PayCard
Frequently Asked Questions

Why should I offer a PayCard to my employees?
As an employer, you can save significant costs for both your company as well as your employee. For your company, you can eliminate all current paycheck costs, including reconciliation, fraud, escheatment, etc. You will gain productivity, as employees do not have to go anywhere to cash or deposit their paychecks on payday.

Employees with PayCards will have instant access to their pay first thing on payday, without having to stand in line to cash their check. Employees will be able to save money, as they will not have to pay check cashing fees or even bank account charges — they can get cash at low or no cost at thousands of ATMs or cash-back at many retailers and grocery stores. They can also use their PayCard to transfer funds and pay bills safely and conveniently. The PayCard is safer than carrying cash, and gives your employee a record of each transaction.

Do I need to offer direct deposit in order to offer the PayCard?
The best method of funding a PayCard is through direct deposit. Elan may be able to assist you with an alternate solution if needed.

How are the cards funded?
Cards are funded using the standard direct deposit payroll process. Use the information the employee provides on the enrollment form to set them up with direct deposit to the PayCard.

How do I enroll my employees?
Elan will provide a paper enrollment form that can be faxed to us. We also provide additional customized approaches based upon your individual needs.

How long will it take to get started?
If you are already using direct deposit as a method of paying your employees, you can start enrolling your employees in as little as two weeks.

How much does it cost the employee?
The PayCard is designed to be inexpensive for the employee. There are no monthly or annual fees, or fees for internet balance inquiries, online statements, or retail POS transactions, including cash-back. Therefore, the PayCard can be completely free for the employee. If the employee desires the convenience of ATM withdrawals, or other optional services, there is a modest fee. A Schedule of Fees is included with the card. Fees can also be found on the enrollment form.

Where can my employees use their PayCard?
The PayCard can be used anywhere MasterCard®/Visa® debit cards are accepted – millions of locations worldwide. In addition, employees can transfer money from one PayCard to another or they can transfer money from a checking or savings account to the PayCard. Employees can also pay bills with their PayCard.

How much will it cost me to set up this program with Elan?
Elan does not charge employers any fees for setting up a standard PayCard program.

How do I handle emergencies or “last day” pay?
Elan provides the option of a Funding PayCard. This is a PayCard owned by the employer, and pre-funded to handle special situations like emergencies and “last day” pay. The employer can transfer money to the employee “real-time” through the Funding PayCard over a secure internet connection (www.PayCardConnect.com) or via the telephone.
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How do I know the funds are safe?
All funds are held by Elan Financial Services and are FDIC insured.

Who handles escheatment?
Elan has responsibility for escheatment once the funds have been transferred onto the PayCard.

What happens if an employee experiences loss due to fraud or theft on their card?
Once the funds are transferred onto the employee’s PayCard, Elan Financial Services is responsible for any losses from lost cards, fraud or theft, as long as any such activity is reported on a timely basis and unless the employee or employer is implicated in the fraud or theft. Thus, a PayCard is far safer than a paycheck or cash for the employee, as the funds will be replaced and a new card will be issued.

Who provides service when the employee needs it?
Elan provides toll free customer service 24/7.

What if the employee loses their PayCard?
If the employee loses their PayCard, they must call Prepaid Services at 1.877.755.1474 to report the loss. The lost card will be replaced immediately. As long as the loss was reported promptly and the employee was not involved in any fraudulent activity that resulted in a loss, the employee’s balance will be restored.

The employee must report their new card number to you to make sure that their next pay is deposited onto their new PayCard.

Does the employee get a statement?
Yes, statements are available online at no charge. Paper statements are available on request for a nominal fee.

Who is the issuer of the PayCard?
The PayCard is issued by Elan Financial Services and is FDIC insured.

What are my legal responsibilities?
Many states have laws that specifically address prepaid payroll cards, especially with regard to fees. As an employer, you are responsible for complying with state payroll law or other payroll regulations that may apply.

Monroe Bank
PayCard
Prepaid Services
1.877.755.1474
www.PayCardConnect.com

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PREPAID DEBIT CARD AGREEMENT

This Prepaid Debit Card Agreement (hereinafter “Agreement”) is entered into effective ____________, 201_ (the “Effective Date”) by and between U.S. Bank National Association d/b/a Elan Financial Services (“Elan”), with offices located at 1255 Corporate Drive, Irving, TX, 75038, and ___Monroe County Community School Corp. (hereinafter “Client”), with its principal place of business at 315 E. North Dr. Bloomington, IN 47401

RECITALS

Elan is a member of National Associations and issues Elan-branded and National Association-branded debit cards, check cards, prepaid debit cards and other banking cards to cardholders; and

Client is an employer seeking to pay its employees on a prepaid debit card; and

Client wishes to participate in a program involving the issuance of National Association-branded prepaid debit cards to eligible Cardholders; and

Elan is willing to issue such cards and perform related services to support such a program, pursuant to the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing recitals, the mutual promises and covenants hereinafter set forth, and payments provided for in this Agreement, the parties agree as follows:

ARTICLE I. DEFINITIONS

For the purposes of this Agreement and except as otherwise specifically set forth in this Agreement, the following terms are defined as follows:

1.1 “Account” means a prepaid debit card account funded through periodic deposits made by Client and accessible through the use of a prepaid debit card issued and serviced by Elan.

1.2 “Account Representative(s)” has the meaning provided in Section 5.3, below.

1.3 “Affiliate” means (i) with respect to Client, any person or entity that directly or indirectly Controls, is Controlled by, or is under common Control with Client, and (ii) with respect to Elan, any person or entity that directly or indirectly Controls, is Controlled by, or is under common Control with Elan, as of the date of this Agreement or after.

1.4 “Business Day” means any day (other than a Saturday, Sunday or Federal legal holiday) on which national banks are permitted to be open in the United States.
1.5 “Cardholder” means a person or department who receives Disbursements from Client and who requests and receives a Card.

1.6 “Card” means a prepaid debit product which operates off of a centralized funds pool with an individual account set up for each participating Cardholder and which bears Elan Marks and Visa Service Marks or Elan marks and MasterCard Marks.

1.7 “Client Marks” means Client’s name, as well as any other trademark or service mark owned by Client.

