

# **E-SIGN CONSENT AGREEMENT**

## **Introduction**

This E-SIGN Consent Agreement (“**E-SIGN Agreement**”) allows us to provide you with electronic versions of important notices and documents associated with your use of the My Mobile Money Access application (the “App”). Certain laws and regulations require us to provide notices and disclosures to you in “writing” (traditionally this is defined as a paper notice); with your consent, the E-SIGN Act allows us to provide these documents to you electronically.

## **Definitions**

The words “**we,**” “**our,**” and “**us**” mean My Mobile Money Access, Elan Financial Services, your financial institution and their respective affiliates, successors, and assigns.

The words “**you**” and “**your**” mean each account owner and anyone else with access to the account through the App. If there is more than one owner, then these words mean each account owner separately, and all account owners jointly.

“**Access Device**” means any electronic device you use to access your account and view electronic documents through the App. This includes, but is not limited to: a mobile device such as a smartphone or a tablet computer.

“**Mobile Services**” may include mobile balance inquiry; mobile deposit; locator services; account transfers between registered accounts; card controls; alerts; and other mobile transactions as added by My Mobile Money Access, in its sole discretion, from time to time and accessible through the App.

## **Scope of this E-SIGN Agreement**

This E-SIGN Agreement applies to all disclosures, notices, and terms and conditions related to the App and Mobile Services that you electronically access. This consent will remain effective until expressly withdrawn by you. Your consent does not mean that we must provide documents electronically, but instead that we may deliver some or all of those documents electronically.

**This E-Sign Agreement is revised periodically and it may include changes from earlier versions. By accessing your account and engaging in Mobile Services, you agree to the most recent version of this Agreement, which is always available to you online and within the App.**

## **Automatic Enrollment**

By consenting to this E-Sign Agreement, you will automatically be enrolled to receive certain documents electronically. Typically these are agreements and disclosures related to your use of Mobile Services. These documents will be presented to you electronically within the App.

Automatic enrollment includes, but is not limited to, the E-SIGN Consent Agreement, the My Mobile Money Access Terms and Conditions, letters and notices related to Mobile Services (i.e. a notice regarding changes to the My Mobile Money Access Terms and Conditions and our privacy policy).

## **Requesting Paper Copies of Documents Presented Electronically**

You agree and understand that paper versions of electronically presented documents may not be mailed unless you specifically request it. To request a paper copy of any disclosure, notice, or other document, contact your financial institution. Copies of disclosures, service agreements, and account agreements will be mailed at no charge.

## **System Requirements**

The format of the electronic documents may vary based on your Access Device. For example, documents are typically presented in a .pdf format on a traditional computer while documents accessed on a mobile device are typically presented natively within the application. By consenting to this agreement, you confirm that your Access Device meets the minimum specifications and requirements necessary to view and retain your electronic documents.

**To access Mobile Services and your electronic documents on a mobile device, you will need:**

- A mobile device with any of the following operating systems: Android or iOS (iPhone).
- A data plan provided by your wireless carrier.
- To download the My Mobile Money Access application at your respective app store.
- If you wish to view .pdf files on your mobile device, you will need software that accurately reads and displays .pdf files (such as the mobile version of Adobe Reader).

- A printer and/or storage device if you wish to print or retain any electronic documents.

#### **Changes to system requirements**

Periodically, the App may require you to install updates. Installing updates to the App is a reaffirmation of your consent to this E-SIGN Agreement.

#### **Withdrawing Consent**

**You may withdraw your consent to this Agreement at any time.**

To withdraw your consent prior to completing your enrollment in Mobile Services, simply exit this session prior to accepting this E-Sign Agreement or the My Mobile Money Access Terms and Conditions or select “decline”.

**To withdraw your consent to this E-SIGN Agreement after you have already completed your registration, to cancel your use of the App you must: 1) un-manage each enrolled Account from the My Portfolio screen and then 2) confirm the unsubscribe message.**

**If you withdraw your consent to this Agreement:**

- You will no longer be able to access any Mobile Services.
- You will no longer receive the electronic presentment of any documents.

#### **Multiple Access Devices**

Your acceptance of this E-SIGN Agreement on one Access Device constitutes your acceptance on all Access Devices you use. For example, if you view and accept this E-SIGN Agreement on a mobile device, the terms of this E-SIGN Agreement will apply to electronic documents accessed on a traditional computer (or vice versa).

Additionally, by viewing and accepting this E-SIGN Agreement on any Access Device, you are reasonably demonstrating your ability to access and view electronic documents in the format that the services are provided on that Access Device and all subsequent Access Devices. If you change Access Devices (or use multiple Access Devices), it is your responsibility to ensure that the new Access Device meets the applicable system requirements and that you are still able to access and view electronic documents on the subsequent Access Device. Continuing your use of the App on other Access Devices is your reaffirmation of this E-SIGN Agreement

**Please contact your financial institution if you have difficulties accessing or viewing electronic documents on your selected Access Device.**

#### **Acceptance**

**You will be asked to acknowledge your acceptance of these terms by checking the acceptance box before you are able to continue with your registration on the App. In doing so, you are confirming that you meet the system requirements described above, and that you have demonstrated your ability to receive, retain, and view electronic documents on your Access Device. You are also consenting to be immediately enrolled in the electronic presentment of the documents described in the “Automatic Enrollment” section above.**

**My Mobile Money Access  
TERMS AND CONDITIONS**

February 2016

# INTRODUCTION

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Welcome to My Mobile Money Access (the “**App**”) for Android and iOS which will allow you to access Mobile Services. This App Agreement (“**Agreement**”) provides the terms and conditions that apply to your use of the App and is in addition to any other agreements you may have with us, your financial institution or other third parties. **This Agreement is revised periodically and it may include changes from earlier versions, by using the App, you agree to the most recent version of this Agreement. You may withdraw your consent at any time by unsubscribing all enrolled Accounts.**

This Agreement contains terms and conditions that apply to your use of the App and is in addition to other agreements and disclosures that apply to your Account(s). If there is a conflict between this Agreement and the terms and conditions of any disclosures or agreements that specifically address the App, this Agreement will control in resolving those inconsistencies.

