to open an HSA, you represent and warrant that you are eligible to establish and contribute to an HSA or have a contribution made on your behalf, and are (i) covered as a participant or covered dependent under a high deductible health plan (“HDHP”); (ii) not enrolled in disqualifying non-high deductible coverage maintained by you, your spouse, your employer or through any other source; (iii) not entitled to benefits under Medicare; and (iv) cannot be claimed as a dependent on another person’s tax return.

### C. Deposits/Contributions

1. There is no minimum contribution required to open an HSA. Except as provided in the HSA Documentation, there is no minimum balance requirement. However, if you open an HSA that remains dormant, with a balance of under \$1 dollar (or such other

minimum amount established by us from time to time), we reserve the right to close the HSA.

2. All contributions to your HSA must be in U.S. Dollars. You hereby authorize and direct us to accept contributions that are made by you or by others on your behalf and to act without further inquiry in accordance with the instructions given to us by you or any third party authorized or appointed to act on the HSA, including any instructions that specify a particular tax year for contributions.

3. Funds contributed to an HSA that remain uninvested are insured up to the applicable limit by the Federal Deposit Insurance Corporation (“FDIC”). The amount of insurance coverage available to you depends on the number of accounts you have with us and the ownership of such accounts. For additional information, you may visit the FDIC’s website at [www.fdic.gov](http://www.fdic.gov).

4. Contributions for any given tax year may be made at any time before the deadline for filing your federal income tax return for such year (without extensions). All contributions received by us during a calendar year (other than rollover contributions or direct transfers) will be considered made for that calendar year for purposes of reporting. At our discretion, we may allow deposits for a prior or subsequent calendar year consistent with the requirements of Code Section 223 and any administrative procedures implemented by us.

5. Except for rollover contributions that we accept, deposits are limited to the statutory maximum contribution allowed under Section 223 of the Code (including any additional contributions allowed for individuals age 55 or over under Section 223(b)(3)(B) of the Code). At our discretion, we may require you to provide certification to us that you have attained the age of 55 before we accept any catch-up contribution amounts. You acknowledge that the Internal Revenue Service (“IRS”) imposes an excise tax upon any excess contribution that is made to your HSA and for each year in which the excess remains in your HSA. You hereby agree that we are not responsible for determining whether contributions to your HSA exceed the maximum annual contribution limit. If an excess contribution has been made, or you notify us that you are not eligible under the Code to make a contribution or have a contribution made on your behalf, we will refuse or return the excess contribution, and net earnings (if any) attributable to that contribution as determined in accordance with applicable law, following submission by you of all forms required by us.

6. Funds you deposit in an HSA will become available to you in accordance with the timeframes set forth in the HSA Documentation. Upon a contribution or deposit, you may not withdraw the funds and we will not use the funds to pay distributions or withdrawals that you have authorized or made from your HSA between the time that you contribute the funds and the funds become available to you. You agree not to initiate any transaction the amount of which would exceed the available balance. We reserve the right to require at least seven days’ written notice prior to withdrawal of funds from the HSA. Unless otherwise instructed by you, contributions received by us after 2:00 pm Mountain Time Monday through Friday or on a weekend or holiday will be considered to be made on the next full banking day. We reserve the right to refuse, limit or return any funds received for deposit. All contributions accepted from you are subject to verification. Your HSA online statement will reflect all amounts credited to your HSA. In accordance with applicable law, we reserve the right to reject and/or return any contributions and correct errors (whether made by us or your employer, if applicable). Any adjustments for errors in addition or subtraction will be posted to your HSA. Your HSA may also be adjusted for items you have deposited that we determine require special handling (e.g., verification of prior endorsements).

7. You will earn interest on the funds on deposit in your HSA at the rate established by us as described in the HSA Documentation. Interest will accrue daily based on the balance of funds on deposit in your HSA and will be paid on the last banking day of the month. This means that if you close your account before accrued interest is paid by us, any interest accrued up to the date the account is closed will be forfeited and no interest for that month will be paid. The interest rate and annual percentage yield on the full balance in your HSA will be on a tiered basis, as described in the HSA Documentation. Your interest rate and annual percentage yield (in any or all categories set forth in the Truth In Savings provisions of the HSA Documentation) may change at any time thereafter at our discretion, and without notice.