1.8 “Confidential Information” has the meaning set forth in Article X, below.

1.9 “Control” means the possession, direct or indirect, of the power to vote 50% or more of the securities that have ordinary voting power for the election of directors of any entity, or to direct or cause the direction of the management and policies of such entity, whether through ownership of voting securities or by contract or otherwise.

1.10 “Disbursement” means funds deposited onto the Card by Client.

1.11 “Elan Marks” means the current and future names, trademarks, service marks, stylized marks, photographs, and logos of Elan, which are owned by Elan or which Elan otherwise has a right to use, and any and all applications and registrations related thereto.

1.12 “Load Value” means the dollar value to be loaded onto a Cardholder’s Account based on the Cardholder’s Disbursement amount, as determined by Client.

1.13 “MasterCard Marks” means all names, trademarks, and service marks owned by MasterCard Worldwide and its subsidiaries in the United States.


1.15 “Program” means the program between Elan and Client for the issuance of Cards to Cardholders, according to the terms of this Agreement.

1.16 “Program Launch” means the date mutually agreed to by the parties in writing that Client commences offering the Program to Cardholders.

1.17 “Requirements of Law” means with respect to any party hereto, any law, ordinance, statute, treaty, rule, judgment, regulation or other determination or finding of or agreement with any arbitrator, court or other governmental authority applicable to or binding upon such party or to which such party is subject, whether federal, state, county, local or otherwise (including, without limitation, usury laws, the Federal Truth-In-Lending Act, the Fair Debt Collection Practices Act, the Federal Equal Credit Opportunity Act, the Fair Credit Reporting Act, the Bank Secrecy Act, the Electronic Funds Transfer Act, the National Bank Act,
the Gramm-Leach-Bliley Act, the USA PATRIOT Act, the Sarbanes-Oxley Act, the FACT Act, and Regulations B, E, P and Z of the Board of Governors of the Federal Reserve System).

1.18 "Subsidiary" means any corporation or other entity of which securities or other ownership interests having ordinary voting power for the election of a majority of the board of directors or other persons performing similar functions are owned by a party either directly or through one or more Subsidiaries.

1.19 "Visa Service Marks" means the mark "Visa", the Three Bands Design and all other service marks owned by Visa U.S.A. or Visa International, Inc.

1.20 Other terms defined in this Agreement will have the meanings set forth in the contexts of use.

ARTICLE II. PROGRAM LAUNCH

2.1 Prior to Program Launch. To help the federal government of the United States of America fight the funding of terrorism and money laundering activities, federal law of the United States of America requires all financial institutions to obtain, verify and record information that identifies each person or entity that opens an account. Accordingly, prior to Program Launch, Client shall provide to Elan its legal entity name, street address, taxpayer identification number and other information that will allow Elan to identify Client prior to establishing an Account funded by Client. Elan reserves the right to require that Client promptly provide to Elan sufficient identification documents upon request in connection with USA PATRIOT Act compliance.

2.2 Execution of Program Launch. Elan and Client agree to work together in good faith and use their best efforts to facilitate the launch of the Program as established according to the terms of this Agreement.

ARTICLE III. USE OF MARKS AND LOGOS

3.1 Use of Marks. Client hereby grants to Elan a non-exclusive, non-transferable limited license to use any Client Marks in connection with the Program, which uses include, without limitation, placement of Client Marks on Cards issued pursuant to this Agreement in accordance with the operating regulations of the appropriate National Associations, and related applications, statements, advertising and promotional and public relations materials, and any other item reasonably necessary to the establishment, operation or advancement of the Program. If desired by Elan, subject to the prior written approval of Client, whose written approval will not be unreasonably withheld or delayed, Elan may use Client Marks for other promotional purposes in connection with the Program. Client shall be deemed to have approved the proposed use if Client fails to disapprove Elan's request in writing within fifteen (15) Business Days following the date when Elan's written request for approval was made to Client. Elan hereby accepts such license subject to the terms and conditions provided herein. This limited license will terminate upon termination of this Agreement; provided, that Elan will be afforded six (6) months following such termination to replace all documentation relating to the Program with
documentation that does not bear Client Marks in connection with the orderly termination of the Program. Elan acknowledges that Client or its Affiliates are the owners of the Client Marks, and Elan agrees that it will have no right, title or interest in the Client Marks other than the license specifically granted in this Section 3.1, and Elan will do nothing inconsistent with this ownership.

3.2 Use of Elan’s Marks and Other Marks. Elan hereby grants to Client a non-exclusive non-transferable limited license to use the Elan’s Marks solely in connection with the Program. Client agrees that it has no right, title or interest in and will not use the Elan Marks without Elan’s specific prior written consent, whose consent will not be unreasonably withheld or delayed if the proposed use thereof by Client is for advertisements or promotions in connection with the Program. Elan will be deemed to have approved the proposed use if Elan fails to disapprove Client’s request in writing within fifteen (15) Business Days following the date when written request for approval was made to Elan by Client. Client hereby accepts such license subject to the terms and conditions provided herein. This limited license terminates upon termination of this Agreement. Client acknowledges that Elan and/or one or more of its Subsidiaries is the owner of Elan Marks, and Client agrees that it will not have any right, title or interest in the Elan Marks other than the license specifically granted in this Section 3.2, and Client will not do anything inconsistent with such ownership.

3.3 Third Persons’ Marks. Client has no right, title or interest in and will not use the Visa Service Marks or MasterCard Marks without specific prior written consent of the proprietor of the mark.

3.4 Additional Mark Provisions. Without limitation of the foregoing, each party hereto may use the other party’s name and marks (to the extent such use is permitted hereunder) only in the form and manner and with appropriate legends as prescribed from time to time by the proprietor of such name or mark, and except as otherwise set forth in this Agreement, will not use any other trademark or service mark in combination with such other party’s name or mark without the prior written approval of the proprietor of such name or trademark. Each party will promptly notify the other party of any unauthorized use by others of such other party’s name or mark, which may come to such other party’s attention. Each party has the sole right and discretion to bring infringement or unfair competition proceedings involving its own name or mark.