We reserve the right to modify the scope of the Services available on the App at any time and you agree that some or all of the available services may not be accessible or may have limited utility.

If you have any questions, please contact your financial institution.

## DEFINITIONS

The following definitions apply in this Agreement:

- The words “**we,**” “**our,**” and “**us**” mean My Mobile Money Access, Elan Financial Services, your financial institution and their respective affiliates, successors, and assigns.
- The words “**you**” and “**your**” mean each Account owner and anyone else with access to the Account to perform the transactions or receive the Mobile Services covered by this Agreement. If there is more than one owner, then these words mean each Account owner separately, and all Account owners jointly.
- “**Access Device**” means any electronic device you use to access your account and view electronic documents through the App. This includes, but is not limited to: a mobile device such as a smartphone or a tablet computer.
- “**Account**” means a Consumer or business account accessed by a debit card that may be registered to utilize Mobile Services.
- “**Business Days**” include Monday through Friday. The Federal Reserve Bank holidays are not included.
- “**Consumer**” means a natural person, who is at least 18 years of age, and does not include a corporation, limited liability company, or other entity.
- “**Mobile Services**” may include mobile balance inquiry; mobile deposit; locator services; account transfers between registered accounts; card controls; alerts; and other mobile transactions as added by My Mobile Money Access, in its sole discretion, from time to time accessible through the App.
- “**Service Providers**” means any other third party that we have engaged to provide services in connection with the App. This includes any agent, independent contractor, or subcontractor of any of the foregoing. You agree that we have the right under this Agreement to delegate to Service Providers all of the rights and performance obligations that we have under this Agreement, and that the Service Providers will be third party beneficiaries of this Agreement and will be entitled to all the rights and protections that this Agreement provides to us.

# GETTING STARTED

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## ELIGIBILITY

To be eligible to register for the App, you must meet your financial institution’s eligibility requirements, have an Account and be a resident of the United States. You can only register a debit card that you are lawfully entitled to use. Additionally, you must have all of the following:

- A U.S. mobile phone account;
- A compatible mobile phone. The following minimum requirements must be met by your device:
  - A smart phone with the ability to support a downloadable application (e.g. Android or iOS);
  - A current version of the Access Device operating system;

- Have sufficient memory and data connectivity to support the application;
- Be configured with the standard internet data connectivity settings for your network operator.
- Have free space available in your mobile phone, e-mail or service inbox to receive push notifications and e-mail messages.
- Establish and maintain a valid passcode for the App; and
- Maintain a valid e-mail address and phone number within the U.S.

## **REGISTRATION**

- You may download the App for Android from the Google Play store (<https://play.google.com/store>), or for iOS from the Apple App Store (<http://store.apple.com/us>). By downloading the App you are accepting the terms of the software license as set out in this Agreement.
- When you first use the App, we will ask you to choose a security passcode, which you will need each time you use the Application. If you forget your passcode, please follow the forgotten passcode instructions on the App.
- Once you have completed your registration details, you will be asked to confirm that the information is correct. It is your responsibility to ensure that your registration is correct before submitting it to us. If you have any problems with your registration, please contact your financial institution.
- We will use commercially reasonable efforts to ensure that the App will be accessible from Android and iOS phones; however, we do not guarantee that the App will be compatible with every type of mobile phone.

## **YOUR RESPONSIBILITY**

### **Providing Personal Information**

You may not be able to use the App if we cannot verify your identity or other necessary information. You agree to provide current and complete information about yourself and you agree not to misrepresent your identity. This includes, but is not limited to, name, address, phone numbers, and e-mail addresses. Changes can be made by contacting your financial institution. We are not responsible for any payment processing errors or fees incurred if you do not provide accurate Account or contact information.

### **Equipment**

You are responsible for and must provide all mobile devices, software (other than any software provided by us), and services (such as cellular data service) necessary to access the App. You are also responsible for ensuring that your use of the software applications does not cause you to breach any other agreement to which you are a party (e.g. with your mobile network operator).

### **Jailbroken or Rooted Devices**

For security reasons, we recommended using only "stock" Android and iOS devices. Using "rooted" or "jailbroken" devices may present a security risk and you agree that we are not liable for issues or losses that result from your use of such devices.

### **No Illegal Use**

You may use the App for lawful purposes only. You agree not to use the App to conduct any business or activity or solicit the performance of any activity prohibited by law or any contractual provision by which you are bound. You certify that you are 18 years of age or older or otherwise able to lawfully enter into contracts under applicable law.

