

# Corduro Member Agreement

Version 03.10.2012

We are an innovator of technology and have developed the next generation mobile service (the "Service"). This Corduro Member Agreement ("Agreement") is a legal agreement between you ("you," "your") and Corduro, Inc. and/or its affiliates ("Corduro," "we," "our" or "us") and governs your use of the Service. In order to use the Service, herein referred to as ("PayMobile™", "Mobile Service" or "Service"), you must accept all of the terms of this Agreement.

## Part One: Terms Governing Use of the Service

### 1. Corduro Account Registration

When you visit our website, or register for one or more of our Services, we may collect the following information:

1. You must provide accurate and complete information in response to our questions.
2. You must also keep the information that you provide up-to-date.

We will ask you to provide at a minimum, your Name, Email Address, Mobile number, PIN, and a password to establish an account, we will also ask you for other data to provide an optimum experience for you and the organizations with which you choose to participate with in the Community.

### 2. Account Name

You may choose a descriptive account name at the time you register with Corduro. Corduro does not guarantee the availability of any account name.

### 3. Mobile or Third Party Software

In order to use some of the Services, you may be required to download and/or install Corduro Software. In some cases when you install the software, you will be asked to create your user profile and to establish a Corduro Account on the Corduro website. You must complete this and other processes in order to access any funds that you accept through the Service. You must install any and all software updates to continue to use the Service.

### 4. Verification and Inspection

Corduro may request additional information from you at any time in order to protect you and those participating with you. If you refuse any of these requests, your Corduro Account may be terminated.

We reserve the right to suspend or terminate your Corduro Account if you provide inaccurate, untrue, or incomplete information, or fail to comply with our account registration requirements.

### 5. Compatible Hardware, Mobile Devices and Third Party Carrier Fees

Your Corduro Account will allow you to accept payment card transactions on compatible hardware and mobile devices. Mobile devices modified contrary to the manufacturer's software or hardware guidelines, including but not limited to disabling hardware or software controls—sometimes referred to as "jailbreaking"—are not compatible mobile devices, and the use of such modified mobile devices

to access any of the Services is expressly prohibited and is grounds for termination of your Corduro Account. Corduro does not warrant that the Services will be compatible with your mobile device.

Your use of the Service may be subject to the terms of your agreements with your mobile device manufacturer and your carrier.

## **6. Your Corduro Account**

By creating a Corduro Account, you confirm that you are the individual about whom the information is being provided.

You may store and manage payment methods with your Corduro Account that can be used in your participation with your payments to retailers, suppliers, vendors (herein referred to as "Community") or to any other party that is participating in our merchant network.

You may use your Corduro Account with retailers and/or other parties where both parties have devices that support secure bar code and/or NFC technology.

You may use your Corduro Account to participate with organizations in one or more capacities including but not limited to: Member, Volunteer, Sales Agent, Group Organizer, Payer, Payee and other such roles as we or our partners enable.

You may use and we may enable your Corduro Account for one or more Services, including but not limited to coupons, promotions, events, tickets, participation, authentication, and payments.

You may setup and manage recurring payments with your Corduro Account that can be used in participation with your payment and/or bill pay relationships.

You may not export the Service directly or indirectly, and you acknowledge that the Service may be subject to export restrictions imposed by US law, including US Export Administration Regulations (15 C.F.R. Chapter VII).

## **7. Our Role**

Our Service allows you to manage your mobile identity, your privacy settings by organization, relationships to friends and organizations, your wallet and the preferred payment methods, pay your bills, participate with others, and accept payments, including ACH, Card based, and third party payments as enabled by our service. We also enable you in some cases to checkin, favorite, join, record your member information and order from organizations which participate with Corduro. We reserve the right to add or remove services as needed.

## **8. Your Authorization**

By accepting the terms of this Agreement, you authorize us to collect and manage your information for participants in our Community. Unless otherwise directed to us in writing, by the organization for which you are accepting payments, or the persons from whom you are accepting payments, you authorize Corduro to route all of your payment transactions by the lowest cost route. Your authorization permits us to generate a paper draft or an electronic funds transfer to process each payment transaction that you authorize. Your authorizations will remain in full force and effect until your Corduro Account is closed or terminated.

## **9. Restricted Use**

You may use this Service only to the extent that you obey all laws, rules, and regulations applicable to your use of the Service.

## **10. Unauthorized or Illegal Use**

We may decide not to authorize or settle any transaction that you submit to us if we believe that the transaction is in violation of any Corduro agreement, or exposes you, our other users, or us to harm. Harm includes fraud and other criminal acts. If we reasonably suspect that your Corduro Account has been used for an unauthorized, illegal, or criminal purpose, you give us express authorization to share information about you, your Corduro Account, and any of your transactions with law enforcement.