3.5 Trade Secrets. The Elan PayCard Processing System (the “System”) consists of computer programs, procedures, forms and other related materials that have been acquired or developed by Elan through the expenditure of a great amount of time, effort and money. Client acknowledges that the foregoing are trade secrets which are of great value to Elan, and disclosure to others of any of the programs, procedures, forms and other related materials with respect to the System will result in loss and irreparable damage to Elan. Client therefore agrees not to disclose to others any information regarding the System, except as required in the proper performance of this Agreement. All specifications, tapes, programs and other related materials developed in connection with this Agreement will be the property of Elan and shall be destroyed or returned to Elan upon the termination of this Agreement.
ARTICLE IV. RESPONSIBILITIES OF ELAN

4.1 Prepaid Card Issuance; Usage.

(a) Beginning no later than the Program Launch, Elan shall make available to Company its web-based cardholder enrollment tool (Connect.com) and/or paper enrollment forms to issue National Association branded prepaid cards and instant issue PIN only cards to Cardholders to receive funding and for use at any merchant that accepts National Association branded prepaid cards. Subject to Section 4.1(b), Elan shall ensure each such Prepaid Card may continue to be used for such purpose until the Load Value is reduced to zero by purchases and/or the imposition of fees in accordance with Exhibit B. Elan will record the issuance of each Prepaid Card and track Prepaid Card sales, usage, fee collection, and closure.

(b) To the extent possible, Elan may, in its sole discretion, undertake periodic reviews of Cardholders and their Accounts to manage risks associated with fraudulent Prepaid Card use and other Account activity that has the potential of exposing Elan to financial loss. Elan reserves the right to take any necessary actions, including Account closure and/or Prepaid Card deactivation, to stop such activity on the Account.

4.2 Design, Manufacture and Delivery of Prepaid Cards. Elan will be responsible for ordering, embossing, encoding and otherwise preparing for use an inventory of Prepaid Cards in such amounts (not less than 5,000 for custom cards) as reasonably requested by Company per the card fees listed in Exhibit B. Custom Cards will bear a design created by Company and approved by Elan. Custom Cards will also include Elan Trademarks and the trademarks of the appropriate National Associations.

4.3 Design and Manufacture of Prepaid Card Carriers and Marketing Materials. Elan will produce the Prepaid Card carriers and other Prepaid Card packaging, and terms and conditions/disclosures in such amount as reasonably requested by Company. All such materials will bear a design created by Elan. Any Program advertising materials produced by Company shall be subject to Elan’s prior written approval, which approval shall not be unreasonably withheld or delayed.

4.4 Reporting to Cardholders. Elan shall provide to Cardholders (upon Cardholder request) information regarding such Cardholder’s Prepaid Cards, including the Load Value, transactions that have occurred, and balance remaining. Such information will be provided to the Cardholders via the internet and, at Elan’s discretion, through an IVR system and live customer representatives.

4.5 Elan Operational Responsibilities. Elan shall administer and perform all operational aspects of the Program as set forth herein, including those listed in Exhibit A. Elan shall comply with all Applicable Laws in the performance of its obligations under this Agreement and shall cause the Program to comply with all Applicable Laws, including but not limited to applicable state escheatment laws.
4.6 Elan Customer Service. Elan shall maintain an adequately trained staff to cooperate with Company in servicing of Company, Cardholder and customer inquiries and complaints arising in connection with Prepaid Cards and other aspects of the Program, in accordance with Exhibit A, Elan’s established customer service procedures and Applicable Laws.

ARTICLE V. RESPONSIBILITIES OF CLIENT

In addition to its other responsibilities set forth in this Agreement and Exhibit A, Client shall have the following responsibilities in furtherance of the Program:

5.1 Enrollment of Employees. Client will insure that all prospective cardholders and Cardholders enrolled in the Program are bona fide employees of Client. For the purposes of the previous clause, an employee’s relative or associate allowed by Client to have a Card will not be deemed as an employee. Client understands that Elan must collect identifying information and verify the identities of all prospective cardholders as required by the USA PATRIOT Act and any other government or industry regulatory requirements. Further, Client understands that all prospective cardholders or Cardholders that do not pass the initial or ongoing verification and OFAC screening will be denied a Card. The denial of a Card to an employee under any circumstances may not be a cause for termination of this Agreement by Client.

5.2 Client Marketing Responsibilities by Client. Client will arrange for and coordinate the marketing and promotion of the availability of Client Cards to its employees, through break room posters, take-one brochures and other means available. Client will not distribute any such marketing or promotional material unless such material has been reviewed and approved by Elan prior to distribution to its employees.

5.3 Funding of Card Accounts. Client will fund the Card Accounts via an ACH process, with amounts sufficient to cover each Cardholder’s determined net payroll deposit amount. Client may also perform card-to-card transfers to fund Cards.

5.4 Transmission of Load Values. Client will transmit to Elan directly or through a third party the amount to be loaded onto each Cardholder’s Account via the ACH system. Client will provide complete and accurate information to Elan. Client will require its employees who are Cardholders to complete and sign a deposit authorization form and Client will retain the form during the period Client is transmitting loads to Cardholders.

5.5 Compensation to Elan. Client will pay Elan according to the pricing schedule set forth in Exhibit B. Elan will charge Cardholders according to the fee schedule set forth in Exhibit C. Elan reserves the right to change the Cardholder fee schedule at its sole discretion and without notice to Client.

ARTICLE VI. PROGRAM AND CARD POLICIES AND ATTRIBUTES

Elan will have full responsibility for, and will control all policies, activities and decisions with respect to all Cards and Accounts, including without limitation all fees and charges, customer
service, Card issuance and cancellation, debt collection, access to automated teller machines, and issuance of personal identification numbers. Client shall not be liable for fraudulent activities on the part of Cardholders except where such activity is due to negligence or willful misconduct by Client agents or employees. Client will, in a timely manner, refer to Elan any and all inquiries regarding any aspect of a Card or Account, and any other inquiries regarding any other aspect of Elan’s prepaid debit card operations.

ARTICLE VII. EXCLUSIVITY

Elan has the exclusive right to issue prepaid debit cards for the purpose of providing Disbursements to Client’s employees. Client agrees that, during the term of this Agreement, Client shall not be a party to any agreement with any issuer of payroll cards, prepaid cards, or debit cards for the purpose of disbursing pay to employees or the functional equivalent thereof. Further, Client agrees, during the term of this Agreement, not to share its employee list with any third party (except for third parties or vendors designated by Elan) for the purpose of soliciting employees for a payroll card, prepaid card, or debit card or related account. Client covenants that it will ensure that any Subsidiary or Affiliate of Client complies with this Section 7.