### **Right to Cancel**

- To cancel use of all mobile services you must: 1) un-manage all enrolled Accounts from the Manage Portfolio screen and 2) confirm the unsubscribe message.
- If you delete the App without unsubscribing enrolled Accounts, Card Controls that you have designated will remain in effect and transactions could be denied as a result. When you unsubscribe all enrolled Accounts, you will not receive any further messages on registered Accounts, so then you may delete the App from your Access Device.
- There is no minimum contract period and you are free to stop using the mobile services at any time. You acknowledge that it is your responsibility to delete the App from your Access Device before you dispose of it. If you obtain a new Access Device, you must enroll your Accounts on that Device as well.

## **CELLULAR PHONE CONTACT POLICY**

By providing us with a telephone number for a mobile device, including a number that you later convert to a mobile device number, you are expressly consenting to receiving communications—including but not limited to prerecorded or artificial voice message calls, text messages, and calls made by an automatic telephone dialing system—from us and our affiliates and agents at that number. This express consent applies to each such telephone number that you provide to us now or in the future and permits such calls for non-marketing purposes. Calls and messages may incur access fees from your mobile services provider.

You have the ability to update your contact information by contacting your financial institution. Please see the My Mobile Money Access Privacy Policy to learn more about how we use and share your information.

### **Consent to Receiving Push Notifications and Other Communications**

You will need to register your mobile device before we are able to send you push notifications for the mobile services that use push notification messaging (i.e., alerts). By registering your mobile phone number for the mobile services, you expressly consent to receiving push notification messages related to the mobile services using such functionality. **Data rates may apply and you are responsible for any such charges.** Message frequency depends on your Account settings and the type of alerts you select to receive. In the event your mobile device is lost or stolen, you agree to update your information and make the appropriate changes to disable the use of such device. You understand that there are risks associated with using a mobile device, and that in the event of theft or loss, your confidential information could be compromised. If you have questions, contact your financial institution.

**Even within a coverage area, factors beyond the control of your wireless carrier may interfere with message delivery, including your equipment, terrain, proximity to buildings, foliage, and weather. You acknowledge that urgent alerts may not be timely received, that your wireless carrier does not guarantee that alerts will be delivered, and that wireless carriers are not liable for delayed or undelivered messages.**

## **PRIVACY & CONFIDENTIALITY**

Protecting your privacy is important to us. We will gather and disclose personal information about you only as allowed by law. All information gathered from you in connection with using the mobile services will be governed by the provisions of your financial institution's privacy policy. For more information or a copy of the privacy policy, contact your Financial Institution. Personal information about you will be used for the purpose of engaging in the mobile services. Personal information about you will be used for the purpose of engaging in the App services as well as for internal purposes (i.e., aggregate demographic analysis, internal marketing studies, and statistical analysis). **We may also disclose information to third parties about your Account or the transactions you make in accordance with law.**

### **Location Based Information**

If you use any location-based feature of the App (such as an ATM locator) you agree that your geographic location and other personal information (such as your device ID) may be accessed and disclosed through the App or service. You may turn off location based features at any time within the App, but this may impact the functionality and accuracy of the services. If you wish to revoke access to such information you must cease using location-based features of the App or service. Please see the My Mobile Money Access Privacy Policy within the Legal and Help menu screen to learn more about how we use and share your information.

## **MOBILE SOFTWARE LICENSE**

Subject to your compliance with this Agreement, you are hereby granted a personal limited license ("License") to use the App software ("Software") on your mobile device within the United States.

This License shall be deemed revoked immediately upon:

- Your deletion of the Software from your mobile device;
- Your noncompliance with this Agreement; or
- Written notice to you at any time, with or without cause.

If this License is revoked for any of the foregoing reasons, you agree to promptly delete the Software from your mobile device if you have not already done so.

This License does not amend or supersede any agreements you may have with your mobile service provider. You understand that those agreements may provide for fees, limitations and other restrictions which might impact your use of the Software (for

example, your mobile service carrier or provider may impose data usage or text message charges for downloading the Software, receiving or sending text messages, or other use of your mobile device when using the Software), and you agree to be solely responsible for all such fees, limitations and restrictions. You agree that your mobile service provider is responsible for its products and services and it is responsible for the operation, security, functionality or availability of any mobile device or mobile network which you utilize to access the Software.

## **MOBILE SECURITY**

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As a customer engaging in the mobile services, you have chosen a personal passcode which allows you to access the mobile services. Information you provide in connection with the mobile services will be stored on secure servers and protected by advanced encryption techniques. These commercially reasonable security measures are intended to keep your important information secure and to prevent unauthorized access. Effective security; however, is partly contingent upon your responsible behavior in protecting your personal passcode for the mobile services. Please use maximum caution in protecting your personal passcode.

Information you provide in connection with the App will be stored on secure servers and protected by advanced encryption techniques. These commercially reasonable security measures are intended to keep your important information secure and to prevent unauthorized access. Effective security; however, is dependent on your responsible behavior in protecting your Log-in Credentials and controlling access to the devices that you use to access the App. For the purposes of this Agreement, "Log-in Credentials" means your personal ID, password, and any other unique biometric attribute (such as voice print or fingerprint) used to access the App.

### **Protecting Your Log-in Credentials**

You have chosen a personal ID and password which allows you to access the App. Depending on your mobile device, you may also have the option to use a biometric feature (such as a fingerprint scanner) on your mobile device to authenticate your identity and gain access to the App. If you choose to activate a biometric feature, it is your responsibility to control access to the App just as you would with your personal ID and password. You acknowledge that any person who has a biometric feature stored in your device may be able to access the App.

