

Sterling Health Services, Inc. Custodial Agreement

This Custodial Agreement (“Agreement”) is made between The Mechanics Bank, Inc. (“Custodian”) and the individual (“Depositor”) who signs the Sterling HSA Enrollment Form. Depositor is establishing a Health Savings Account (“HSA”) under Section 223 of the Internal Revenue Code (the “Code”). Depositor has made an initial cash contribution to the Sterling HSA Health Savings Account (“Custodial Account”) described in the Individual Sterling HSA Enrollment Form or other relevant documents. This initial cash contribution, any additional contributions, and any earnings thereon are *subject to* the terms of this Agreement.

ARTICLE I

1. Custodian may accept additional cash contributions on behalf of Depositor in any tax year of Depositor. Depositor, Depositor’s employer, or any other person or entity may make such additional contributions on Depositor’s behalf. Depositor acknowledges that the total contributions for any single tax year of Depositor are limited to the maximum allowable as a deduction under section 223 of the Code unless the contribution is a rollover contribution described in section 223 of the Code.

2. Depositor shall comply with all applicable laws and regulations and all other conditions or limitations established by Custodian regarding the Custodial Account, including, but not limited to, the method or timing of contributions.

3. Depositor acknowledges sole responsibility for determining the amount of eligible contributions. Custodian shall have no responsibility for determining whether such contributions comply with the requirements and limitations of the Code or advising Depositor regarding the same.

ARTICLE II

Depositor’s interest in the balance of the Custodial Account is non-forfeitable.

ARTICLE III

No part of the Custodial Account 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.

ARTICLE IV

1. Depositor may take distributions from the Custodial Account at any time, by any method permitted by Custodian. Depositor agrees to comply with any limitations imposed by Depositor’s employer on distributions made from Custodial Account funds contributed by the employer.

2. Depositor acknowledges that any amounts distributed out of the Custodial Account which are not used exclusively to pay for “qualified medical expenses,” as defined in Section 213(d) of the Code, will be included in Depositor’s gross income and may also be subject to an additional 10% excise tax. Custodian shall have no responsibility for determining whether distributions are used to pay for qualified medical expenses.

3. Depositor assumes full responsibility for determining the tax consequences of any distribution from the Custodial Account, maintaining adequate records of all distributions for tax purposes, and paying any taxes resulting from any such distribution.

4. Upon Depositor’s death, Custodian shall distribute any funds remaining in the Custodial Account to the beneficiary or beneficiaries properly designated by Depositor. Such beneficiary or beneficiaries shall bear the sole responsibility for reporting and paying taxes on any such distribution.

ARTICLE V

Depositor agrees to provide Custodian with information necessary for Custodian to prepare any reports required by the Code or other applicable laws or regulations.

ARTICLE VI

This Agreement will be amended from time to time to comply with the provisions of the Code and related regulations. Other amendments may be made with the consent of Depositor and Custodian, in accordance with Article XV of this Agreement.

ARTICLE VII

Custodian’s terms and conditions governing any deposit account established on behalf of Depositor are incorporated by reference into this Agreement, but only to the extent that such terms and conditions do not conflict with this Agreement or any applicable provisions of the Code or other laws or regulations. In the event of a conflict, the terms of this Agreement and/or applicable provisions of the Code or other laws or regulations shall be deemed to prevail.

ARTICLE VIII

1. Depositor agrees to make debit card transactions only to the extent there are sufficient collected funds in Depositor’s account. Depositor understands that Custodian has no obligation to approve any withdrawal by debit card at a time when there are insufficient funds in Depositor’s account.

2. Depositor acknowledges and agrees that if debit card(s) are issued at the request of Depositor, Depositor shall have sole responsibility for any transactions initiated by holder(s) of such debit card(s).

ARTICLE IX

1. Depositor shall have the right to designate one or more beneficiaries to whom Custodial Account funds shall be distributed upon Depositor’s death. Any such beneficiary designation must be delivered to Custodian prior to Depositor’s death on a form provided by or acceptable to Custodian. Depositor may revoke a beneficiary designation at any time. In addition, a beneficiary designation shall be automatically revoked upon receipt by Custodian of a subsequent beneficiary designation in valid form bearing a later execution date.

2. Depositor understands that in certain states the consent of Depositor’s spouse may be necessary if Depositor wishes to name a person other than or in addition to Depositor’s spouse as beneficiary or change an existing beneficiary designation. Depositor represents and warrants that any beneficiary designation submitted to Custodian by Depositor satisfies all requirements of applicable law.

3. If Depositor’s surviving spouse is the designated beneficiary of the Custodial Account, he or she may continue the HSA as his or her own, subject to any conditions or limitations contained in the Code or IRS

regulations and subject also to the completion of any documentation required by Custodian.

4. In the absence of a valid beneficiary designation on file with Custodian at the time of Depositor's death or if all of the designated beneficiaries have predeceased Depositor, Custodian shall distribute the Custodial Account to Depositor's estate.

5. Custodian shall have no duty, obligation, or responsibility to make any inquiry or conduct any investigation concerning the identification, address, or legal status of any individual or individuals alleging the status of beneficiary nor to make inquiry or investigation concerning the possible existence of any beneficiary, claim, or election not reported to Custodian prior to the distribution of the Custodial Account. Custodian shall have no higher duty than the exercise of good faith and shall incur no liability by reason of any action taken in reliance upon erroneous, inaccurate, or fraudulent information reported by any source assumed to be reliable or by reason of incomplete information in its possession at the time of such distribution

ARTICLE X

1. Depositor shall have sole responsibility for reporting to the IRS all contributions to and distributions from the Custodial Account and for the tax consequences of all such contributions and distributions, including, but not limited to, rollovers, transfers, excess contributions, and prohibited transactions. Depositor acknowledges that Custodian has not, and will not, provide any tax advice in connection with the Custodial Account and understands that Depositor should consult with Depositor's tax advisor for any such advice.