ARTICLE VIII. INDEMNIFICATION

8.1 Indemnification Obligations. From and after the date of this Agreement, each party (the “Indemnifying Party”) shall indemnify, defend and hold the other party (the “Indemnified Party”), all its corporate parents, subsidiaries and Affiliates and all of its and their employees, subcontractors, agents, officers, directors and shareholders harmless against: (a) any and all out-of-pocket expenses or losses, liabilities, damages, costs or other direct expenses or claims or counterclaims of third persons or entities directly related or attributable to (i) the Indemnifying Party’s or its agent’s or employee’s violation (or act causing the other party to be in violation) of any state or federal law or regulation, or such parties’ willful misconduct; (ii) the Indemnifying Party’s breach of any covenant or warranty made by the Indemnifying Party in this Agreement; (iii) any material misrepresentation of Indemnifying Party in this Agreement or any material misrepresentation in or omission from any document, certificate or information furnished or to be furnished by Indemnifying Party under this Agreement; and (iv) any products or services offered, provided, manufactured, marketed, distributed, advertised, promoted or issued by or on behalf of Indemnifying Party (including without limitation the Client Cards) or based upon use of the licensed marks by or on behalf of Indemnifying Party; (b) any losses due to any fraudulent activity on the part of any employee or agent of Indemnifying Party; (c) any claims brought by any Indemnified Party’s customer, Cardholder, employee or other third party based upon Indemnifying Party’s failure to make any payment to such customer, Cardholder, employee or other third party; and (d) any and all actions, suits, proceedings, demands, assessments, judgments, costs and expenses, and any reasonable attorneys’ fees, consultant’s fees or court costs incident to any of the foregoing, except for any loss due to the gross negligence or willful misconduct of the Indemnified Party or its agents or employees.

8.2 Indemnification Procedures. The Indemnified Party will notify the Indemnifying Party in a reasonably prompt manner of any claim that is asserted and each action or suit that is filed or served (any of the foregoing being a “Claim”) for which the Indemnified Party is seeking
indemnification pursuant to this Section 7. The Indemnifying Party may thereafter assume
control of such Claim, provided, that the Indemnified Party will have the right to participate in
the defense or settlement of such Claim. Neither the Indemnifying Party nor the Indemnified
Party may settle such Claim or consent to any judgment with respect thereto without the consent
of the other party hereto (which consent may not be unreasonably withheld or delayed). The
Indemnified Party will provide the Indemnifying Party with a reasonable amount of assistance in
connection with defending or settling any such Claim.

ARTICLE IX. REPRESENTATIONS AND WARRANTIES

9.1. Obligations. As of the date of this Agreement, Elan and Client represent and
warrant to each other as follows as to itself:

(a) It has full right, power and authority to enter into and perform this
    Agreement in accordance with all of the terms and provisions hereof, and that the
    execution and delivery of this Agreement has been duly authorized, and the individuals
    signing this Agreement on behalf of it are duly authorized to execute this Agreement in
    the capacity of his or her office, and to obligate and bind the parties, and/or the parties’
    subsidiaries and affiliates, in the manner described;

(b) The execution and performance of this Agreement will not violate the
    organizational documents or by-laws or any material contract or other instrument,
    Requirement of Law or order to which it has been named a party or by which it is bound.
    The execution and performance of this Agreement does not require the approval or
    consent of any other person or government agency;

(c) There are no material actions, suits or proceedings pending or threatened
    against either party or its affiliates or subsidiaries which would adversely affect its ability
    to perform this Agreement; and

(d) It or one of its subsidiaries or affiliates owns all right, title and interest in
    its marks and it or one of its subsidiaries or affiliates has all necessary authority to permit
    use of its marks as contemplated by this Agreement.

9.2 Legal Compliance. Each party is now in compliance and will remain in
compliance at all times with all federal, state, and local laws and regulations applicable to its
activities under this Agreement (including such laws and regulations brought to one party’s
attention by the other). Each party understands and agrees that it shall be responsible for its own
compliance with applicable law and the costs associated therewith. Client has the sole
responsibility to determine if the intended use of the Program, to include Client’s selection of
system options and programming to dispense funds or payments, is an appropriate way to
dispense such funds, and to determine if there exists any applicable federal, state, or local law,
regulation, rule, or ordinance that prohibits or otherwise controls the disbursement of such funds
using a prepaid or stored value card.
9.3 **Disclaimer.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, ELAN DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

**ARTICLE X. CONFIDENTIALITY**

10.1 **Confidential Information.** In performing its obligations pursuant to this Agreement, each party may have access to or receive disclosure of certain confidential information about or proprietary material of the other party, including, but not limited to: such party’s marketing philosophy and objectives, promotions, financial results, technological developments, customer names and addresses and other customer identification information, or prepaid debit card account numbers or account information and other similar confidential and/or proprietary information and materials (hereinafter “Confidential Information”). All Program specifications, materials, plans and other Program attributes developed or utilized by Elan in connection with the Program and related services, and all related software and other documentation, are and will remain the proprietary property of Elan, and will constitute Confidential Information belonging to Elan. Without limitation, the terms of this Agreement and the names, addresses, telephone numbers and other Cardholder identification and Account information of Cardholders and Account numbers, and the information provided to Client pursuant to this Agreement, are Confidential Information belonging to Elan.

10.2 **Exclusions.** Except for Cardholder Data (as defined below), the term Confidential Information does not include (i) information which is now in or hereafter enters the public domain (and is not subject to a confidentiality agreement with the entity obtaining the same) through no action on the part of either party in violation of the terms of this Agreement, (ii) information that is independently developed by or for a party, (iii) information that is received from a third party (subject to such third party not having violated the terms of any confidentiality agreement), or (iv) information that was already in the possession of the receiving party and not obtained in violation of any confidentiality agreement.

