

This Gains Full Service Billing Addendum (“**FSB Service Agreement**”) sets out the terms and conditions for the Gains Full Services Billing services (“**FSB Services**”) selected by Customer in the Order Form and provided by Company. This FSB Agreement is made an addendum to the Master Services Agreement (“**MSA**”), the terms of which are hereby incorporated by reference. In the event of a conflict between the terms of the MSA and this FSB Service Agreement, this FSB Service Agreement will prevail

1. **Definitions.** Definitions applicable to this FSB Service Agreement:

“**Account Holder**” means those Members who remit payments to Customer by way of ACH Transactions.

“**ACH Resubmissions**” such ACH Transactions originally initiated or charged by the Customer to its customers Account Holders which are subsequently declined and categorized as an Insufficient Funds.

“**ACH Transactions**” means payments, debits, credits, or refunds of Account Holders processed subject to this FSB Service Agreement.

“**Card Holder(s)**” means those Members who remit payments to Customer by way of Credit Card Transactions.

“**Credit Card Resubmissions**” means Credit Card Transaction initiated or charged by the Customer that are declined and categorized as a Soft Decline.

“**Credit Card Transactions**” means payments, debits, credits, or refunds of Card Holders processed subject to this FSB Service Agreement.

“**Customer**” means the entity identified as “Customer” on the Order Form.

“**Customer’s ACH Processing Account**” means the Customer account connected to the American Clearing House network designated by Customer in which all Member payments will be settled and from which all Fees due under this FSB Agreement will be paid.

“**Default**” shall have the meaning set forth in Section 3.d.i.

“**Company**” shall mean Daxko, LLC and its direct and indirect corporate affiliates, including, as applicable, Motionsoft, Inc. and/or Affiliated Acceptance Corporation.

“**Delinquent**” shall have the meaning set forth in Section 3.d.iii.

“**Eligible Accounts**” shall have the meaning set forth in Section 3.d.

“**Fees**” means any amount owed by Customer to Company in compensation for Services provided by Company, and as further specified in this FSB Services Agreement.

“**FSB Services**” shall have the meaning set forth in the preamble and in more detail herein.

“**Inbound Services**” shall have the meaning set forth in Section 2.c.

“**Ineligible Accounts**” shall have the meaning set forth in Section 3.d.iii.

“**Insufficient Funds**” means a notice in connection with an ACH Transaction that a payment due

to Customer will not be fulfilled.

“Launch Date” shall have the meaning set forth in Section 4.b.ii.

“Members” shall mean Customer’s clients whose transactions are processed pursuant to this FSB Service Agreement.

“Merchant ID” means Customer’s merchant identification number designated for use in connection with the Services.

“Order Form” means the Order Form for FSB Services executed by Customer and Company.

“Outbound Services” shall have the meaning set forth in Section 2.b.

“Resubmissions” means attempt to recover amounts due from Member after Soft Decline.

“Return Fees” means fees charged to Members as a result of an ACH Transaction or Credit Card Transaction that is not fulfilled using Member’s designated payment method.

“Soft Decline” means notice that a payment by a Member will not be fulfilled by Member’s designated payment method.

2. **FSB Services.** Subject to the terms and conditions of the MSA and this FSB Services Agreement, Company shall provide one or more of the following Services.

- a. **Resubmission:** Company agrees to use Company’s Smart Date Technology to provide to the Customer the following FSB Services:

- i. Company will submit Credit Card Resubmissions. Credit Card Resubmissions will be completed using Customer’s credit card processing account and Merchant ID and may include Return Fees as identified by the Customer in the authorization form attached to Customer’s Order Form.
- ii. Company will submit ACH Resubmissions. ACH Resubmissions will be completed using Customer’s ACH Processing Account and Merchant ID. Where permitted, the ACH Resubmission will include a demand for Return Fees as identified by the Customer in the authorization form attached to Customer’s Order Form.
- iii. If permitted by applicable law, rules, and regulations, Company will process Credit Card Resubmissions up to ninety (90) days after the original decline. Only one Return Fee may be charged to the Card Holder per Soft Decline item, per month, even if multiple Soft Declines occur.
- iv. If permitted by applicable law, rules, and regulations, Company will process ACH Resubmissions up to ninety (90) days after the original decline, in an attempt to obtain funding for Customer. Only one Return Fee may be charged to the Account Holder per Insufficient Funds item, per month, even if multiple Insufficient Funds declines occur.
- v. If a single item results in both Soft Decline(s) and Insufficient Funds decline(s), only one Return Fee per month may be charged.