8. You will be responsible for and pay us all fees, charges and assessments set forth in the HSA Documentation for the services we perform for you in connection with your HSA, including but not limited to any and all fees disclosed on the Schedule of Fees. An employer or other third party may pay certain fees on your behalf, but you are responsible for any unpaid fees. To the extent permitted by applicable law, you authorize us to withdraw all fees, charges and assessments from the balance in your HSA. You agree that we may add, subtract or adjust the amount or type of any fee, charge or assessment from time to time without your consent. However, to the extent that we introduce new fees or increase existing fees, we will give you advance notice of such changes, as required by law. You also understand and agree that we receive compensation from third parties related to debit card use and that this compensation is in addition to any administration fees related to the HSA. Information relating to such fees is available upon written request.

### D. Operational Accounts

In our capacity as custodian of the HSA, we may establish and maintain certain record-keeping sub accounts for the efficient administration and management of the HSA. The HSA may consist of a transactional Negotiable Order of Withdrawal (NOW) sub account and a savings sub account and we may periodically transfer funds between these two sub accounts. Your Bank statement will show a single balance representing the total funds in the two sub accounts. The same interest rate will apply to both sub accounts and interest will be paid on the total account balance regardless of how funds are distributed between the sub accounts.

### E. Distributions

1. You may withdraw all or any part of the balance of your HSA at any time upon your direction. Except as provided in the HSA Documentation, only you and any authorized signer you designate through the process established by us can initiate distributions from your HSA.

2. You are solely responsible for substantiating and documenting that HSA funds are used to pay or reimburse qualified medical expenses of you, your spouse, or your dependents as defined in the Code. You are also solely responsible for determining the

federal and state tax treatment and reporting of any distributions from the HSA, whether made by a check provided to you in connection with your HSA ("Check"), a debit card or other access device issued to you or to an authorized signer of your HSA ("Debit Card"), or a third party transfer from your HSA. We do not, and are not required to, determine whether any distribution is for the payment or reimbursement of qualified medical expenses or correct any mistaken distributions.

3. We will not return original Checks to you. Processed Check images will be made available to you on our website. We are not responsible for actions taken by other banks, or for the loss or destruction of any Checks, drafts or other instruments in the possession of other banks or in transit. We may return unpaid any Check on your HSA that is not on a form we provided to you, or which is presented to us before its date. We will not be responsible for paying or certifying postdated Checks on an HSA. You may ask us in writing at Optum Bank, P.O. Box 271629, Salt Lake City, UT 84127-1629 to stop payment on a Check drawn on your HSA that has not yet been paid by us. We will honor any written stop payment request from you which is received by us at least two business days before the Check is presented to us for payment. The stop payment order must specify the exact amount of the Check, the payee, the date of the Check, the number of the Check and your HSA number. We will honor the stop payment request for six months from the day your stop payment request is made.

4. If available on your HSA, you may request that we issue a debit card to you and to any authorized signer you designate through the process established by us ("Additional Card"), which will enable you and such authorized signer to make distributions from your HSA. You authorize us to debit your HSA to pay for transactions made with your Debit Card and any Additional Card and agree that your use of the Debit Card and the use of any Additional Card issued on your HSA is governed by and subject to the terms and conditions of the HSA Documentation provided to you. You agree to make every reasonable effort to safeguard your debit card and any Additional Card(s).

5. You may not make withdrawals in excess of the funds available in your HSA, which includes the HSA balance less any holds applicable to funds contributed into your HSA. We have no obligation to distribute funds and we will not be liable for dishonoring any distributions or withdrawals that would exceed the available funds in your HSA. If a requested distribution exceeds available funds in your HSA, we will not liquidate any HSA Investments you may have without your authorization to ensure sufficient funds in your HSA to cover the requested distribution. If your HSA becomes overdrawn for any reason, you agree to immediately repay the amount of any overdraft. If we pay items by overdrawing your HSA, we are not obligated to continue paying overdrafts. We reserve the right to process distributions, withdrawals, transfers or related requests received by you on the same day in any order we determine without regard to the method of withdrawal. The order in which you take distributions may not be the same as the order in which we post those transactions to your HSA.

