



**STERLING HSA®**  
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# Sterling Health Services, Inc.

## Administrative Services Agreement

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

The Accountholder represents that he or she is eligible to contribute to this HSA; specifically, that he or she: (1) is covered under an HSA-compatible health insurance plan; (2) is not also covered by any other health plan; (3) is not enrolled in Medicare; and (4) cannot be claimed as a dependent on another person’s tax return. Accountholder consents to the disclosure of Custodial Account information to Administrator, when such disclosure is required to enable Administrator to comply with the terms of this Agreement and/or applicable laws or regulations.

### Article I

1. Accountholder shall be responsible for the payment of taxes or penalties of any kind that may be assessed against the Custodial Account.
2. Accountholder acknowledges sole responsibility for determining the amount of eligible contributions. Administrator shall have no responsibility for determining whether such contributions comply with the requirements and limitations of the Code or advising Accountholder regarding the same.
3. Accountholder shall comply with all applicable laws and regulations and all other conditions or limitations established by Administrator regarding the Custodial Account, including, but not limited to, the method or timing of contributions.
4. Administrator may accept additional cash contributions on behalf of Accountholder in any tax year of Accountholder. Accountholder, Accountholder’s employer, or any other person or entity may make such additional contributions on Accountholder’s behalf. Accountholder acknowledges that the total contributions for any single tax year of Accountholder 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.
5. Administrator shall treat any contribution made between January 1 and April 15 as a contribution for the current taxable year unless Accountholder provides written notice to Administrator at the time of such contribution that the contribution is for the preceding taxable year.
6. Accountholder agrees to comply with any minimum transaction amounts set forth in Sterling HSA’s fee schedule, including, but not limited to, minimum contribution amounts.
7. Accountholder 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. Accountholder acknowledges that Administrator has not, and will not, provide any tax advice in connection with the Custodial Account and Accountholder understands that he or she should consult with his or her tax advisor for any such advice.

## **Article II**

1. Accountholder's interest in the balance of the Custodial Account is non-forfeitable.
2. No part of the Custodial Account may be invested in life insurance contracts or in collectibles as defined in section 408(m) of the Code nor may the assets of the Custodial Account be commingled with other property, except in the common trust fund or common investment fund.
3. Neither the Accountholder nor the Administrator will engage in any prohibited transaction with respect to the Custodial Account (such as borrowing from or pledging any portion of the Account as security for a loan or engaging in any other prohibited transaction as defined in section 4975 of the Code.)

## **Article III**

1. Accountholder may elect to take qualified medical expense distributions by utilizing Administrator's bill-paying service, by debit card transaction, or by electronic funds transfer. Administrator's agreement governing use of such debit card is incorporated by reference into this Agreement, but only to the extent that such debit card agreement does not conflict with this Agreement, 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.
2. Accountholder agrees to utilize Administrator's bill-paying service and make electronic funds transfers and debit card transactions only to the extent there are sufficient collected funds in Accountholder's account. Accountholder understands that Administrator has no obligation to make any bill payment or approve an electronic funds transfer or debit card transaction at a time when there are insufficient funds in Accountholder's account.
3. Accountholder acknowledges and agrees that if debit card(s) are issued at the request of Accountholder, Accountholder shall have sole responsibility for any transactions initiated by holder(s) of such debit card(s), including Accountholder's spouse and/or any other third party.
4. Subject to the limitations of applicable laws and regulations, Accountholder agrees to indemnify and hold Administrator harmless from and against any liability, damage, or cost, including attorney's fees, Administrator may incur in connection with (a) any bill-paying service transactions, electronic funds transfers, 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 Administrator's gross negligence or willful misconduct.

## **Article IV**

1. Accountholder may take distributions from the Custodial Account at any time, by any method permitted by Administrator. Accountholder agrees to comply with any limitations imposed by Accountholder's employer on distributions made from Custodial Account funds contributed by the employer.
2. Accountholder 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 Accountholder's gross income and may also be subject to an additional 20% excise tax. Administrator shall have no responsibility for determining whether distributions are used to pay for qualified medical expenses.
3. Accountholder 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.

## Article V

1. Accountholder 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 Administrator prior to Accountholder's death on a form provided by or acceptable to Administrator. Accountholder may revoke a beneficiary designation at any time. In addition, a beneficiary designation shall be automatically revoked upon receipt by Administrator of a subsequent beneficiary designation in valid form bearing a later execution date.
2. Accountholder understands that in certain states the consent of Accountholder's spouse may be necessary if Accountholder wishes to name a person other than or in addition to Accountholder's spouse as beneficiary or change an existing beneficiary designation. Accountholder represents and warrants that any beneficiary designation submitted to Administrator by Accountholder satisfies all requirements of applicable law.
3. If Accountholder's surviving spouse is the designated beneficiary of the Custodial Account, he or she may continue the Account 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 Administrator.
4. Upon Accountholder's death, Administrator shall distribute any funds remaining in the Custodial Account to the beneficiary or beneficiaries properly designated by Accountholder. Such beneficiary or beneficiaries shall bear the sole responsibility for reporting and paying taxes on any such distribution. In the absence of a valid beneficiary designation on file with Administrator at the time of Accountholder's death or if all of the designated beneficiaries have predeceased Accountholder, Administrator shall distribute the Custodial Account to Accountholder's estate.
5. Administrator is also empowered to make a distribution absent instruction from the Accountholder if directed to do so by a valid court order or an IRS levy or other valid and enforceable levy. The Administrator shall, in such event, incur no liability for acting in accordance with such court order or levy.
6. Administrator 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 Administrator prior to the distribution of the Custodial Account. Administrator 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 VI

1. Administrator shall receive fees for services under this Agreement in amounts set forth in its written schedule of fees in effect from time to time. Such fees may include, but are not limited to, administration fees, transaction fees, and distribution fees. Administrator shall have the right to change its fee schedule at any time upon giving Accountholder thirty (30) days written notice. Administrator may also establish a different fee schedule for each category of accounts.
2. Administrator shall be authorized to deduct all such fees from the Custodial Account, but may, in its sole discretion, allow Accountholder to pay such fees from non-custodial funds. Administrator shall also be entitled to payment from the Custodial Account of all expenses and costs reasonably incurred by it in the administration of the Custodial Account, including, but not limited to, reimbursement for the cost of bill-paying service transactions, electronic funds transfers, and debit card transactions, unless such expenses and costs are paid directly by Accountholder. Custodial Account balances may include investment gains and other earnings.