10.3 **Confidentiality Obligation.** Each party shall at all times maintain, and cause its agents, employees, corporate parents, Subsidiaries and Affiliates to maintain the confidentiality of all Confidential Information belonging to the other party. Each party shall not sell or otherwise convey any of such Confidential Information to any third person and shall exercise all necessary precautions to prevent access to such Confidential Information by any third person other than agents, officers or employees who have a need to know or who must access such Confidential Information in order for such party to fulfill its obligations hereunder. Each party shall inform those agents and employees, officers and employees of its Subsidiaries and Affiliates of the confidentiality obligations hereunder and require their compliance with such obligations. Each party shall not use such Confidential Information for any purpose whatsoever other than those specifically contemplated herein.

10.4 **Confidentiality of Agreement Terms.** Neither party will disclose to any person (other than as expressly permitted pursuant to this Article X) the terms or conditions of this Agreement or any amendments, supplements or modifications hereto or the business relationship
between Elan and Client without the prior written consent of the other party and except as necessary to enforce this Agreement or obtain damages or other relief hereunder. The term “person” as used in this Agreement includes, without limitation, any corporation, company, group, partnership, other entity or individual. Client will not use Elan’s identity, directly or indirectly, in any advertisements, metatag, news releases or releases to any professional or trade publications or media source without Elan’s prior written approval, which approval may be withheld in Elan’s sole and complete discretion.

10.5 Additional Confidentiality Obligations. During the term of this Agreement and thereafter, Confidential Information is to be used solely in connection with satisfying their obligations pursuant to this Agreement, and shall be held in confidence. The Parties will not disclose such Confidential Information to any third party, without the written consent of the other party, except that either party may disclose Confidential Information during the course of any independent or regulatory audit in which information disclosed remains non-public. The Parties may mark documents containing Confidential Information with applicable language or stamps, such as “Confidential” or “Proprietary”. All Confidential Information furnished by the Parties to each other in connection with this Agreement is the exclusive property of the furnishing party, and, at the request of that party or upon termination of this Agreement, the other party shall promptly return to the furnishing party all such information without copying such information. Without the prior written consent of the other party, neither party will disclose, furnish, or use in any way whatsoever not specifically contemplated hereunder. Each party shall take measures to prevent its agents, employees and subcontractors from using, any Confidential Information to which it becomes privy.

10.6 Compelled Disclosure. Each party may disclose Confidential Information to any regulatory authority having jurisdiction over without prior notification to the other party. Notwithstanding anything to the contrary in this Agreement, if any party is compelled by applicable law, in the written opinion of counsel, to disclose any portion of the other party’s Confidential Information, the party so compelled may comply with such law, provided, that such party timely notifies the proprietor of the Confidential Information and reasonably cooperate in any of the proprietors’ efforts to maintain the confidentiality of such Confidential Information.

10.7 Data Security Policy and Procedures. Both Parties shall establish data security policies and procedures to ensure compliance with this section and that are designed to (a) ensure the security and confidentiality of Cardholder Data; (b) protect against any anticipated threats or hazards to the security or integrity of Cardholder Data; and (c) protect against unauthorized access to or uses of Cardholder Data that could result in substantial harm or inconvenience to any Cardholder. In the event a party becomes aware of any unauthorized access to sensitive Cardholder Data, such party shall take appropriate actions to address such unauthorized access, including but not limited to promptly notifying the other party of any such incident. The term “Cardholder Data” means personally identifiable data about Cardholders (i.e. the plastic Card number, Card expiration date in combination with the plastic Card number, Cardholder name in combination with the plastic Card number, track data/magnetic stripe, verification numbers CVV2, CVC2, CID, and PIN Block).
(a) Each party shall at all times comply with the Payment Card Industry Data Security Standard Requirements ("PCI Requirements") for Cardholder Data, as they may be amended from time to time. The current PCI Requirements are available from National Association. A party's failure to comply with PCI Requirements may result in fines and penalties. Each party is fully liable for and shall indemnify, defend and hold the other party harmless from any fines or penalties imposed on such party due to the indemnifying party's lack of compliance with PCI Requirements.

(b) Cardholder Data may only be used for enrollment or as required by applicable law. Each party shall maintain appropriate business continuity procedures and systems to ensure availability and security of Cardholder Data in the event of a disruption, disaster or failure of such party's primary data systems.

(c) If there is a breach or intrusion of, or otherwise unauthorized access to, Cardholder Data, the party that first becomes aware of such incident shall immediately notify the other party, in the manner required by the PCI Requirements, and provide the National Association and its respective designees access to such party’s facilities and all pertinent records to conduct an audit of such party’s compliance with the PCI Requirements. Such party shall fully cooperate with any audits of its facilities and records provided for in this paragraph.

(d) The parties’ compliance with the PCI Requirements expressly survives termination or expiration of this Agreement. Violations of the PCI Requirements may result in fines. Each party shall indemnify, defend and hold the other party harmless from any fines resulting from the indemnifying party’s violation of the PCI Requirements. Destruction of Cardholder Data must be completed in accordance with the confidentiality provisions of this Agreement.

10.8 Monitoring. Client must permit Elan to monitor and/or audit Client’s compliance with this Section during regular business hours upon not less than 48 hours’ notice to Client and provide Elan copies of audits and system test results acquired by Client in relation to the data security policies and procedures designed to meet the requirements set forth above.

ARTICLE XI. TERM AND TERMINATION

11.1 Term. The term of this Agreement is three (3) years from the Program Launch date (the “Initial Term”). Unless either party gives the other party sixty (60) days written notice prior to the end of the Initial Term, the term of the Program will be automatically extended for successive one (1) year periods (each, a “Renewal Term”). During any Renewal Term, either party may elect to terminate the Agreement by giving written notice ninety (90) days prior to the end of the Initial Term or Renewal Term. If such notice is given, the Agreement will terminate effective on the last day of the then current term. Notwithstanding the termination of this Agreement, the terms and conditions of all agreements between Elan and Cardholders will remain in effect.
11.2 Termination for Excusable Delay. Either party, if in compliance with its obligations under this Agreement or excused from compliance hereunder, may terminate this Agreement in the event of excusable delay by the other party in the performance of its obligations pursuant to Section 14.14, which delay continues for sixty (60) consecutive days.