You are responsible for keeping your Log-in Credentials confidential and you are responsible for ensuring that you have logged out when your session is complete to prevent unauthorized persons from using the App.

**If you give any other person or entity access to your Log-in Credentials, or any device you use to access the App, you agree that each such person or entity will be acting as your "Agent" and will be bound by this Agreement (and any separate agreement governing your Account). We are not responsible for managing your third party relationships and any arrangements between you and an Agent are strictly between you and the other party. We will rely and act on all instructions received via our web sites or App using your Log-in Credentials and we are not liable to you if your Agent exceeds the scope of authority granted. Any transaction performed by your Agent using your Log-in Credentials, even if not specifically intended by you, is considered a transaction authorized by you. Should you decide to revoke any access you have given to an Agent, you must contact us at a number at the end of this agreement, in which case we may need to block online and mobile access to your Account until we issue new Log-in Credentials.**

Please note that after initial registration My Mobile Money Access will never contact you (or ask anyone to do so on our behalf), with a request to disclose your passcode or other Account information. If you receive any such request from anyone (even if they are using our name and appear to be genuine) then it is likely to be fraudulent and you must not supply your confidential information to them in any circumstances.

### **Contact your financial institution if:**

- You believe that your passcode or other means to access the App has been lost or stolen;
- You believe that someone may attempt to use the App without your consent or has transferred money without your permission; or
- You have been contacted by someone claiming to be from My Mobile Money Access with a request to disclose confidential information.

## **REPORTING UNAUTHORIZED TRANSACTIONS OR LOST OR STOLEN DEVICE**

If you believe that an unauthorized transaction has been made from your Account you must immediately contact your financial institution. You will be liable for any unauthorized transactions on your Account confirmed by the

**use of your passcode. Contacting your financial institution right away may help you reduce possible losses. You may also contact your financial institution for their policy on unauthorized transactions.**

If your mobile phone is lost or stolen, you must tell your financial institution as soon as is reasonably practicable, and in any case within 24 hours of the loss or theft. In addition, it is your responsibility to advise your mobile phone provider of the loss or theft of your mobile phone. Until you tell us that any of these things have happened we will continue to provide the Mobile Services to your mobile phone and we will not be liable if your Account information becomes known to someone else as a result.

## **ERROR RESOLUTION**

In case of errors or questions about transactions related to the Mobile Services, please contact your financial institution as soon as possible.

## **SERVICES AND FEES**

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Some Mobile Services are dependent upon your financial institution. The App is normally available 24 hours a day, 7 days a week, and 365 days a year apart from planned downtime, circumstances beyond our reasonable control, outages on any mobile phone network or where you are not in an area of mobile coverage. We may withdraw all or a part of the Mobile Services without notice at any time.

Your financial institution may charge you fees for your use of any of the Mobile Services. Please refer to the terms and conditions governing your Account or contact your financial institution for more information.

You are responsible for any and all other fees and charges that may be assessed by your telephone company, wireless carrier, internet service provider, or any other third party provider you may engage.

## **ACCOUNT BALANCE**

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The App displays balances for Accounts linked to cards managed by the App. If your Account has Overdraft Protection, the displayed balances may include Overdraft Protection funds. Please contact your financial institution if you have questions about whether Overdraft Protection funds are included in your balance, as displayed in the App.

## **CARD CONTROLS AND ALERTS**

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**Your financial institution has determined which Card Controls and Alerts are available to you. Please contact your financial institution if you have questions about which options are offered within the App.**

### **Introduction to Card Controls**

The App will provide you with several card control options for registered Account(s). The most basic card control option is the ability to turn your card “off” or “on”. If a card is turned “off”, all transactions made on the card, other than recurring payments, deposits or credits, will be denied. Additional control preference settings are available through the card control services. The card control services allow two or more shared card users to jointly manage the card control settings.

#### **Enrollment**

To use the Mobile Services card controls, at least one Account must be registered. Multiple users can register the same Account. If a user registers or adds a card using a secure token delivered in a “delegate” email invitation, that user will either be a “Primary” user, if full access is granted, or a “Dependent” user, if restricted access is given. A Primary user has access to the full functionality of card controls, whereas a Dependent user will be subject to the control preferences set by the Primary user that delegated the card, except that a Dependent user will be able to turn the card “on” or “off” and the Dependent user can change the control preference for “My Location” settings. Shared card users have shared control settings through which they can control their cards. An alert is sent to other shared card users whenever a user changes control policies for the card.

#### **My Location Control**

The App allows you to set control settings for location, region or to block international transactions. When the “My Location” control preference is set, the App will compare the user’s and the merchant’s location to decide whether to approve or deny

the transactions. When the “My Region” control is set, in-store transactions made outside the specified region(s) will be denied. Each region is a circular area with a minimum radius of five miles. The App determines the user’s location by assuming that the user will always carry the phone that has been set as “Primary Device” and will use the phone’s location as a proxy for the user’s location. For “My Location” control and alerts policies to work, the user must turn on the device’s “Location Settings” and enable location tracking. For shared cards, the App will track the location of the user who chooses “My Location” last. Exceptions occur when one or more users have also set My Region control in addition to My Location control. In these cases, transactions may still be approved if they fall within the My Regions that have been set by the shared card users.