## **11. Reserved**

## **12. Corduro Account History**

When a payment is made to your Corduro Account, we will update your Corduro Account activity on the website and provide you a transaction confirmation. The confirmation will serve as your receipt. Summaries of your Corduro Account activity, including monthly statements, are available on our website for up to one year of account activity. Except as required by law, you are solely responsible for (a) compiling and retaining permanent records of all transactions and other data associated with your Corduro Account and your use of the Service, and (b) reconciling all transactional information that is associated with your Corduro Account. If you believe that there is an error or unauthorized transaction activity is associated with your Corduro Account, you agree to contact us immediately.

## **13. Receipts**

When you make a payment, accept a payment or gift you are likely to receive an email from us on behalf of the organization or directly from us via SMS or email.

## **14. Usage of Shortcode**

We may send you real-time receipts via a text message which you may also use as secondary authentication. Standard message and data rates may apply (check with your carrier).

## **15. Customer Service**

If you have any questions about your service you may contact our support organization at 817.204-0800 x2.

## **16. Dormant Corduro Account**

If there is no activity in your Corduro Account (including access or payment transactions) for at least two (2) years, consecutively, and you have a Balance, we will notify you by sending an email to your registered email address and give you the option of keeping your Corduro Account open and maintaining the Balance, withdrawing the Balance, or requesting a check. If you do not respond to our notice within thirty (30) days, we will automatically close your Corduro Account and escheat your funds in accordance with applicable law, and if permitted, to the Corduro Service.

## **17. Your Privacy**

Your privacy is very important to Corduro. Upon acceptance of this Agreement you confirm that you have read, understood and accepted Corduro's Privacy Policy.

## **18. Disclosures and Notices**

You agree that Corduro can provide Disclosures and Notices required by law and other information about your Corduro Account to you electronically by posting it on our website, or emailing it to the email address listed in your Corduro Account. You also agree that electronic Disclosures and Notices have the same meaning and effect as if we had provided you with a paper copy. Such Disclosures and Notices are considered received by you within 24 hours of the time it was posted to our website, or emailed to you unless we receive notice that the email was not delivered.

## **19. Security**

We have implemented technical and organizational measures designed to secure your personal information from accidental loss and from unauthorized access, use, alteration or disclosure. However, we cannot guarantee that unauthorized third parties will never be able to defeat those measures or use your personal information for improper purposes. You acknowledge that you provide your personal information at your own risk.

## **20. Termination**

If your Corduro Account is terminated for any reason or no reason you agree: (a) to continue to be bound by this Agreement, (b) to immediately stop using the Service, (c) that the license provided under this Agreement shall end, (d) that we reserve the right (but have no obligation) to delete all of your information and account data stored on our servers, and (e) that Corduro shall not be liable to you or any third party for termination of access to the Service or deletion of your information or account data.

## **21. Your Right to Terminate**

You may terminate this Agreement and other Corduro agreements at any time by closing your Corduro Account. Upon closure of your Corduro Account, any pending transactions will be cancelled. Any funds that we are holding for you at the time of closure, less any applicable Fees, will be deposited consistent with your Merchant Agreement, assuming all transactional requirements have been fulfilled (for example, you may not close your Corduro Account as a means of evading your obligations). If an investigation is pending at the time you close your Corduro Account, we may hold your funds as described herein. If you are later determined to be entitled to some or all of the funds in dispute, we will release those funds to you.

## **22. Suspension or Termination by Us**

We may terminate this Agreement and/or suspend or close your Corduro Account for any reason or no reason at any time upon notice to you.

## **23. Effect of Termination**

We will not be liable to you for compensation, reimbursement, or damages in connection with your use of the Service, or any termination or suspension of the Service. Any termination of this Agreement does not relieve you of any obligations to pay any Fees or costs accrued prior to the termination and any other amounts owed by you to us as provided in this Agreement.

## Part Two: Additional Legal Terms

### 1. Your License

Corduro grants you a personal, limited, non-exclusive, revocable, non-transferable license, without the right to sublicense, to electronically access and use the Service solely to accept and receive payments and to manage the funds you so receive. The Service includes our website, any software, programs, documentation, tools, internet-based services, components, and any updates (including software maintenance, service information, help content, bug fixes or maintenance releases) thereto provided to you by Corduro. You will be entitled to download updates to the Service, subject to any additional terms made known to you at that time, when Corduro makes these updates available.