11.3 Termination for Material Breach. Either party, if in compliance with its obligations under this Agreement or excused from compliance hereunder may terminate this Agreement if the other party is in default under this Agreement and such default is deemed material by the non-defaulting party in its reasonable judgment. In the event either party wishes to terminate this Agreement for the reasons specified in this Section 11.3, such party ("Sending Party") shall give written notice ("Remedy Notice") to the other party ("Other Party"). The Remedy Notice must specifically state the reason or reasons why the Sending Party believes the Other Party is in material default under this Agreement and wishes to terminate this Agreement, and must request such Other Party to specify the act or acts which it will accomplish to cure the cited material defaults. The Other Party will have a period of forty-five (45) days from its receipt of the Remedy Notice to cure the cited material default, or if such material default cannot be cured in such forty-five (45) day period, specify to the Sending Party the act or acts which such Other Party will accomplish in order to cure the cited material default. In the event the default is not cured by the end of such forty-five (45) day period and the Sending Party does not at the end of such forty-five (45) day period approve the acts, if any, proposed by the Other Party as curing the cited material default, which approval will not be unreasonably withheld, the Sending Party may then immediately terminate this Agreement by giving the Other Party another written notice ("Termination Notice") stating that this Agreement is terminated under the provisions of this Section 11.3. In such event, termination shall be effective upon receipt of the Termination Notice in accordance with Section 14.7, below.

11.4 Termination for Insolvency; Unique Services. This is an agreement for certain unique services. Either party if in compliance with its obligations hereunder, may terminate this Agreement immediately in the event of the other party’s (a) insolvency, receivership, or voluntary or involuntary bankruptcy or institution of proceedings therefore; (b) assignment for the benefit of creditors a substantial part of that party’s property; or (c) a substantial part of the other party’s property becoming subject to any levy seizure, assignment, or sale for or by any creditor or governmental agency without being released or satisfied within thirty (30) days thereafter.

11.5 Termination by Reason of Regulation. Either Party may terminate this Agreement or curtail or restrict its operations hereunder at any time with fifteen (15) days notice to the other without liability, except for liabilities accrued prior to the termination, upon the issuance of any order, rule or regulation by any regulatory agency, National Association Association, or administrative body or the decision or order of any court of competent jurisdiction that is controlling or binding on the notifying Party prohibiting any or all of the services contemplated in this Agreement, or if such order, rule or regulation restricts the provision of such services so as to make the continued provision thereof unprofitable or undesirable, or will be unduly restrictive to the business of the notifying Party or will require burdensome capital contributions or expenditures.
12.1 **Account Ownership.** Upon termination of this Agreement, Elan retains all right, title and interest in all Accounts and Cards and in all Cardholder names, addresses, telephone numbers and other Cardholder and Account identifying information. Without limitation of the foregoing, upon and following termination of this Agreement, Elan shall have the right to solicit any Cardholder or convert any Card and related Account to any other card or account issued by Elan or any Affiliate of Elan, and to exercise all rights of ownership with respect thereto, subject to applicable law. Elan will have no obligation to assign new account numbers to replacement Cards.

12.2 **Wind-down of Operations.** Following termination of this Agreement, Elan will not accept requests to issue a Card and will not reload existing Accounts with Disbursements. Elan will have the use of Client Marks as provided in Section 3.1 for six (6) months following termination of this Agreement to provide Elan sufficient time to replace all statements and other documentation relating to the Program. Elan will have six (6) months following termination of this Agreement where it may continue to re-issue Client branded cards to Cardholders whose Cards are lost/stolen or who request additional Cards. After the six (6) month Wind Down Period, Elan will issue non-Client branded cards for any lost/stolen cards or additional cards under the Program. Notwithstanding the foregoing, Client understands and agrees that Elan will have no obligation to replace any Cards (which contain Client’s Marks) that were previously issued to Cardholders prior to the natural expiration date of such Cards, except for any Cards that are replaced prior to their natural expiration date due to lost/stolen reason or unless Elan otherwise chooses to replace all such Cards.

12.3 **Effect of Termination.** If this Agreement is terminated (i) by Elan pursuant to Sections 11.3 and 11.4 or (ii) by Client pursuant to Sections 11.5, Client agrees that it will, for what would have been the remaining term of the Agreement had it not been terminated, 1) not contract with any third party prepaid debit card issuer who is a competitor of Elan or introduce any similar or competing service to employees, and 2) take no action that may directly or indirectly cause or encourage employees to cancel their Card, or replace their Card with a competing product.

**ARTICLE XIII. DAMAGES AND LIMITATION OF LIABILITY**

13.1 **Damages.** In the event that any party defaults in any of its obligations under this Agreement, in addition to any other remedies provided pursuant to this Agreement or applicable law, including without limitation termination, the non-breaching party shall be entitled to recover from the breaching party the actual damages which the non-breaching party may incur on account of such breach, including without limitation reasonable attorneys’ fees and expenses, court costs and the fees and expenses of consultants incurred in connection with any judicial or arbitration proceedings relating to such breach. It is understood and agreed that money damages would not be a sufficient remedy for any breach of Article X of this Agreement by any party or by any other person or entity receiving Confidential Information pursuant to Article X and that the party whose Confidential Information is disclosed or used in violation of this Agreement shall be entitled to claim injunctive or equitable relief as a remedy for any such breach. Such
remedy shall not be deemed to be the exclusive remedy for breach of this Agreement, but shall be in addition to all other remedies available to such party at law or equity.

13.2 Limitation of Liability. NEITHER PARTY MAY ASSERT A CLAIM AGAINST THE OTHER PARTY ONE YEAR FROM THE DATE THE CLAIMING PARTY HAS OR SHOULD HAVE ACTUAL KNOWLEDGE OF THE FACTS GIVING RISE TO SUCH CLAIM. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR INDIRECT, CONSEQUENTIAL, ADDITIONAL, OR PUNITIVE DAMAGES OF THE OTHER PARTY OR ANY OTHER PERSON ARISING OUT OF PERFORMANCE OR NONPERFORMANCE UNDER, OR OTHERWISE ARISING IN CONNECTION WITH, THIS AGREEMENT OR ITS INDEMNIFICATION PROVISIONS.