#### Maximum Spend Control

This control will allow you to specify a transaction threshold amount above which transactions will be denied. Maximum spend on card is the cumulative spend on all managed cards for the login per month. At the end of every month, the system automatically resets the monthly spend amount to zero. The monthly spend amount is calculated starting from the time you register the card for management with the App. If this is a shared card, the spend on the card for the month may already have value as soon as you complete registration and log in for the first time.

#### Shared Controls

When card control settings are shared, each user can set up their own separate alert preferences. The user will receive alerts based on the alert preferences set up individually. Two exceptions to this rule are: all users will receive alerts for denied transactions, and all other shared users will receive alerts when one user sets or changes a control preference.

#### Fraud Alerts

Your financial institution may choose to participate in Fraud Alerts. You will receive Fraud Alerts based on the financial institution’s preferences. In order to stop receiving Fraud Alerts, you must unsubscribe fully from the App by: 1) un-managing all enrolled Accounts from the Manage Portfolio screen and 2) then confirming the unsubscribe message. When you unsubscribed, all Alerts will be disabled and you will stop receiving transaction alerts. Subsequently, the user will not be able to login to the App.

#### Shared User Fraud Alerts

When a user un-manages the shared card or unsubscribes from the App, an alert is sent to all other users who have registered or added the same card if the unsubscribing user is the user who last set “My Location” control.

## **MOBILE DEPOSIT**

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### Introduction

Mobile Deposit is a service that allows you to remotely deposit paper checks into an eligible Account by creating an Electronic Deposit through our Mobile Deposit System. We will process and collect the Electronic Deposit through the check collection system just as we would a paper check.

### Definitions

**“Check Image”** means an electronic image of an original paper draft (check), payable on demand, and drawn on (or payable through) an office of a United States bank.

**“Capture Device”** means the Access Device’s (camera), software, or web-based applications used by you to prepare a Check Image, create an Electronic Deposits and access the Mobile Deposit System.

**“Electronic Deposit”** means the package of information (including the Check Image, dollar amount information, deposit account information, etc.) that is transmitted to us allowing for the deposit, processing, and collection of the item.

**“MICR Data”** means information from the Magnetic Ink Character Recognition stylized printing on the bottom of checks comprising of routing, transit, account, and check serial numbers.

**“Mobile Deposit System”** means our computer systems and databases that you may access in order to use the service.

## **Your Responsibility**

With respect to each Electronic Deposit that you transmit to us, you indemnify and hold us, our affiliates and other Service Providers and each of our and their respective officers, directors, employees and agents harmless from and against any and all claims, demands, damages, losses, liabilities, penalties and expenses (including, without limitation, reasonable attorneys' fees and court costs at trial or on appeal) arising directly or indirectly:

- From your failure to follow the eligibility or endorsement standards outlined in this Agreement;
- From your breach of any check presentment or representation or warranty;
- As a result of any of your acts or omissions in the capturing, creation or transmission of the Electronic Deposit;
- From any duplicate, fraudulent or unauthorized presentment of an Electronic Deposit;
- For any loss caused by our acceptance of the Electronic Deposit in lieu of the original paper check; or
- From any other act or omission arising out of our action or inaction taken pursuant to any request by you or pursuant to this Agreement.

**If you believe you may have deposited a check more than once, please call your financial institution immediately.**

Security Procedures – You must comply with all security procedures for Mobile Deposit that are established by us or set forth in any written user requirements communicated to you. You are solely responsible for:

- Maintaining your own internal security procedures for maintaining, marking, destroying paper items deposited using Mobile Deposit;
- Safeguarding the security and confidentiality of any information obtained from your deposited checks that may be printed from, stored on, or transferred from, the Capture Device, the Mobile Deposit System, or your other data systems or portable media; and
- Preventing errors or unauthorized access to the Capture Device or the Mobile Deposit System.

## **Our Responsibility**

Availability – We will take reasonable measures to ensure that the Mobile Service is available, but we are not liable for system failures or temporary service disruptions that cause the Mobile Service to be unavailable. If the Mobile Service is unavailable; you are responsible for carrying out your business through alternative channels. Further, we are not liable for any inaccurate or incomplete information with respect to transactions which have not been completely processed or posted using the Mobile Service.

We are not liable to you for a failure to process an Electronic Deposit, or any error that results in processing or collecting an Electronic Deposit:

- For which you have not provided us with full and correct MICR Data and dollar amount from the original paper check;
- For which you have not provided an accurate and legible image of the original paper check;
- For which you have failed to comply with formatting standards or other guidelines required by us; or
- That would violate this Agreement or any other agreement between you and us.

## **Determination of Items Eligible for the Service**

You may only create a Check Image of items made payable to you individually or to you alternatively with another person or persons (John Doe **or** Jane Doe); jointly payable items (John Doe **and** Jane Doe) may not be deposited using Mobile Deposit unless both parties have endorsed the item (see additional endorsement standards below). Without limiting the preceding sentence, we reserve the right to reject any deposit for any reason and the following items are specifically **not eligible** for deposit using Mobile Deposit:

- U.S. Treasury Checks,
- Checks, including travelers checks, that are drawn on banks located outside of the United States,
- Checks payable in a medium other than U.S. dollars,
- Non-cash items (as defined under Section 229.2(u) of Federal Reserve's Regulation CC),

- Promissory notes and similar obligations, such as savings bonds,
- Third party checks,
- Pre-existing substitute checks,
- Checks that have been previously returned as unpaid or uncollected,
- Checks drawn on your own Account,
- Checks greater than 180 days old,
- Checks that contain erasures or checks that have been altered; and
- Any other class of checks or drafts as identified by us to you from time to time.