#### F. Self-Directed Investments

1. At our election, investment options permitted under applicable law, including but not limited to, mutual funds ("HSA Investments"), may be made available for all or a portion of the balance in your HSA in excess of a minimum amount established by us. **The HSA Investments are not FDIC-insured, not bank issued or guaranteed, and are subject to investment risks, including fluctuations in value and the possible loss of the principal amount invested.**

2. You acknowledge and agree that the HSA Investments or any other investment options made available by us are made available solely online through our website at [www.OptumBank.com](http://www.OptumBank.com). By your online registration and use of the HSA Investments, you consent to and agree that all notices, and documentation (including but not limited to, prospectuses, statements of additional information and reports to shareholders), and other information related to your HSA Investments will be made available to you on or through our website. You understand that mutual fund shares are sold by prospectus only. You agree that you will read and understand the prospectus for each of the mutual fund HSA Investments you select. If you would like to receive a paper copy of any prospectuses, statements of additional information, shareholder reports, or other fund documentation, you may receive it at no additional cost to you by calling the respective mutual fund's toll free shareholder service number contained in its prospectus during normal business hours.

3. **Other than as made available to you online through our website, you hereby decline or waive the receipt of any and all confirmations of your trades in HSA Investments. You may obtain immediate confirmation of any transaction in the HSA Investments by either using the Print Screen function following each transaction, or by monitoring your HSA Investments online through the Access Investments tab. If you would like to receive a written confirmation of a transaction, please send your written request to us at Optum Bank, P.O. Box 271629, Salt Lake City, UT 84127-1629 and we will provide you with a written copy of the confirmation at no additional cost to you.**

4. We may, at our sole discretion, hire third party service providers, such as record keepers, clearing firms, investment advisers or broker-dealers, to provide certain services with respect to the HSA Investments. We shall direct all orders received to such service providers as we may select for the execution of such orders and we shall maintain records thereof in accordance with applicable law.

5. The HSA Investments in which you are able to invest are selected by investment advisers or other service providers retained by us in accordance with an investment policy formulated by the adviser or other service provider. In some instances, HSA Investments may be selected by your present or former employer, broker-dealer or investment adviser, and no investment policy formulated by our adviser or other service provider shall apply to the selection of such HSA Investments. We make no representations as to the quality or performance of any HSA Investments.

6. We, and any investment adviser or other service provider we may hire, reserve the right to add, subtract or otherwise modify any HSA Investments made available to you, including but not limited to, the termination of your ability to make purchases in an HSA Investment that is no longer made available by us. You understand and agree that if a mutual fund is removed by the Bank from the list of available HSA Investments, you will be given notice and thirty (30) days in which to sell and re-deploy any assets you have in such fund. If you have not taken any action to re-deploy such assets within the specified timeframe, we may and you hereby authorize us to, liquidate your interests in the fund automatically and return the proceeds to your HSA. You acknowledge that any

liquidation of HSA Investments will not result in immediately available funds for deposit to your HSA and such funds will be available only in accordance with the terms and conditions of the HSA regarding availability of funds. You acknowledge that in the event we are notified of any change in your eligibility, health plan or the employer associated with your HSA, you may be required to re-enroll in the HSA Investments.

7. No part of your HSA funds may be invested in life insurance contracts; nor may the assets of the custodial account be commingled with other property except in a common trust fund or common investment fund.

8. All HSA Investments shall be registered in our nominee name or a suitable nominee and will be held in an omnibus account at the respective mutual fund company for the benefit of all HSA account holders. The same nominee name may be used with respect to assets of other HSAs whether or not held under agreements similar to this one or in any capacity whatsoever. However, we, or a service provider retained by us, shall maintain a separate accounting of the HSA Investments registered in our nominee name for the benefit of your HSA.