ARTICLE XIV. ADDITIONAL PROVISIONS

14.1 Relationship of the Parties. In performing their responsibilities pursuant to this Agreement, the parties are in the position of independent contractors. Elan has no relationship to Client other than as set forth in this Section 14.1 and this Agreement. Client has no right to bind or obligate Elan in any manner. Elan has no right to bind or obligate Client in any manner. Nothing in this Agreement is intended to create, nor should anything herein be construed as creating, a partnership, joint venture or agency relationship between Elan and Client.

14.2 Use of Third Party Service Providers. Elan may use any subcontractor or vendor to perform its obligations under this Agreement, but such use may not result in the direct control of Program administration residing outside Elan. Elan will provide written notice to Client of any change in a subcontractor or vendor that has an impact on Client’s obligations and responsibilities under this Agreement.

14.3 Assignment. Neither party may assign or delegate any of its rights or obligations under this Agreement without the other party’s prior written consent, except that Elan may assign or delegate this Agreement and any of its rights or obligations hereunder to any Affiliate, Subsidiary, corporate parent, successor by merger, or successor-in-interest which has the authority to operate the Program in the manner operated by Elan under this Agreement without prior notice to or consent of Client.

14.4 Successor and Assigns. This Agreement will be binding upon and inure to the benefits of the parties’ respective successors and assigns subject to the terms of Section 14.3 above.

14.5 Survival of Obligations, Rights and Remedies. The obligations and remedies of the parties set forth in Articles III, VII, VIII, X, XII, XIII, and XIV of this Agreement survive termination of this Agreement.

14.6 Governing Law and Forum. This Agreement shall be governed by and construed in accordance with the substantive laws of the State of Minnesota. Any action brought to enforce any rights under this Agreement shall be brought in federal or state court in Minnesota. Each
party waives any claim that a legal proceeding brought in accordance with this Section 14.6 has been brought in an inconvenient forum or that venue of that proceeding is improper.

14.7 Notices. Any notice required or permitted by this Agreement to be given to either party by the other, will be deemed served, given and received when personally delivered to such party, or in lieu of such personal service, when deposited in the United States mail, registered or certified mail, postage prepaid, return receipt requested, or sent by commercial courier, prepaid, and received, or upon expiration of three (3) days from the date of mailing or sending, whichever is earlier, addressed to the recipient at the address shown below for the party to whom such notice is given, or addressed to any other person or address of which the party to receive such notice has notified the other party, pursuant to the provisions of this Section 14.7:

If to Client:

**Monroe County Community School Corp.**
315 E. North Dr.
Bloomington, IN 47401-6555

If to Elan:

**Elan Financial Services**
120 Gibraltar Road, Suite 301
Horsham, PA 19044
Attn: Pat DiSanto

Copy to:

**Elan Corporate Counsel**
800 Nicollet Mall, BC-MN-H21N
Minneapolis, MN 55402
Attn: Retail Payment Solutions Counsel

14.8 No Implied Waiver. No failure by either party to insist upon strict performance of any term or obligation set forth in this Agreement or to exercise any right or remedy under this Agreement, nor acceptance of full or partial performance during continuance of a default, will constitute a waiver of any such term, obligation, right or remedy, or a waiver of any such default, by the party entitled to rely upon such term or performance of such obligation, to assert such right or remedy, or to act upon such default.

14.9 Severability. Should any provision of this Agreement contravene any law, or valid regulation or rule of any regulatory agency or self-regulatory body having jurisdiction over either party hereto (including without limitation National Association rules) or should any provision of this Agreement otherwise be held invalid or unenforceable by a court or other body of competent jurisdiction, then each such provision will be automatically terminated and performance thereof by both parties waived, and all other provisions of this Agreement will nevertheless remain in full force and effect.

14.10 Amendments. Except as specifically provided elsewhere in this Agreement, no amendment to this Agreement will be effective or bind any party unless set forth in writing and signed by the duly authorized representatives of the parties.
14.11 **Compliance with National Association Regulations.** In connection with their performance hereunder, Elan and Client will comply with applicable regulations of the appropriate National Association as in effect from time to time. To the extent any provision of this Agreement conflicts with such regulations at any time, this Agreement will be deemed amended to conform to such regulations.

14.12 **Incorporation by Reference.** Each Exhibit referred to herein is hereby expressly incorporated herein in its entirety and made a part of this Agreement. All defined terms under this Agreement will have the same meaning in the Exhibits.

14.13 **Construction.** This Agreement must be fairly interpreted in accordance with its terms and without any strict construction in favor of or against either party. Section headings are intended only to assist in the Client of this Agreement and do not in any way limit or otherwise define the rights and liabilities of the parties.

14.14 **Excusable Delays and Force Majeure.** Any delay hereunder will be excused to the extent approved in writing by the parties. Any delay in the performance by either party hereto of its obligations hereunder will be excused when such delay in performance is due to any cause or event of any nature whatsoever beyond the reasonable control of such party, including without limitation any act of God; any fire, flood or weather condition; any earthquake; any act of a public enemy, war, insurrection, riot, explosion or strike; provided, however, that written notice thereof must be given by such party to the other party within thirty (30) days after the occurrence of such cause or event.

14.15 **Immaterial Breach.** From time to time, one party to this Agreement may determine that the other party is in breach of the Agreement, but that such breach is immaterial. In such case, the party making such determination may, at its option, notify the “breaching” party in writing of the occurrence and nature of such breach. In such case, the parties will work together in a good faith effort to resolve any issues relating to the alleged immaterial breach.

14.16 **Attorneys’ Fees.** If any litigation or alternative dispute resolution proceeding arises between the parties regarding rights or obligations under this Agreement, the prevailing party will be entitled to reasonable attorney’s fees, costs, expert witness fees, consultant’s fees and court costs incurred in connection with such litigation or proceeding.

14.17 **Entire Agreement.** Each party hereto has read this Agreement, understands it and agrees to be bound by its terms and conditions. This Agreement supersedes all prior verbal or written agreements between the parties and now constitutes the complete and exclusive statement of the terms and conditions between the parties covering the performance hereof.

14.18 **Program Records and Audit Rights.** Elan shall maintain true and complete books and records of accounts (the “Program Records”) relating to the Program. The Program Records will be maintained in accordance with good accounting practices and in sufficient detail to enable an audit trail to be established. Elan will afford Client and any mutually acceptable independent auditor reasonable access to the Program Records, upon reasonable notice and
during normal business hours, for purposes of inspecting, auditing, analyzing, and copying such Program Records. Any inspection or audit of the Program Records will be at Client’s sole cost and expense.