### **Creating an Electronic Deposit**

Only one Check Image may be submitted through Mobile Deposit at a time.

**Endorsement** – The check must be properly endorsed by the payee(s) of the check and the check must be deposited into an account of one of the payees. Each payee must sign his or her name along with the printed words “for deposit only” and account number to which the check will be deposited.

**Accuracy** – You are responsible for creating an accurate Check Image and inputting the correct dollar amount of the check into the Capture Device.

In creating the Check Image, ensure that the MICR Data, check number, and name of the maker of the check are commercially printed on the check. Any defects such as tears or alterations may prevent the Capture Device from creating an accurate Check Image, causing the Electronic Deposit to be rejected. If you receive error messages indicating that the Electronic Deposit has been rejected, then the check must be physically deposited at your local bank branch or ATM.

**Legibility** – You are responsible for the inspection of all Check Images to ensure the legibility of the Check Image including, without limitation, the dollar amount, the signature of the person who made the check, and for ensuring that any and all information on the paper check is accurately captured and legible in the resulting Check Image.

If any information is not accurately captured and legible, you may cancel the scan/photograph and rescan/re-photograph the physical check. Any physical check that continues to yield an illegible Check Image after repeated scanning/photographing attempts must be physically deposited at your local branch.

**Security Features** – You acknowledge that the Capture Device may not capture all security features (e.g., watermarks) contained in or on the original paper checks, and you must manually examine paper item to determine authenticity prior to creating a Check Image or submitting an Electronic Deposit. You agree to assume any and all losses resulting from claims based on security features that do not survive the image process.

**Deposit Status** - The status of your deposits may be viewed from the Recent Activity screen in the App.

### **Fees and Charges**

There may be additional fees and charges for using Mobile Deposit that are assessed by your financial institution. Please contact your financial institution for a fee schedule of applicable fees and charges.

### **Deposit Limits and Funds Availability**

You are limited in the amount that you may deposit at any given time using Mobile Deposit. Both daily and weekly limits will be enforced. Please contact your financial institution for specific deposit limit amounts.

Funds may not be available immediately. Contact your financial institution for your financial institution’s funds availability policy.

We are not liable for transactions you initiate before the funds are available for your use. Funds availability will be in accordance with your financial institution’s Account terms and conditions. Until the funds are made available, you may not be able to withdraw the funds in cash.

### **Returned or Rejected Items**

**Returns** – If a check that is deposited using Mobile Deposit is returned to us for any reason (such as non-sufficient funds); you agree that your financial institution may charge your Account for any and all fees associated with the returned item, as defined in your financial institution’s cardholder agreement.

Rejections – Items that are rejected for deposit using Mobile Deposit may be presented for deposit at your financial institution's physical branch and will be subject to your financial institution's deposit acceptance rules.

### **Collection of an Electronic Deposit**

Electronic Deposits are processed similarly to traditional paper checks; Mobile Deposit does not process Electronic Deposits through ACH conversion. We will determine the manner in which we will seek to collect an Electronic Deposit and we reserve the right to process an Electronic Deposit by any of the following methods:

- Present or transfer the Check Image to the paying bank, a Federal Reserve Bank, image share/exchange network, or other collecting bank;
- Create a Substitute Check from the Check Image and collect the Substitute Check; or
- Request that you provide to us the original paper check from which the Check Image was created and then collect the original paper check.

We may, in our sole discretion, reject, repair, alter, amend, re-format or convert the Check Image or MICR Data submitted in an Electronic Deposit in accordance with general check collection practices and industry presentment standards, but we have no obligation to do so. If we require that you comply with certain formatting standards or other guidelines when submitting Electronic Deposits and you decline to implement, or comply with, such standards or guidelines, you acknowledge that we are not liable for any error or loss that results from our processing of such Electronic Deposit or any delays caused from our re-formatting or conversion of the Electronic Deposit prior to processing. We will have no liability to you or any other person in the event that your deposited check is processed as, or converted by us to, a Check Image or Substitute Check.

### **Marking, Retaining, and Destroying Original Paper Checks**

To mitigate the risk of potential fraud or the presentment of duplicate items, you agree to clearly mark on the original paper check that the item has been deposited electronically. Items should be marked after you receive confirmation that the deposit was received and accepted for processing by us.

Destruction – You must destroy the original paper check in accordance with this Agreement and employ commercially reasonable methods to securely store the original paper check until destruction. You agree to securely store all deposited checks in a location away from daily processing activities. To help ensure that checks are not electronically processed more than once or physically deposited at the bank after being electronically deposited, you will establish procedures to ensure that only authorized persons have access to these checks.

Retention – Retain all checks for at least seven business days after the deposit is made in case a check is returned and you need to collect on the check by re-depositing the original item. You agree to securely store all deposited checks as soon as reasonably possible thereafter and no later than 30 days after deposit. Cross-cut shredding is strongly recommended for check destruction. At our request, you must provide the original paper check to us if the original paper check has not been destroyed by you and we need the original paper check to process a payment or resolve a dispute arising from an Electronic Deposit.