9. During the term of this Agreement, you hereby irrevocably grant, assign and transfer to the Bank any and all voting rights in the shares of any and all HSA Investments of your HSA. You affirm that such irrevocable assignment shall not be construed to confer any fiduciary status upon us and may under no circumstances be revoked. You further agree that we will not be liable for any act or failure to act in connection with the voting rights assigned herein and that we may, at our sole discretion, take any action or no action as deemed necessary and appropriate by us or as permitted by applicable statute, rule or regulation.

10. HSA Investments are self-directed and you have the sole authority and responsibility to select and direct the HSA Investments. We, and any third party service provider we may hire, do not and will not provide any investment advice to you in connection with the HSA Investments or your HSA. We shall have no duty other than to follow your investment directions and shall be under no duty to question your instructions, review, monitor or replace HSA Investments, vote any HSA Investments or otherwise exercise any investment control or discretion. At your instruction, we may provide certain automatic sweep functionality in connection with the balance in your HSA and HSA Investments. You acknowledge that in the event we are notified of any change in your eligibility, health plan or the employer associated with your HSA, any such automatic sweep functionality may expire and may require re-establishment by you. We shall not be liable for any investment losses sustained by you that result from your exercise of investment control over your HSA, including but not limited to, any losses sustained as a result of the expiration of any automatic sweep functionality. You acknowledge that any liquidation of HSA Investments will not result in immediately available funds for deposit to your HSA and such funds will be available only in accordance with the terms and conditions applicable to the specific HSA investment made by you and the terms and conditions of the HSA Documentation regarding availability of funds.

11. To the extent applicable, we will settle all purchases, sales, investments and reinvestments of HSA Investments only upon receipt of, and pursuant to, your instructions (or as directed by the Beneficiary upon your death) as communicated to us, provided such instructions are given to us in a form acceptable to us. If any orders are not received in a form acceptable to us, or when received, are unclear in our opinion, we may continue to hold funds in your HSA or HSA Investments without liability for loss of income or appreciation, and without liability pending receipt of an acceptable order or clarification.

12. The price you pay for your HSA Investment shares is the net asset value (NAV) per share of the class of shares offered. The NAV of each class of shares is generally calculated as of an established cut-off time each day an HSA Investment is open for business ("Trading Day"). Please refer to the HSA Investment's prospectus to determine when each HSA Investment is open for business and the established cut-off time. You acknowledge and agree that (i) HSA Investment purchase requests submitted before 4 pm ET on a Trading Day will receive that Trading Day's NAV, while purchase requests after 4 pm ET on a Trading Day will receive the next Trading Day's NAV; (ii) HSA Investment sell requests submitted before 4 pm ET on a Trading Day will receive that Trading Day's NAV, while sell requests submitted after 4 pm ET on a Trading Day will receive the next Trading Day's NAV; and (iii) automatic investment sweep directions are processed by us or a third party service provider retained by us at 4:00 pm ET on each Trading Day and will receive that Trading Day's NAV. Occasionally for reasons such as power interruption, phone line interference, satellite failure, force majeure, or user error, electronic trades do not transmit properly and will be transmitted as soon thereafter as possible unless you are otherwise informed. In addition, markets may close early, which may also affect the transmission of orders. Sell requests received after an early market close will be treated as if they were received after their regularly established cut-off time. You agree that we shall not be liable for any investment losses sustained by you that result from any delay or failure that is beyond our control, including but not limited to, any losses sustained as a result of any mutual fund payment delay or other failure.

13. (a) The prospectus for each HSA Investment contains important information regarding the mutual fund, including information on any fees charged. You acknowledge that, in accordance with the prospectus, some HSA Investments impose frequent trading policies, which may result in a purchase block on Your account and/or redemption fees for withdrawals made within a certain period of time following an investment. You agree to pay all redemption fees, transfer taxes or other expenses incurred in connection with the investment or reinvestment of the assets of the HSA. (b) The mutual funds making up the HSA Investments also charge ongoing fees at the fund level, such as investment management, administrative, custodial, distribution and shareholder service fees. The Bank or its service providers may receive a portion of the shareholder servicing fees, including marketing and services fees, and sub-administration or sub-transfer agent fees, from the mutual funds or their affiliated advisers and distributors for recordkeeping and other services provided in connection with the HSA Investments, but such fees do not represent an additional direct fee or charge to you. The Bank, in turn, incurs certain costs, including costs to retain investment advisers and other entities to select mutual funds and process your orders, and these fees are used to offset these costs; any excess fees are, however, retained by the Bank and will not be remitted to you.