- b. **Outbound Services:** For Credit Card Resubmissions and ACH Resubmissions that are unsuccessful, Company will

provide emails and phone calls as agreed with the Customer up to ninety (90) days after the original decline for Eligible Accounts (defined in Section 3.d below) (the “Outbound Services”), where permitted by applicable law, rule, and regulation.

- c. Inbound Services:** At the Customer’s request, Company may agree to respond to inquiries and questions from the Account Holders / Card Holders regarding the Services provided hereunder. Company shall use reasonable commercial efforts to address such Card Holder and Account Holder inquiries in the manner designated by Customer in the Customer’s profile to be completed and mutually agreed upon by Company and Customer during the implementation of the Services. Notwithstanding the foregoing, Company reserves the right to reverse or refuse to resubmit charges in Company’s sole discretion. Any Card Holder or Account Holder issues not directly related to the Services under the FSB Agreement and Return Fees hereunder will be re-directed to Customer.

More specifically, Company will provide one or more of the following services for Eligible Accounts (defined in Section 3.d below) (the “Inbound Services”):

- a. Field incoming calls and emails in response to Company initiated Outbound Services.
- b. Field incoming calls and emails from Card Holders / Account Holders to make payment modifications.
- c. Field incoming calls and emails from Card Holders / Account Holders to update data such as address or telephone.
- d. Field incoming calls and emails from Card Holders / Account Holders to initiate holds or membership cancellations.
- d. Customer Funding:** For each Credit Card Resubmission that is successfully resubmitted, approved and funded, Customer will receive direct funding to Customer’s designated account for the full amount of the original transaction plus any Customer designated Return Fee specified in the authorization form attached to Customer’s Order Form. For each ACH Resubmission that is successfully resubmitted, approved and funded, Customer will receive direct funding to Customer’s designated account for the full amount of the original transaction plus any Customer designated Return Fee specified in the authorization form attached to Customer’s Order Form.
- e. Charge Backs:** If a Card Holder disputes a charge to their credit card, or if an Account Holder disputes a charge to their account, including any resubmissions of any credit card or ACH transactions, Company agrees to cooperate with Customer and Customer’s payment processor in connection with Customer providing such documentation to the relevant financial institution and requesting resolution of the dispute; provided, however, that notwithstanding the foregoing, Customer shall ultimately be solely responsible for resolving any such disputes with the Card Holder or Account Holder.
- f. Data Transmission.** Customer acknowledges that Company is not a financial or credit reporting institution. Company is responsible only for providing the Services to effect or direct certain payment authorizations for Customer (or its Card Holders or Account Holders) and is not responsible for credit reporting or furnishing of any information to credit reporting agencies, the results of any credit inquiry, the operation of websites or internet service providers, financial institutions, financial processors, the availability of the internet, or for any damages or costs that Customer may suffer or incur as a result of any instructions given, actions taken or omissions made by Customer or its authorized users, Customer’s financial processor, financial institution, credit reporting agency, or internet service provider.

- g. No Debt Collection.** Company is not a debt collector and no debt collection services are included in this FSB Agreement.

3. Customer Responsibilities:

- a. Card Holder and Account Holder Disputes:** Customer acknowledges and agrees that:

- i. Any transactions processed by Company pursuant to this FSB Agreement are between Customer and Customer's Card Holder or Account Holder;
- ii. Company is a third-party service provider to Customer, and not a party to any transaction involving Customer's Card Holder or Account Holder;
- iii. Company is not a buyer or seller in connection with any transaction;
- iv. Company will not be responsible for and does not control any aspect of the membership services or facilities provided by Customer; and
- v. Customer is solely responsible for disputes with its Card Holders and Account Holders regarding payments, and Company is not a party to and will not be responsible for any such disputes.

- b. Card Holder and Account Holder Authorization:** Customer is solely responsible for the accuracy and completeness of all data, consents, and authorizations provided by Customer or its authorized users or Card Holders or Account Holders. For example, and without limitation, Customer is solely responsible for:

- i. Obtaining all authorizations from Card Holders and Account Holders to perform the transactions described in the FSB Agreement, including without limitation all credit card, debit card, and ACH transactions, as well as Return Fees (if any);
- ii. Maintaining records of such authorizations during the term of the FSB Agreement and for at least Forty-Eight (48) months thereafter.