Re-presentment – In the event we, in our sole discretion, determine that we require the original paper check for re-presentment in order to collect a returned Check Image or Substitute Check, you are responsible for providing to us the original paper check, or if the original paper check has been destroyed, for obtaining a replacement check.

### **Representations and Warranties**

With respect to each Electronic Deposit that you transmit to us, you are deemed to make any representation or warranty that would have applied had you deposited the original paper check. In addition you are deemed to make to us any representation or warranty that we make, under applicable law, clearinghouse rule, Federal Reserve Operating Circular, bi-lateral agreement or otherwise, to any person (including without limitation a collecting U.S. bank, a Federal Reserve Bank, a Receiving Depository Financial Institution, a paying bank, a returning bank, the drawee, the drawer, any endorser, or any other transferee) when we transfer, present or originate the Electronic Deposit, or a Substitute Check created from that Check Image. These representations and warranties include but are not limited to, that: (a) the transmissions contain accurate images of the front and back of the original checks; (b) the transmissions contain all necessary endorsements; and (c) no depository bank, drawee, drawer, or endorser will be asked to make a payment based on an item that it has already paid.

### **Limitations of the Service**

Mobile Deposit is only available for use within the United States. Mobile Deposits made from known IP addresses outside the United States will be rejected.

You may use Mobile Deposit for personal use as long as we, in our sole discretion, provide the Mobile Service to you. As part of Mobile Deposit, we reserve the right to periodically audit your mobile deposit capture, security, and information technology processes, and to require you to implement reasonable and necessary controls.

Once a Check Image has been accepted for deposit, we are not able to delete or remove the item from the collection process and it becomes subject to your financial institution's funds availability policy described herein.

Your use of Mobile Deposit may be terminated by My Mobile Money Access, in its sole discretion, and at any time.

### **APP LIMITATIONS**

The features of the App are based on your geographic location and may not be accessible in all geographic locations.

We make no guarantees of the App's functionality and you agree that you will not rely solely on the information provided by the App.

## **ADDITIONAL TERMS AND CONDITIONS**

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### **INTELLECTUAL PROPERTY RIGHTS**

All content connected with the App are the exclusive property of Elan Financial Services, its licensors, and/or Service Providers and it is protected by copyrights and other intellectual property rights. You are permitted to use content delivered to you through the App only on your personal use. You may not copy, reproduce, distribute, or create derivative works from this content. Further, you agree not to reverse engineer or reverse compile any technology, including, but not limited to, any software or other content associated with the App.

The trademarks, logos, and service marks displayed in connection with the App are the registered and unregistered trademarks of Elan Financial Services, and/or its Service Providers. Under no circumstances may you use, copy, imitate, alter, modify or change these trademarks. Nothing contained on, in or otherwise connected with the App should be construed as granting (by implication or otherwise) any license or right to use any trademark without the express written permission of Elan Financial Services, or the third party, which has rights to such trademark, as appropriate.

All messages, suggestions, ideas, notes, concepts, know-how, techniques, data, applications, mail, and other information you may send to us through or regarding the App shall be considered an uncompensated contribution of intellectual property to us and shall become our exclusive intellectual property. By submitting any such materials to us, you automatically grant (or warrant that the owner of such materials has expressly granted) to us a perpetual, royalty-free, irrevocable, non-exclusive right and license to use, reproduce, modify, adapt, publish, translate, publicly perform and display, create derivative works from and distribute such materials or incorporate such materials into any form, medium, or technology now known or later developed, and you warrant that all so-called "moral rights" in those materials have been waived, and you warrant that you have the right to make these warranties and transfers of rights.

### **USING THE APP FROM OUTSIDE THE UNITED STATES**

The products and services described herein are only offered in jurisdictions where they may be legally offered. Not all services are available in all countries and you understand that the described products and services are intended for customers located in the United States. You also understand that your financial institution is based in the United States, and only accepts U.S. currency.

We do not make any representations that any content or use of the App is appropriate or available for use in locations outside of the United States, and accessing the App from territories where any content or use of the App is illegal is prohibited. **If you choose to access the App from locations outside the United States, you do so at your own risk and you are responsible for compliance with local laws.**

### **EXPORT CONTROL**

You acknowledge that your use of the App is subject to the United States government export control laws and regulations, which may restrict or prohibit the use, export, re-export, or transfer of the App and any associate software. You agree that you will not directly or indirectly use, export, re-export, or transfer the App except in compliance with applicable U.S. export laws and regulations. Without limitation, you agree that you will not use the App in any embargoed or sanctioned country such as Iran, North Korea, Sudan, and Syria.

### **CHANGES IN TERMS OF USE**

We reserve the right to modify this Agreement at any time. You will receive notice in accordance with our E-Sign Consent Agreement and applicable law when any changes are made that materially affect your rights. **By accessing your Account and continuing to use the App, you agree to the most recent version of this Agreement.**

### **DELAY OR SUSPENSION OF SERVICE**

Without limiting any other provision of this Agreement, if we or any other Service Provider reasonably believes that your conduct in using the App constitutes a **“Threatening Condition”** (including but not limited to, violation of this Agreement, violation of any applicable laws, rules, regulations or industry standards, or otherwise poses a threat to any system, equipment, process, intellectual property, or the reputation of us or any Service Provider, we or any such Service Provider may provide you with a notice to cease the Threatening Condition. If, in the reasonable and good faith determination of us or any Service Provider, the Threatening Condition poses an imminent or actual threat (including regulatory investigation, inquiry or penalty) to us or any Service Provider or its systems, equipment, processes, or intellectual property, you agree that we or any other Service Provider may suspend any and all use of the App without notice.