(c) Investment advisers retained by us, or their affiliates, may also receive fees from certain mutual funds or mutual fund affiliates and may select mutual funds that pay higher fees than competitor funds. Such advisers or affiliates of such advisers may also receive compensation as a result of the adviser's selection of a mutual fund managed by it or an affiliate.

#### **G. Transfer or Death of Accountholder**

1. If you die or are declared legally incompetent before the entire interest in your HSA has been distributed, we can continue to accept and process contributions to your HSA until we have actual notice of the death/incompetency and have a reasonable chance to act. Upon notification, we will freeze your HSA (disallowing any withdrawals or transfers).
2. Any Beneficiary Designation Form provided by us may be revoked by you at any time by delivering written notice of the revocation to us at Optum Bank, P.O. Box 271629, Salt Lake City, UT 84127-1629, and shall be automatically revoked upon receipt by us of a subsequent Beneficiary Designation Form in valid form bearing a later execution date. Any such Beneficiary change or amendment shall not become effective until received by the Bank in accordance with instructions we provide. We reserve the right to require the written consent of any Beneficiary prior to changing an existing beneficiary designation. If there is no valid beneficiary designation on file with us at the time of your death, your legal spouse will be deemed to be your beneficiary. If you are not married at the time of your death, the funds will be paid to your estate.
3. You represent and warrant that any beneficiary designation submitted to us is complete, accurate and satisfies all legal requirements under applicable law. We may presume that a beneficiary is legally competent until we receive written notice to the contrary.
4. In the event that the Beneficiary is your spouse, your HSA will become your spouse's HSA as of the date of death. If your Beneficiary is not your spouse, the HSA ceases to be an HSA as of the date of death and is taxable to the Beneficiary (or your estate) in the tax year that includes the date of death, reduced by any payments made for your qualified medical expenses if paid within one year of your death. By law, certain documents must be presented to us before funds in an HSA can be transferred or paid out and the HSA closed. These documents may include, but are not limited to, a certified copy of the death certificate; letters testamentary or letters of administration; decrees of probate court; the Beneficiary Designation Form provided by us; documents evidencing that estate taxes are paid or not owed; if applicable; and any other additional documents that we may require.
5. If a request for a transfer is made pursuant to the terms of a divorce or separation agreement, we must receive the request within ninety (90) days of the effective date of the divorce or separation instrument. Please note that transferring your interest to someone other than your spouse may subject you to income tax and penalties on the transferred amount.