3. Administrator 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 Administrator, Accountholder fails to direct which Custodial Account assets may be liquidated for these purposes, Administrator, in its sole discretion, will make such determination. Accountholder agrees that Administrator shall not be held liable for any adverse consequences resulting from such determination.

## **Article VII**

Administrator's terms and conditions governing any Custodial Account established on behalf of Accountholder 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. Administrator shall provide Accountholder with a quarterly statement showing the activity in the Custodial Account. The Accountholder may access and retrieve the statement through the Internet as described in this Agreement or may request paper copies.
2. Accountholder 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 Accountholder does not object in writing within ten (10) days after the date such documents are mailed to Accountholder. Administrator 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.
3. The Administrator will grant Accountholder online access through the Administrator's website: [www.sterlinghsa.com](http://www.sterlinghsa.com). Use of the website and online services is at Accountholder's risk. The Administrator 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, interruption in telephone service, electrical outages, civil unrest or riots, or acts or threatened acts of terrorism beyond the Administrator's control. The Administrator is not liable for the unavailability of access to the website, data entry errors and other errors made by you, or for any loss for any reason associated with website or online access or use.
4. Accountholder shall have a password that will allow online access to the Custodial Account. It is the Accountholder's responsibility to keep the password private. The Accountholder shall be responsible for all actions taken by any person using the Accountholder's password whether or not such use was authorized by the Accountholder.
5. Upon Accountholder request and/or IRS regulations, Administrator shall also make reports to the IRS. Accountholder acknowledges that all such reports shall be based on information furnished by Accountholder. Accountholder expressly agrees to indemnify Administrator for any liabilities, taxes, interest, or penalties Administrator may incur as a result of filing a report based on incorrect or insufficient information provided by Accountholder.
6. Accountholder agrees to provide Administrator with information necessary for Administrator to prepare any reports required by the Code or other applicable laws or regulations.

## **Article IX**

1. Custodial Account funds, including any earnings thereon will be invested in interest-bearing deposit accounts established by Administrator and/or other investments acceptable to Administrator. Administrator, in its sole discretion, may establish different categories or types of accounts based upon Accountholder's maintenance of specified minimum Custodial Account balances and may also establish different investment options for each category or type of account.
2. Accountholder acknowledges and agrees that BNY Mellon Corporation serves as custodian of Accountholder's assets and investment manager. Accountholder further acknowledges and agrees that the services provided by BNY Mellon Corporation are separate and apart from the administrative services provided by Administrator under this Agreement. Neither BNY Mellon Corporation nor Administrator has any control over or liability for the acts or omissions of the other or for the services that each respectively provides.
3. Accountholder expressly consents to the sharing of financial and other information between Administrator and BNY Mellon Corporation and among Administrator's various affiliates.
4. If Accountholder elects to self-direct all or a portion of his or her Custodial Account into a Brokerage Account, Administrator, at the direction of the Accountholder, will transfer funds from the Accountholder's Custodial Account to the Brokerage Account designated by the Accountholder. Administrator may also transfer funds from the Brokerage Account to the Custodial Account for the payment of Custodial Account fees and expenses.
5. Accountholder has the sole authority and discretion to select and to direct the investment of assets in the Brokerage Account. Accountholder bears full and sole responsibility for the success or failure of any selection made. The Administrator is not liable for any loss of principal or income nor for any expense that may be incurred relating to any investment. The Administrator shall not have any investment responsibilities and shall not review any investment in the Brokerage Account.

## **Article X**

1. Accountholder may terminate this Agreement by giving 30 days written notice to Administrator.
2. Administrator may resign at any time for any reason upon 30 days written notice to Accountholder.
3. Upon such resignation, Accountholder may appoint another qualified HSA administrator to whom the Custodial Account funds shall be delivered. If Accountholder has not instructed Administrator to deliver the assets of the Custodial Account to a successor administrator within 30 days of Administrator's notice of resignation, Administrator shall pay such assets to Accountholder.
4. If this Agreement is terminated or Administrator resigns, Administrator may retain from the assets of the Custodial Account, such sums as are reasonably necessary to pay any fees, expenses, or taxes properly chargeable against the Custodial Account.

## **Article XI**

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

## **Article XII**

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, Administrator may, in its sole discretion, resolve such doubt or dispute by judicial determination, which shall be binding on Accountholder and any other persons claiming an interest in the Custodial Account. In such event, Administrator shall collect from the Custodial Account all court costs, attorneys' fees and other expenses, and reasonable compensation for the time expended by Administrator in the performance of its duties.

## **Article XIII**

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

## **Article XIV**

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

## **Article XV**

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 XVI**

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 XVII**

Administrator 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 Accountholder. Any other amendments shall require the consent of Accountholder. Accountholder shall be deemed to have consented to any amendment if Accountholder fails to object to the amendment within thirty (30) days after mailing of written notice of the amendment to Accountholder.

## **Article XVIII**

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