### **TERM AND TERMINATION**

We may terminate all or part of this Agreement and your use of the App for any reason and at any time with or without prior notice as the law requires. You agree that you will immediately stop using the App upon our request.

You may voluntarily terminate your access to the App and your use of the App for any reason and at any time with or without prior notice as the law requires, by unsubscribing all Accounts from Mobile Services. If you terminate your access and/or withdraw your consent to this agreement, you will no longer have access to the App.

All applicable provisions of this Agreement shall survive termination by either you or us, including, without limitation, provisions related to intellectual property, warranty disclaimers, limitations of liability, and indemnification.

### **NO WARRANTIES**

Neither Elan Financial Services, nor any of its subsidiaries, affiliates, or Service Providers represents or warrants the accuracy, adequacy, completeness or timeliness of the services provided in the App, including but not limited to the card control or alert services, information, materials, products and services or the error free use of the App. All Mobile Services, including but not limited to our App, materials, products, and services, are provided “As Is” and “As Available” without warranty of any kind, either express or implied, including, without limitation, the warranties of merchantability, fitness for a particular purpose, non-infringement and freedom from a computer virus.

In the event of a system failure or interruption, your data may be lost or destroyed. Any transactions that you initiated or were in the process of completing or completed before a system failure or interruption should be verified by you through means other than through the App to ensure the accuracy and completeness of those transactions. You assume the risk of loss of your data during any system failure or interruption and the responsibility to verify the accuracy and completeness of any transactions so affected.

### **LIMITATION OF LIABILITY; INDEMNIFICATION**

In no event will Elan Financial Services or any of its affiliates, contractors, or their respective officers, directors, employees, consultants, agents, other Service Providers or licensors be liable under any contract, tort, negligence, strict liability or other claim for any direct, indirect, incidental, special, consequential or exemplary damages, including, without limitation, damages for loss of profits, goodwill, use, data or other intangible losses (even if advised of the possibility of such damages) whether caused by or resulting from (i) the use or the inability to use the App; (ii) any failure of performance, error, omission, interruption, delay in operation or transmission, computer virus, loss of data, theft, destruction, or unauthorized access to your information; (iii) errors, inaccuracies, omissions, or other defects in information or content provided by, contained within, or obtained through the App, or (iv) any other failure, action, or omission.

You agree to indemnify, defend, and hold Elan Financial Services, and its affiliates, officers, directors, employees, consultants, agents, other Service Providers and licensors harmless from any and all third party claims, actions, liability, damages and/or costs (including but not limited to reasonable attorneys’ fees) arising from (a) a third party claim, action or allegation of infringement, misuse or misappropriation based on information, data, files or other materials submitted by you to or through the App; (b) any fraud, manipulation or other breach of this Agreement by you; (c) any third party claim, action or allegations brought against My Mobile Money Access arising out of or relating to a dispute with you over the terms and conditions of an agreement or related to the purchase of sale of any goods or services; (d) your violation of any law or rights of a third party; or (e) your use of the App or use of your Account by any third party. Elan Financial Services reserves the right, at its own expense, to assume the exclusive defense and control of any matter otherwise subject to indemnification by you, in which event you will cooperate with Elan Financial Services in asserting any available defenses. You will not settle any action or claims on behalf of Elan Financial Service without the prior written consent of Elan Financial Services.

**WAIVER**

We may waive any term or provision of this Agreement at any time or from time to time. We will not be deemed to have waived any of our rights or remedies with regard to this Agreement, unless our waiver is in writing and signed by an authorized officer of Elan Financial Services, or its affiliates. No delay or omission on our part in exercising any rights or remedies will operate as a waiver of those rights or remedies or any other rights or remedies. A waiver on one occasion will not be construed as a bar or waiver of any rights or remedies on future occasions.

**SEVERABILITY; HEADINGS**

If any provision of this Agreement is held to be void or unenforceable in any jurisdiction, such ineffectiveness or unenforceability shall not affect the validity or enforceability of such provision in any other jurisdiction or any other provision in that or any other jurisdiction.

The headings in this Agreement are for convenience or reference only and do not govern the interpretation of provisions of the Agreement.

**ASSIGNMENT**

You may not assign this Agreement to any other party. We may assign this Agreement or delegate or transfer any or all of our rights and responsibilities under the Agreement to any Service Provider.

**GOVERNING LAW**

This Agreement is governed by all applicable Federal laws of the United States of America and the laws of the State of Minnesota (without regard to any choice of law provisions thereof).

**COMPLETE AGREEMENT**

This Agreement represents the sole and exclusive agreement between you and us regarding the Service and merges and supersedes all previous and contemporaneous written or oral agreements and understandings regarding the subject matter hereof.

**CONTACT YOUR FINANCIAL INSTITUTION**

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If you need assistance, would like to report an unauthorized transaction, or have other questions or concerns please contact your financial institution.

\*\*\*\*\*Acceptance Language:\*\*\*\*\*

By clicking “agree” you acknowledge that you have read and agree to be bound by the E-Sign Consent Agreement and the My Mobile Money Access Terms and Conditions Agreement.