#### **H. Electronic Fund Transfer Services**

1. We may provide you, either ourselves or through a service provider we may hire, with electronic funds transfer ("EFT" or EFT services, which allow you to authorize and direct us, from time to time, on your behalf, to make transfers of funds (subject to the sufficiency of funds provisions set forth in the HSA Documentation) to third parties in the amounts specified by you.
2. Subject to the limitations disclosed in the HSA Documentation, you may transfer funds or arrange to have preauthorized payments made to and from your HSA online at [www.OptumBank.com](http://www.OptumBank.com). For such services, you authorize us to charge or credit your HSA the amount of each payment instruction and any and all charges applicable to the service(s) we provided to you as set forth in the HSA Documentation. You understand that in performing requested services, we may make payments by Check or electronic funds transfer, and we will be acting as your agent in making such payments. To the extent required by applicable law, 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. We will not be liable, for instance, if there are insufficient funds in your HSA to make the transfer, or if circumstances beyond our control (such as fire or flood) prevent the transfer, despite reasonable precautions we have taken.
3. To stop payment on a single payment in a series of recurring preauthorized third party debits to your HSA, or to discontinue a recurring preauthorized third party debit to your HSA entirely, you should contact the merchant, allowing adequate time for that party to cancel the payment and for us to implement the cancellation request (which typically may take up to several days). We are not responsible for any failure by a merchant to stop a payment or for your failure to notify the merchant in time to stop any given payment from your HSA.
4. If you have instructed us, through services available on our website, to make regular payments to or from your HSA, you can stop such payments online at [www.OptumBank.com](http://www.OptumBank.com). We must receive your cancellation request at least three (3) business days before the payment is scheduled to be made. If you order us to stop one of these payments 3 business days or more before the transfer is scheduled, and we do not do so, to the extent required by applicable law, we will be liable for your losses or damages.
5. In case of errors or questions about your Account, call us at 1-866-234-8913 or write us at Optum Bank, P.O. Box 271629, Salt Lake City, UT 84127-1629. We must hear from you no later than 60 days after the FIRST statement on which the problem or error appeared was sent or made available to you. Please (a) provide your name and account number; (b) describe the error or the transfer you are unsure about, and explain why you believe it is an error or why you need more information; and (c) tell us the dollar amount of the suspected error. If you tell us orally, we may require that you send us your complaint or question in writing within 10 business days. We will determine whether an error occurred 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 days to investigate your complaint or question. If we decide to do this, we will credit 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 it within 10 business days, we may not credit your account. For errors involving new Cards, point-of-sale, or foreign-initiated transactions, we may take up to 90 days to investigate your complaint

or question. For new accounts, we may take up to 20 business days to credit your account for the amount you think is in error. We will tell you the results within 3 business days after completing our investigation. If we decide that there was no error, we will send you a written explanation. You may ask for copies of the documents that we used in our investigation.

6. In order that your privacy may be protected, we will only disclose information to third parties about your HSA or the transfers you make: (i) Where it is necessary for completing transfers; (ii) In order to verify the condition and existence of your HSA for a third party, such as a merchant; (iii) In order to comply with government agency or court orders; (iv) To our employees, auditors, service providers, attorneys or collection agents in the course of their duties; (v) As disclosed in our Privacy Notice; or (vi) If you give us your permission.

7. We reserve the right to terminate your use of our EFT services for any reason and at any time without notifying you. You also have the right to terminate your use of the EFT services you have set up online at any time at [www.OptumBank.com](http://www.OptumBank.com). If you terminate your use of our EFT services and you have arranged for preauthorized transfers involving third parties, you are required to inform any third parties that the transfers will cease. Any termination of your use of our EFT services, whether initiated by you or us, will not affect any of your or our rights and obligations under the HSA Documentation that have arisen before the effective date of such termination.

#### **I. Electronic Signatures**

In the event that we have received your electronic signature in connection with your Account Application, we may rely on such electronic signature for purposes of your authorization of withdrawals or third party transfers, your notices to change your name or address or your other instructions to us. We are not required to obtain your physical signature for such purposes or any other purpose, except as may be required by law.

#### **J. Information, Changes to Information and Amendments**

1. We are entitled to rely upon the information and instructions we receive with respect to your HSA, including the information contained in the HSA Application, and have no obligation to make further investigation, except as required by law or as provided in the HSA Documentation. You represent and warrant to us that any information or instruction you have given or will give us with respect to your HSA is complete and accurate. If we fail to receive directions regarding any transaction, or if we receive ambiguous directions regarding any transaction, or we, in good faith, believe that any transaction requested is in dispute, we reserve the right to take no action until further clarification acceptable to us is received from you or the appropriate government or judicial authority. We shall not be responsible for losses of any kind that may result from your directions to us or your actions or failures to act.
2. You agree to provide us with any information or documentation deemed necessary or appropriate by us to prepare any report or return, as required of us by the IRS, the Code or other applicable law.
3. We will use the most recent contact information you have provided to us to communicate with you. You are responsible for notifying us of any change in your address, name, or other contact information (including telephone number and email address). You may notify us of any changes to your address online at [www.OptumBank.com](http://www.OptumBank.com). If your name has changed, you must call us at the number listed on the back of your debit card for instructions to follow to change the way your name appears on your HSA. Informing us of your address or name change in any other manner is not sufficient. Changes to your telephone number and email address can be communicated to us online at [www.OptumBank.com](http://www.OptumBank.com) or by regular mail at Optum Bank, P.O. Box 271629, Salt Lake City, UT 84127-1629.
4. The rights, duties and obligations of both you and us with regard to your HSA are governed by the HSA Documentation and we may amend the HSA Documentation at any time without your consent. Any amendment will become effective on the date stated in the amendment; provided, that the HSA Documentation will be amended automatically to comply with any change in the Code, or other laws, as of the effective date of such change. If any provision of the HSA Documentation is found to be in conflict with the Code or other laws, the Code or such other laws will supersede that provision.