While we want you to enjoy the Service, you may not, nor may you permit any third party to do any of the following: (a) access or attempt to access Corduro systems, programs or data that are not made available for public use; (b) copy, reproduce, republish, upload, post, transmit, resell or distribute in any way material from Corduro; (c) permit any third party to use and benefit from the Service via a rental, lease, timesharing, service bureau or other arrangement, unless the third party is part of Corduro's authorization network; (d) transfer any rights granted to you under this Agreement; (e) work around any of the technical limitations of the Service, use any tool to enable features or functionalities that are otherwise disabled in the Service, or decompile, disassemble or otherwise reverse engineer the Service, except to the extent that such restriction is expressly prohibited by law; (f) perform or attempt to perform any actions that would interfere with the proper working of the Service, prevent access to or use of the Service by our other users, or impose an unreasonable or disproportionately large load on our infrastructure; or (vii) otherwise use the Service except as expressly allowed under this section.

### 2. Ownership

The Service is licensed and not sold. Corduro reserves all rights not expressly granted to you in this Agreement. The Service is protected by copyright, trade secret and other intellectual property laws. Corduro owns the title, copyright and other worldwide Intellectual Property Rights (as defined below) in the Service and all copies of the Service. This Agreement does not grant you any rights to Corduro's trademarks or service marks.

For the purposes of this Agreement, "Intellectual Property Rights" means all patent rights, copyright rights, mask work rights, moral rights, rights of publicity, trademark, trade dress and service mark rights, goodwill, trade secret rights and other intellectual property rights as may now exist or hereafter come into existence, and all applications therefore and registrations, renewals and extensions thereof, under the laws of any state, country, territory or other jurisdiction.

You may choose to or we may invite you to submit comments or ideas about the Service, including without limitation about how to improve the Service or our products ("Ideas"). By submitting any Idea, you agree that your disclosure is gratuitous, unsolicited and without restriction and will not place Corduro under any fiduciary or other obligation, and that we are free to use the Idea without any additional compensation to you, and/or to disclose the Idea on a non-confidential basis or otherwise to anyone. You further acknowledge that, by acceptance of your submission, Corduro does not waive any rights to use similar or related ideas previously known to Corduro, or developed by its employees, or obtained from sources other than you.

### 3. Indemnity

You will indemnify, defend and hold us, our banks and our processors harmless (and our respective employees, directors, agents, affiliates and representatives) from and against any and all claims, costs, losses, damages, judgments, Tax assessments, penalties, interest, and expenses (including without limitation reasonable attorneys' fees) arising out of any claim, action, audit, investigation, inquiry, or other proceeding instituted by a person or entity that arises out of or relates to: (a) any actual or alleged breach of your representations, warranties, or obligations set forth in this Agreement, including without limitation any violation of our Policies or the Networks' rules; (b) your wrongful or improper use of the Service; (c) any transaction submitted by you through the Service (including without limitation the accuracy of any Product Information that you provide or any claim or dispute arising out of products or services offered or sold by you); (d) your violation of any third-party right, including without limitation any right of privacy, publicity rights or Intellectual Property Rights; (e) your violation of any law, rule or regulation of the United States or any other country; (f) any other party's access and/or use of the Service with your unique username, password or other appropriate security code.

#### **4. Representation and Warranties**

You represent and warrant to us that: (a) you are at least eighteen (18) years of age or have permission of your legal guardian; (b) you are eligible to register and use the Service and have the right, power, and ability to enter into and perform under this Agreement; (c) you will not use the Service, directly or indirectly, for any fraudulent undertaking or in any manner so as to interfere with the use of the Service.

#### **5. No Warranties**

USE OF THE SERVICE IS AT YOUR OWN RISK. THE SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, AND CORDURO MAKES NO WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM CORDURO OR THROUGH THE SERVICE WILL CREATE ANY WARRANTY NOT EXPRESSLY STATED HEREIN. WITHOUT LIMITING THE FOREGOING, CORDURO, ITS PROCESSORS, ITS PROVIDERS, ITS LICENSORS (AND THEIR RESPECTIVE SUBSIDIARIES, AFFILIATES, AGENTS, DIRECTORS, AND EMPLOYEES) DO NOT WARRANT THAT THE CONTENT IS ACCURATE, RELIABLE OR CORRECT; THAT THE SERVICE WILL MEET YOUR REQUIREMENTS; THAT THE SERVICE WILL BE AVAILABLE AT ANY PARTICULAR TIME OR LOCATION, UNINTERRUPTED OR SECURE; THAT ANY DEFECTS OR ERRORS WILL BE CORRECTED; OR THAT THE SERVICE IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. ANY CONTENT DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICE IS DOWNLOADED AT YOUR OWN RISK AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR PROPERTY OR LOSS OF DATA THAT RESULTS FROM SUCH DOWNLOAD.

