



## HEALTH SAVINGS ACCOUNT CUSTODIAL AGREEMENT

The accountholder whose name appears on the attached Application (“Depositor”) is establishing at New York Community Bank a Health Savings Account (“HSA”) under Section 223(a) of the Internal Revenue Code (‘Code’) exclusively for the purpose of paying or reimbursing qualified medical expenses of the Depositor and his or her spouse and dependents. The Depositor has assigned to the custodial account the sum indicated on the Application. The Depositor represents that, unless this 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 (or as of the effective date as Set forth in the Application will be) 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 preventative 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 Depositor, by submitting the signed Application, and the Custodian, by acceptance of the application and delivery of account items to the Depositor for the Depositor’s HSA, make the following agreement:

**ARTICLE I:** The Custodian may accept additional cash contributions for the tax year made by or on behalf of the Depositor (by an employer, family member or any other person). No contributions will be accepted by the Custodian for the Depositor that exceed the maximum amount for family coverage plus the catch-up contribution. Contributions for any tax year may be made at any time before the deadline for filing the Depositor’s federal income tax return for that year (without extensions). Rollover contributions from an HSA or an Archer Medical Savings Account (Archer MSA) need not be in cash and are not subject to the maximum annual contribution limit set forth in Article II.

**ARTICLE II:** For calendar year 2007, the maximum annual contribution limit for a Depositor with single coverage is the lesser of the amount of the HDHP deductible or \$2,850. For calendar year 2007, the maximum annual contribution limit for a Depositor with family coverage is the lesser of the amount of the HDHP deductible or \$5,650. These limits are subject to cost-of-living adjustments after 2007. Eligibility and contribution limits are determined on a month-to-month basis. Contributions to Archer MSAs or other FISAs count toward the maximum annual contribution limit to this HSA. For calendar year 2007, an additional \$800 catch-up contribution may be made for a Depositor who is at least age 55 or older and not enrolled in Medicare. The catch-up contribution increases to \$900 in 2008 and \$1,000 in 2009 and later years. Contributions in excess of the maximum annual contribution limit (other than catch-up or rollover contributions) are subject to a 6% excise tax. This tax will apply each year in which an excess remains in your HSA.

**ARTICLE III:** It is the responsibility of the Depositor 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 Depositor shall notify the Custodian that there exist excess contributions to the HSA. It is the responsibility of the Depositor to request the withdrawal of the excess contribution and any net income attributable to such excess contribution.

**ARTICLE IV:** The Depositor’s interest in this custodial account is non-forfeitable.

**ARTICLE V:** No part of the custodial funds may be invested in life insurance contracts or in collectibles as defined in Code Section 408(m). The assets of this account may not be commingled with other property except in a common trust fund or common investment fund. Neither the Depositor nor the Custodian will engage in any prohibited transaction with respect to this account (such as borrowing or pledging the account or engaging in any other prohibited transaction as defined in Code Section 4975)





**ARTICLE VI:** Distributions of funds from this HSA may be made upon the direction of the Depositor. Distributions from this HSA that are used exclusively to pay or reimburse qualified medical expenses of the Depositor, his or her spouse, or dependents are tax-free. However, distributions that are not used for qualified medical expenses are included in the Depositor'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 Depositor's death, disability, or reaching age 65. The Custodian is not required to determine whether the distribution is for the payment or reimbursement of qualified medical expenses. Only the Depositor 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:** If the Depositor dies before the entire interest in the account is distributed, the entire remaining interest will be disposed of as follows:

1. If the beneficiary is the Depositor's spouse, the HSA will become the spouse's HSA as of the date of death.
2. If the beneficiary is not the Depositor's spouse, the HSA shall cease to be an HSA account as of the date of death. If the beneficiary is the Depositor's estate, the fair market value of the account as of the date of death is taxable on the Depositor'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:** The Depositor agrees to provide the Custodian with information necessary for the Custodian to prepare any report or return required by the IRS. The Custodian agrees to submit any report or return as prescribed by the IRS.

**ARTICLE IX:** 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 Code Section 223 or IRS published guidance will be void.

**ARTICLE X:** This Agreement will be amended from time to time to comply with the provisions of the Code or IRS published guidance. Other amendments may be made with the consent of the Depositor and the Custodian.

#### **ARTICLE XI**

11.01 *Definitions:* In this part of the Agreement (Article XI), the words "I," "you" and "your" refer to the Depositor. The Depositor is the person who establishes the custodial account. The words "we," "our," and "us" refer to the Custodian, New York Community Bank.

11.02 *Successor Organization:* If we merge with, purchase, or are acquired by, another organization, or if we transfer the account to an affiliate organization, such organization, if qualified, may automatically become the successor custodian or trustee of your HSA.