#### **K. Notices**

Any required notice regarding your HSA will be made available to you online at [www.OptumBank.com](http://www.OptumBank.com). Upon your written request, we will send you any required notice at the most current address we have in our records. All required notices shall be effective on the date we make such notice available online or on the date we send it to you. Any notice required to be given by you to us under the HSA Documentation will be effective upon receipt of the notice at Optum Bank, P.O. Box 271629, Salt Lake City, UT 84127-1629.

#### **L. Arbitration**

1. As permitted by applicable law, any claim or controversy that is not resolved informally by the parties shall, at the request of a party, be resolved by binding arbitration in accordance with the applicable commercial arbitration rules of the American Arbitration Association, except to the extent modified by the HSA Documentation. In no event may arbitration be initiated more than one year following the date the dispute arose. Any arbitration proceeding under the HSA Documentation shall be conducted in Salt Lake City, Utah. The arbitrator may construe or interpret, but shall not vary or ignore the terms of the HSA Documentation, shall have no authority to award extra contractual damages of any kind, including punitive or exemplary damages, and shall be bound by controlling law. Judgment upon an arbitration award may be entered in any court of competent jurisdiction. The parties acknowledge that because the HSA Documentation affects interstate commerce, the Federal Arbitration Act applies.

2. No dispute resolution proceeding between you and the Bank shall be permitted to be conducted in a class, representative, or private attorney general action, nor may any such proceeding be consolidated with any other dispute. The Bank and you agree that any claims related to the validity of this class waiver shall only be resolved by a court of competent jurisdiction located in Salt Lake City, Utah.

#### **M. Periodic Statements**

In accordance with the Electronic Communications provisions of the HSA Documentation, periodic statements in electronic format will be made available at no charge. You may view your statement by accessing your HSA at [www.OptumBank.com](http://www.OptumBank.com). Upon your written request to us at Optum Bank, P.O. Box 271629, Salt Lake City, UT

84127-1629, we will provide you with a written copy of your periodic statement at no charge to you. You agree to examine each statement after it is made available online or sent to you. If you notice any errors or have questions about your statement, please contact us as described in Section H (5) above.

#### **N. Assignment, Resignation and Termination**

1. We reserve the right to assign your HSA without your prior consent, provided that such assignee is qualified under the Code to be an HSA custodian or trustee. Upon any assignment of this Agreement, the assignee shall automatically become custodian of the HSA if it is qualified under the Code to serve as an HSA custodian or trustee. You acknowledge and agree that such assignment may result in loss of FDIC insurance coverage for any HSA balances for which such assignee becomes a custodian or trustee. We shall not be liable for any actions or failures to act neither 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 the HSA Documentation.

2. In the event that our organization changes its name, reorganizes, merges with another organization, or if our entire organization (or any portion that includes your HSA) is bought by another organization, that organization shall automatically become the custodian or trustee of your HSA, but only if such organization qualifies under the Code to be an HSA custodian or trustee. If the new organization is not qualified to be an HSA custodian or trustee as required by Code Section 223, the HSA will be terminated effective as of the date the new organization takes control and you direct us to liquidate any HSA Investments and distribute to you all funds in your HSA, including any liquidated HSA Investments as provided under the HSA Documentation and the Code.

3. We can resign as custodian of your HSA at any time upon notice to you. Upon receipt of notice, you must make arrangements to transfer your HSA to another trustee or custodian qualified under the Code. If you do not complete a transfer of your HSA within thirty (30) days from the date we mail the notice to you, we have the right to liquidate any HSA Investments and to transfer or otherwise assign your HSA, including any liquidated HSA Investments to a successor HSA custodian or trustee that we choose in our sole discretion, or we may pay your HSA, including any liquidated HSA Investments to you in a single sum.