2. Depositor shall be responsible for the payment of taxes or penalties of any kind that may be assessed against the Custodial Account.

ARTICLE XI

Depositor shall promptly review all confirmations of transactions and statements of activity to ensure that they are accurate. Except as otherwise provided in this Agreement, confirmations of transactions and statements of activity shall be conclusive if Depositor does not *object in writing* within ten (10) days after the date such documents are mailed to Depositor. Custodian and its officers and employees shall be forever released and discharged from any liability with respect to any claim arising out of any action or omission reflected on such conclusive confirmation or statement.

ARTICLE XII

Subject to the limitations of applicable laws and regulations, Depositor agrees to indemnify and hold Custodian harmless from and against any liability, damage, or cost, including attorney's fees, Custodian may incur in connection with (a) any bill-paying service transactions or debit card transactions against any deposit account comprising the Custodial Account and (b) any other matter relating to the Custodial Account, unless such liability is caused by Custodian's gross negligence or willful misconduct.

ARTICLE XIII

Depositor may not borrow from the Custodial Account or pledge any portion of the account as security for a loan.

ARTICLE XIV

1. Depositor may terminate this Agreement by giving 30 days written notice to Custodian.

2. Custodian may resign at any time for any reason upon 30 days written notice to Depositor. Upon such resignation, Depositor may appoint another qualified HSA custodian to whom the Custodial Account funds shall be delivered. If Depositor has not instructed Custodian to deliver the assets of the Custodial Account to a successor custodian within 30 days of Custodian's notice of resignation, Custodian shall pay such assets to Depositor.

3. If this Agreement is terminated or Custodian resigns, Custodian may retain from the assets of the Custodial Account, such sums as are reasonably necessary to pay (a) any fees, expenses, or taxes properly chargeable against the Custodial Account or (b) any

4. Custodian may liquidate the Custodial Account assets when necessary to make distributions or to pay fees, expenses, or taxes properly chargeable against the account. If, upon a request by Custodian, Depositor fails to direct which Custodial Account assets may be liquidated for these purposes, Custodian, in its sole discretion, will make such determination. Depositor agrees that Custodian shall not be held liable for any adverse consequences resulting from such determination.

ARTICLE XV

Custodian may amend this Agreement in order to conform to the requirements of applicable regulators and applicable law, or for any other purpose. Any amendments intended to satisfy the requirements of applicable regulators or of applicable law may be made retroactively and without the consent of Depositor. Any other amendments shall require the consent of Depositor. Depositor shall be deemed to have consented to any amendment if Depositor fails to object to the amendment within 30 days after mailing of written notice of the amendment to Depositor.

ARTICLE XVI

Custodian may appoint one or more agents to assist Custodian in the performance of any of its duties under this Agreement.

ARTICLE XVII

In the event of (a) reasonable doubt concerning the performance of any of its duties under this Agreement or (b) a dispute between persons claiming an interest in the Custodial Account, Custodian may, in its sole discretion, resolve such doubt or dispute by judicial determination, which shall be binding on Depositor and any other persons claiming an interest in the Custodial Account. In such event, Custodian shall collect from the Custodial Account all court costs, attorneys' fees and other expenses, and reasonable compensation for the time expended by Custodian in the performance of its duties.

ARTICLE XVIII

Custodian understands that Depositor will enter into an agreement with Sterling Health Services, Inc. ("Sterling HSA") under which Sterling HSA shall provide certain administrative services in connection with Depositor's Custodial Account. All such administrative services are provided directly by Sterling HSA and not by Custodian. Sterling HSA is solely responsible for all such administrative services and is not acting as a subcontractor, agent, or representative of Custodian in providing such administrative services. Custodian has no control over or any obligation or liability with respect to any such administrative services. Sterling HSA is compensated for providing all such administrative services from the fees Depositor has agreed to pay Sterling HSA.

ARTICLE XIX

Custodian may give a statement, notice, or other communication to Depositor by mailing it to Depositor's address as set forth in the Sterling HSA Enrollment Form or such other address as Depositor provides to Custodian in writing. Such statement, notice, or other communication shall be deemed given when it is mailed by Custodian or Custodian's agent.

ARTICLE XX

This Agreement shall be binding upon and inure to the benefit of any successor or assignee of Custodian, whether by way of sale, merger, consolidation, assignment, or change of name.

ARTICLE XXI

All questions concerning the interpretation of this Agreement shall be decided and construed in accordance with the laws of the State of California, except to the extent federal law supersedes California law.

ARTICLE XXII

1. If any provision of this Agreement is or becomes inconsistent with any present or future law or regulation applicable to HSAs, said provision shall be deemed to be modified to conform to such law or regulation. The remaining provisions of this Agreement shall continue in full force and effect.

2. If any provision of this Agreement should be held invalid or unenforceable, the remainder of this Agreement shall remain in full force and effect and shall not be affected by the invalid or unenforceable provision.

ARTICLE XXIII

This Agreement and the documents referred to in the introductory paragraph of this Agreement contain the entire agreement of Custodian and Depositor with respect to the subject matter hereof, and may not be modified orally or in any manner other than as specified in Article XV.