In addition to and without limiting any other provision of the FSB Agreement, prior to initiating any transaction contemplated by the FSB Agreement, Customer agrees to obtain, and represents and warrants that Customer has obtained, all legally required authorizations from Card Holders and Account Holders, and that Customer has provided all legally required disclosures and notifications to Card Holders and Account Holders, including, without limitation, clear and conspicuous written disclosures on the Card Holder's or Account Holder's statements, invoices, and membership agreement authorizing the charges to the Card Holder's credit card or Account Holder's account, describing that declined payments will be resubmitted electronically, and listing any applicable Return Fees that may be added.

IN ADDITION TO AND WITHOUT LIMITING ANY OTHER PROVISION OF THIS AGREEMENT, CUSTOMER AGREES TO DEFEND, INDEMNIFY, AND HOLD COMPANY HARMLESS FROM ANY ACTION, COMPLAINT, CLAIM, OR LITIGATION AGAINST COMPANY BY MEMBERS FOR ANY VIOLATION OR ALLEGED VIOLATION OF THE FEDERAL ELECTRONIC FUND TRANSFER ACT, AND/OR ANY OTHER APPLICABLE LAWS OR REGULATIONS REGARDING PAYMENT AUTHORIZATIONS AND DISCLOSURES IN ANY APPLICABLE JURISDICTION.

- c. Resubmission Services Return Fee Authorization:** Customer agrees to complete and submit to Company upon execution of the FSB Agreement the Resubmission Services Return Fee Authorization form, attached to the FSB Order Form, which sets forth any Return Fees that will be charged to Card Holders / Account Holders, in accordance with the FSB Agreement.
- d. Eligible Accounts.** Card Holder and Account Holder accounts that are in good standing, current, and are not Delinquent or in Default at the time of the launch of the Services are automatically included for Services under the FSB Agreement (“Eligible Accounts”).
- i. A Card Holder / Account Holder account is in “Default” if the Card Holder / Account Holder has obligations for which payment has not been made as agreed upon in the Card Holder / Account Holder agreement, and for which any grace period for curing the untimely payment has expired. Company shall not process a Default that is beyond ninety days past due.
 - ii. A Card Holder / Account Holder account is “Delinquent” if the Card Holder / Account Holder has obligations for which payment has not been made as agreed upon in the Card Holder / Account Holder agreement, and for which any grace period for curing the untimely payment has not expired. Company shall not process a Default that is beyond ninety days past due.
 - iii. Card Holder / Account Holder accounts that are in Default or Delinquent as of the launch of the Services are not included within the scope of the FSB Agreement and are not eligible to receive Services under the FSB Agreement (“Ineligible Accounts”). Company will not provide the Services or engage in any other activity with respect to Ineligible Accounts.
 - iv. Customer agrees not to cause Company to work on any account items that are more than ninety days past due as defined by Customer’s accounting or as objectively viewed under the circumstances.
 - v. In addition to Ineligible Accounts, Company in its sole discretion may determine that any other account is no longer serviceable. All accounts that are determined to be no longer serviceable will be identified to the Customer. Company shall be immediately released from any responsibility with respect to such accounts effective on the date the account is identified to the Customer as no longer serviceable. Company shall not process a Default that is beyond ninety days past due.

IN ADDITION TO AND WITHOUT LIMITING ANY OTHER PROVISION OF THIS AGREEMENT, CUSTOMER AGREES TO DEFEND, INDEMNIFY, AND HOLD COMPANY HARMLESS FROM ANY ACTION, COMPLAINT, CLAIM, OR LITIGATION AGAINST COMPANY FOR ANY VIOLATION OR ALLEGED VIOLATION OF THE FEDERAL FAIR DEBT COLLECTION PRACTICES ACT, AND/OR ANY OTHER APPLICABLE LAWS OR REGULATIONS REGARDING DEBT COLLECTION IN ANY APPLICABLE JURISDICTION.

- e. Return Fee Legality/Reliance by Company.** Customer does not rely on any representation from Company, and Company makes no representation or warranty regarding the legality of the Return Fee, including without limitation as to the legality of charging for the Return Fee, or as to the manner of charging for the Return Fee, or as to the amount of the Return Fee, under any applicable laws or regulations. In supplying any information concerning Members, Customer represents that Company that (i) such information is accurate and correct; (ii) that Customer may disclose that information to Company; and (iii) that Company may use such information as contemplated by the Services described in this FSB Agreement, including all Return Fees charges to Members.

IN ADDITION TO AND WITHOUT LIMITING ANY OTHER PROVISION OF THIS AGREEMENT,

CUSTOMER AGREES TO DEFEND, INDEMNIFY, AND HOLD COMPANY HARMLESS FROM ANY ACTION, COMPLAINT, CLAIM, OR LITIGATION AGAINST COMPANY BY MEMBERS FOR ANY VIOLATION OR ALLEGED VIOLATION OF ANY APPLICABLE LAWS OR REGULATIONS REGARDING THE RETURN FEE IN ANY APPLICABLE JURISDICTION.