4. At our sole discretion, we may, upon notice, add, subtract, modify or terminate all or any portion of your HSA at any time without your consent. No addition, subtraction, modification or termination will affect our right to debit the HSA for any distributions, outstanding charges, adjustments, chargebacks or other amounts incurred by you, or by an authorized signer that we believe are necessary and appropriate under the HSA Documentation. If we terminate your HSA and you hold HSA Investments, we may liquidate any HSA investments and distribute to you all funds in your HSA, including any liquidated HSA investments as provided under the HSA Documentation and the Code.

5. You may close or transfer your HSA at any time by notifying us in writing at Optum Bank, P.O. Box 271629, Salt Lake City, UT 84127-1629. However, you must first liquidate all HSA Investments in accordance with their applicable terms and conditions and once the proceeds of such liquidation have settled to your HSA, you may terminate or transfer your HSA. If we receive a request to close or transfer your HSA and you have not liquidated all of your HSA Investments within 30 days of the request, we may liquidate any HSA investments and distribute to you all funds in your HSA including any liquidated HSA investments as soon as practical after termination, as provided under the HSA Documentation and the Code.

If you receive a distribution of your HSA funds, including any liquidated HSA Investments under this Section N, you are responsible for depositing such funds into another qualified HSA within sixty (60) days from your receipt of such funds if you wish to continue to maintain an HSA.

#### **O. Defaults**

You will be in default if you fail to meet any of your obligations under the HSA Documentation or any other agreement with us. In the event of a default, we may exercise any legal rights we may have. If we are required to take any legal action under the HSA Documentation, you agree to pay our court and collection costs and any attorney's fees and disbursements. If you are in default of the HSA Documentation, or upon the closure of the HSA, whether such closure was made by you or by us, we shall not be obligated to continue to provide services under the HSA Documentation.

#### **P. Unclaimed Property Laws**

Unclaimed property laws require us to turn over any HSA funds that are considered abandoned by an applicable state (generally the state in which you reside or have listed as the address for your HSA). Your HSA is usually considered abandoned if you fail to conduct activity on the HSA, such as making a deposit or withdrawal, for a period of time specified in the applicable state's unclaimed property law. Before we turn over any abandoned HSA funds, we may send a notice to the email address or physical address we currently show for your account. If mail we previously sent to either address was returned, we may not send this notice.

#### **Q. Limitation of Liability and Hold Harmless**

In connection with your HSA and the HSA Documentation, we are not responsible for any act or failure to act by us that is reasonable under the circumstances or that is consistent with the rules and regulations of the Board of Governors of the Federal Reserve System and other federal regulatory agencies, or any applicable laws, rules or regulations of the State of Utah, or with general commercial practices of banks. We are not responsible for any act or failure to act of any service provider or mutual fund relating to the Investments. You agree to indemnify us and hold us harmless against any claims, damages, expenses and losses, including attorney's fees, incurred by us resulting from (i) any action we take in honoring your instructions, including but not limited to all verbal or facsimile instructions received with respect to your HSA, (ii) in connection with our honoring of any subpoena or court order relating to your HSA or (iii) other costs, expenses or liabilities arising under the HSA Documentation except costs, expenses or liabilities that arise from our breach of any duty under the HSA Documentation.

#### **R. Miscellaneous**

We can choose not to exercise or to delay enforcement of any of our rights under the HSA Documentation without compromising them. Each party's rights and obligations under the HSA Documentation will be binding upon its heirs, executors, legal representatives, successors and permitted assigns. If any provision of the HSA Documentation is held invalid or unenforceable, all other provisions of the HSA Documentation shall remain in full force and effect. The HSA Documentation becomes

effective upon the opening of your Account. The HSA Documentation shall be governed by and construed in accordance with the laws of the State of Utah and applicable federal law.

**Optum Bank**  
**P.O. Box 271629**  
**Salt Lake City, UT 84127-1629**