14.19 Use of Client Name in Promotional Materials. Client agrees that in Elan’s promotional materials for programs substantially similar to the Program, Elan may refer to Client as a party with whom Elan contracts for issuance of prepaid debit cards.

14.20 Counterparts. This Agreement may be executed simultaneously in multiple counterparts, each of which is deemed an original, but all of which taken together constitute one and the same instrument. For purposes of execution and delivery, each party may rely upon the faxed signature of the other Party.

IN WITNESS WHEREOF, the parties have executed the Agreement in duplicate originals effective as of the day and year first stated above.

U.S. BANK NATIONAL ASSOCIATION
D/B/A ELAN FINANCIAL SERVICES

By ________________________________

Printed Name ________________________________

Its ________________________________

Monroe County Community School Corp.

By ________________________________

Printed Name ________________________________

Its ________________________________
Exhibit A
Program Description

Core Elements
The Program shall be offered by Elan with the following core elements:

- The Prepaid Card shall be a National Association-branded card, following all National Association “Prepaid Card” regulations and program guidelines, or an instant issue PIN only Prepaid Card.
- The Prepaid Card will be accepted at any location that accepts the National Association mark(s) displayed on the Prepaid Card.
- The Card will have ATM access at National Association-enabled ATMs

Elan Operational Responsibilities
Elan shall:

- Provide initial training of the designated Company representative
- Administer the initial roll out of the Prepaid Card Program and support the marketing efforts surrounding the Program
- Elan will provide the Prepaid Card stock and all packaging needed to support the delivery of Prepaid Cards to the Cardholders at the agreed upon cost
- Provide paper enrollment forms and other collateral material, such as brochures.
- Provide access to Connect.com, which is the software needed to support the enrollment of Prepaid Cards to the Client’s employees
- Facilitate other electronic enrollment (i.e., XML or Specialty Card File (SCF) if Client elects electronic enrollment process)
- Provide data entry for Clients who do not wish to perform their own data entry
- Set up Accounts, process chargebacks in accordance with the rules of the National Associations and provide all related computer processing
- Manage the account settlement for both loading of value to the Prepaid Cards and the processing/settlement of transactions performed on the Prepaid Cards through the National Associations
- Make Cardholder transactions viewable by Cardholders via a designated web site
Provide a Voice Response Unit accessible by Cardholders twenty-four (24) hours per day/seven (7) days per week via a dedicated toll free telephone number, with features that include: lost/stolen account reporting, remaining account balance, load amount and recent transactions

Provide live customer service agents available twenty-four (24) hours per day, seven (7) days per week to service Cardholders via a dedicated toll free telephone number

Designate and identify to Company an Elan program manager for the Program who shall be the primary point of contact for Company

**Company Operational Responsibilities**

Company shall:

- Actively promote the Prepaid Card to Client’s employees
- Collect enrollment information
- Provide data entry for Prepaid Card issuance via Connect.com, and/or fax paper enrollment forms to Elan for data entry
- Assist in the facilitation of other electronic enrollment methods (i.e., XML or SCF) if such method is desired by Client
- Obtain (and retain) Direct Deposit ACH Authorization from each Cardholder at the time of enrollment
- Load funds on to Cardholder’s Prepaid Card via ACH or Company funding account
- Assist in the initial and ongoing training of its employees
- Control Prepaid Card inventory for instant issue cards in accordance with the applicable National Association guidelines to be provided by Elan
- Designate and identify to Elan a Company program manager for the Program who shall be the primary point of contact for Elan
Exhibit B
Pricing

Items billed to Company:

- Setup and Maintenance:
  - Standard card program  No Cost
  - Custom card program $2,000

- Pass-Through Fees:
  If Required
  - Custom Programs may incur fees from various networks (i.e., National Association) or other entities for Customer to offer the Prepaid Card Program as contemplated by this Agreement, including but not limited to MSP Fees, Co-Branding Fees, etc related to Customer’s business with Elan. Elan will pass any applicable fees directly to Customer.

- Card Costs:
  - No charge for Standard Card programs. A standard card program is defined as recurring payroll or incentive where the employee is paid at least once per month. The following types of programs are not considered standard and will be charged a one time fee of $2.50 per card.
    - A card that is issued and not funded within 90 days
    - Ongoing bonus or incentive pay that is not funded at least once per month
    - Temporary services
    - One-time load
    - Per diem funds that are not funded at least once per month
    - Essentially any other card type that is not payroll or incentive
  
  - Custom card programs will be individually quoted based on card design requirements and order quantity.
Exhibit C
Cardholder Fee Schedule

Items billed to Cardholders:
The following items are billed to the cardholder. Elan has the right to change such fees in the event that there are changes in the cost of providing such services, including specifically an increase in ATM and/or Cash Advance Interchange, or POS processing fees.

Elan will charge $25.00 for expedited card or PIN orders, plus $20.00 for each item the cardholder requests to be sent other than via first class U.S. mail.

<table>
<thead>
<tr>
<th>Service</th>
<th>Fee</th>
<th>Items Covered</th>
</tr>
</thead>
<tbody>
<tr>
<td>Free Services</td>
<td>$0</td>
<td>Purchases and cash back at point of sale, internet statements and balance / transaction inquiries, customer service, One free Branch Cash Withdrawal per pay period.</td>
</tr>
<tr>
<td>Electronic Transactions</td>
<td>$0.50</td>
<td>ATM inquiries and declines, internet transfers, balances using the automated phone system; transfers using the internet or automated phone system; electronic transfers from your bank to your card.</td>
</tr>
<tr>
<td>ATM Withdrawal</td>
<td>$1.50</td>
<td>Domestic ATM withdrawals</td>
</tr>
<tr>
<td>Live Operator</td>
<td>$2.00</td>
<td>Balance inquiries and transfers</td>
</tr>
<tr>
<td>Optional Transactions</td>
<td>$4.00</td>
<td>International ATM withdrawals, Branch cash withdrawal, replacement cards, paper statements, check request for card balance, account dormancy.</td>
</tr>
</tbody>
</table>