- f. Customer Representations and Warranties.** Each time Customer provides information regarding any Card Holder / Account Holder account(s) to Company for inclusion in the Services, Customer represents and warrants to Company that:
- i. All names, account numbers, mailing addresses, telephone numbers, email addresses, balances due, dates of last payment, terms of membership agreements, and other information relating to each and every Card Holder / Account Holder account are true, accurate, and complete; and
 - ii. Customer represents and warrants that Card Holder/Account Holder has provided express written consent for Customer, Company and its affiliates, agents and assigns to communicate with Member in writing, by email, or by using prerecorded/artificial voice messages, text messages, automatic telephone dialing systems, and any other methods of communication permitted by law and that each and every Card Holder/Account Holder has not revoked his/her written consent or otherwise opted-out from receipt of such communication; Customer will notify Company by an email directed to legal@daxko.com within three (3) business days of any such revocation or opt-out; and
 - iii. Customer has obtained all legally required authorizations from each and every Card Holder / Account Holder and that the contents of all communications and the process employed to communicate with Member, comply with applicable state and federal laws, rules and
 - iv. Customer has provided all legally required disclosures and notifications to each and every Card Holder / Account Holder; and
 - v. Each and every Card Holder / Account Holder account is a legally binding obligation of each and every Card Holder / Account Holder to Customer, in the amount and under the terms indicated in the information provided to Company; and
 - vi. None of the Card Holders / Account Holders are in an active bankruptcy; and
 - vii. None of the Card Holder / Account Holder accounts are subject to any claims, defenses, rights of setoff, or other issues that might adversely affect the enforceability, amount due, or any other aspect of each account; and
 - ix. Customer shall not cause Company to provide the Services for Members with accounts that are more than ninety days past due for payment.
- g. Consumer Communications.**
- i. In addition to and without limiting any other provision of the FSB Agreement, Customer represents and warrants that all email addresses and telephone numbers used in connection with the Services have been and will be properly obtained, in compliance with all provisions of the federal CAN-SPAM Act, 15 U.S.C. § 7701 et seq., the federal Telephone Consumer Protection Act, 47 U.S.C. § 227, and any other applicable federal, state, and/or local law regarding consumer communications.
 - ii. To the extent that Company performs Services that involve contacting consumers on Customer's behalf, Customer agrees it is Customer's responsibility to obtain all necessary consents and to promptly notify Company of the revocation of any prior consents.
 - iii. Separate text messaging terms may apply if included in Customer's Services.

iv. By providing a cell phone number of a consumer to Company in connection with the Services and not opting such cell phone number out of receiving communications under the FSB Agreement, Customer is directing Company to send communications by using prerecorded/artificial voice messages, text messages, and/or automatic telephone dialing systems to such cell phone number, **and** certifying that the user of such cell phone number has provided his/her prior express written consent to the receipt of those communications, and has not revoked his/her consent or otherwise opted-out from receiving calls or other communications to such cell phone.

v. Customer accepts responsibility for all liability arising out of or relating to any failure to obtain user's prior express written consent or failure to opt user out from such communications, as well as any failure to notify Company of user's subsequent revocation of consent or opt-out from receiving calls or other communications to such cell phone.

vi. Additionally, Customer may not attempt to spoof sender domains, send spam or other engage in offending text message practices. Company makes no express or implied warranty of individual message receipt. Company shall not be liable for any issues that arise associated with the content that Customer provides or unforeseen liabilities of it being delivered. Customer shall be solely liable to comply with applicable laws and regulations in connection with telecommunication (e.g., email, text and phone) messages that Customer sends.

IN ADDITION TO AND WITHOUT LIMITING ANY OTHER PROVISION OF THIS AGREEMENT, CUSTOMER AGREES TO DEFEND, INDEMNIFY, AND HOLD COMPANY HARMLESS FROM ANY ACTION, COMPLAINT, CLAIM, OR LITIGATION ALLEGED OR ASSERTED AGAINST COMPANY FOR ANY VIOLATION OF THE FEDERAL CAN-SPAM ACT, FEDERAL TELEPHONE CONSUMER PROTECTION ACT, AND ANY OTHER APPLICABLE LAWS OR REGULATIONS REGARDING CONSUMER COMMUNICATIONS IN ANY APPLICABLE JURISDICTION.

4. Fees:

a. **Company Fees:** Customer will be charged, on monthly basis, in arrears, a fee for the Services as provided in the FSB Order Form. No refunds or credits shall be provided to Customer for any Return Fees that may be charged back or refunded to the Card Holder at the Customer's direction.

b. **Launch of Services Fees.**

i. Customer agrees that it shall launch the Services under the FSB Agreement by the date that is 45 days following the later of (i) Customer's signing the FSB Agreement unless otherwise specified in the Order Form. In the event Customer fails to launch the Services under the FSB Agreement by the expected Launch Date, beginning upon the expected Launch Date, the Customer will be billed and agrees to pay the monthly no launch fee stated in the FSB Order Form until the Services are launched. In the event of an early termination of the FSB Agreement, Customer agrees to pay an early termination fee. Customer agrees to pay a one-time implementation as stated in the FSB Order form, if any. Fees paid under this section are non-refundable. No refunds or credits shall be provided to Customer for any Return Fees that may be charged back or refunded to the Account Holder at the Customer's direction.

ii. Company will use commercially reasonable efforts to perform the system configuration services necessary for Customer to begin using one or more of the Services on a date ("Launch Date") mutually agreed upon by Customer and Company. Customer agrees to cooperate with Company

and provide all required information and documentation on or before the Launch Date. Customer agrees to launch all of the selected Services within forty-five (45) days from the Effective Date. If Customer is currently using any of the listed services, then the Launch Date and the Effective Date for such services shall be identical and the end of the term of the prior agreement, if applicable. If due to no substantial fault of Company, and subject to the provisions of Section 2 above, if Customer does not timely launch each of the selected services then Customer's Launch Date for any remaining selected services will be deemed to be the date that is forty-five (45) days from the Effective Date.

- c. Auto Debit Authorization:** Customer hereby authorizes Company to debit Customer's ACH Processing Account, for the full amount of all fees, expenses and reimbursements then due under the FSB Agreement. Customer shall maintain sufficient funds in Customer's ACH Processing Account at all times during the Term of the FSB Agreement to enable Company to debit such accounts for the fees, expenses and reimbursements then due under the FSB Agreement, the failure of which shall constitute a default for the failure to pay all such amounts. Within thirty (30) days after execution of the FSB Agreement, if paying by debit, Customer shall complete and submit to Company an auto debit authorization form together with a voided check from Customer's ACH Processing Account, with the necessary information for Company to debit, when they become due, the full amount of all fees, expense and reimbursements under the FSB Agreement. Customer shall provide an updated authorization form to Company promptly upon any relevant changes to the information set forth therein. Customer is responsible for reimbursing Company for any fees or penalties incurred by Company in connection with debiting from Customer's ACH Processing Account.
- d. Statements** Notwithstanding any general provisions pertaining to Customer's other services, Statements for fees related to Full Service Billing may be sent via electronic mail to Customer within the first fifteen (15) business days following the end of the Service Period. If Customer does not dispute the statements within five (5) days of receipt, then Customer's designated bank account will be automatically debited approximately fifteen (15) days following the date of the statement. Statements for one-time, training, and consulting fees and other reimbursable expenses will be sent via electronic mail to Customer following the performance of the Services. If Customer does not dispute the statement within five (5) days of receipt, then Customer's designated bank account will be automatically debited ten (10) days from the date of the statement. Customer agrees that Company may include the fees due under the FSB Agreement as a line item charge on Customer's monthly statement for the software services.
- 5. Termination:** Either party may terminate the FSB Agreement in the event of a material breach of the FSB Agreement by the other party, if such breach remains uncured thirty (30) days after receipt of written notice thereof from the non-breaching party. No such termination shall relieve Customer's obligation to pay fees accrued up to the effective date of the termination. Furthermore, in the event of early termination of the FSB Agreement by Customer (other than due to material uncured breach by Company) prior to the expiration date of the Initial Term or any renewal term, Customer shall be obligated to pay to Company **50%** of the fees that Company would have received from Customer if the FSB Agreement had remained in effect until its scheduled expiration date (with the amount of each remaining month's fee being equal to the average monthly fee charged during the immediately preceding six (6) month period). Such fees shall be paid within thirty (30) days after the effective date of termination. Customer agrees that (a) a breach by Customer under the FSB Agreement is a breach under all other agreements between Customer and Company, and a breach by Customer under any other agreement between Company and Customer is a breach of the FSB Agreement, and (b) all other agreements between Customer and Company are amended to include this provision.