CORDURO DOES NOT WARRANT, ENDORSE, GUARANTEE, OR ASSUME RESPONSIBILITY FOR ANY PRODUCT OR SERVICE ADVERTISED OR OFFERED BY A THIRD PARTY THROUGH THE SERVICE OR ANY HYPERLINKED WEBSITE OR SERVICE, OR FEATURED IN ANY BANNER OR OTHER ADVERTISING, AND CORDURO WILL NOT BE A PARTY TO OR IN ANY WAY MONITOR ANY TRANSACTION BETWEEN YOU AND THIRD-PARTY PROVIDERS OF PRODUCTS OR SERVICES.

#### **6. Limitation of Liability and Damages**

IN NO EVENT SHALL CORDURO, ITS PROCESSORS, SUPPLIERS OR ITS LICENSORS (OR THEIR RESPECTIVE AFFILIATES, AGENTS, DIRECTORS AND EMPLOYEES) BE LIABLE FOR ANY DIRECT, INDIRECT, PUNITIVE, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER INTANGIBLE LOSSES, THAT

RESULT FROM THE USE OF, INABILITY TO USE, OR UNAVAILABILITY OF THE SERVICE. UNDER NO CIRCUMSTANCES WILL CORDURO BE RESPONSIBLE FOR ANY DAMAGE, LOSS OR INJURY RESULTING FROM HACKING, TAMPERING OR OTHER UNAUTHORIZED ACCESS OR USE OF THE SERVICE OR YOUR CORDURO ACCOUNT OR THE INFORMATION CONTAINED THEREIN.

CORDURO AND ITS PROCESSORS (AND THEIR RESPECTIVE AFFILIATES, AGENTS, DIRECTORS, AND EMPLOYEES) ASSUME NO LIABILITY OR RESPONSIBILITY FOR ANY (I) ERRORS, MISTAKES, OR INACCURACIES OF CONTENT; (II) PERSONAL INJURY OR PROPERTY DAMAGE, OF ANY NATURE WHATSOEVER, RESULTING FROM YOUR ACCESS TO OR USE OF THE SERVICE; (III) ANY UNAUTHORIZED ACCESS TO OR USE OF OUR SECURE SERVERS AND/OR ANY AND ALL PERSONAL INFORMATION STORED THEREON; (IV) ANY INTERRUPTION OR CESSATION OF TRANSMISSION TO OR FROM THE SERVICE; (V) ANY BUGS, VIRUSES, TROJAN HORSES, OR THE LIKE THAT MAY BE TRANSMITTED TO OR THROUGH THE SERVICE BY ANY THIRD PARTY; (VI) ANY ERRORS OR OMISSIONS IN ANY CONTENT OR FOR ANY LOSS OR DAMAGE INCURRED AS A RESULT OF THE USE OF ANY CONTENT POSTED, EMAILED, TRANSMITTED, OR OTHERWISE MADE AVAILABLE THROUGH THE SERVICE; OR (VII) USER CONTENT OR THE DEFAMATORY, OFFENSIVE, OR ILLEGAL CONDUCT OF ANY THIRD PARTY. IN NO EVENT SHALL CORDURO, ITS PROCESSORS, AGENTS, SUPPLIERS, OR LICENSORS (OR THEIR RESPECTIVE AFFILIATES, AGENTS, DIRECTORS, AND EMPLOYEES) BE LIABLE TO YOU FOR ANY CLAIMS, PROCEEDINGS, LIABILITIES, OBLIGATIONS, DAMAGES, LOSSES OR COSTS IN AN AMOUNT EXCEEDING THE AMOUNT OF FEES EARNED BY US IN CONNECTION WITH YOUR USE OF THE SERVICE DURING THE THREE (3) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE CLAIM FOR LIABILITY.

THIS LIMITATION OF LIABILITY SECTION APPLIES WHETHER THE ALLEGED LIABILITY IS BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, OR ANY OTHER BASIS, EVEN IF CORDURO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.The

Service is controlled and operated from its facilities in the United States. Corduro makes no representations that the Service is appropriate or available for use in other locations. Those who access or use the Service from other jurisdictions do so at their own volition and are entirely responsible for compliance with all applicable United States and local laws and regulations, including but not limited to export and import regulations. You may not use the Service if you are a resident of a country embargoed by the United States, or are a foreign person or entity blocked or denied by the United States government. Unless otherwise explicitly stated, all materials found on the Service are solely directed to individuals, companies, or other entities located in the United States.

## **7. Disputes**

Except as expressly provided in this Agreement, these terms are a complete statement of the agreement between you and Corduro, and describe the entire liability of Corduro and its vendors and suppliers (including processors) and your exclusive remedy with respect to your access and use of the Service. If any provision of this Agreement is invalid or unenforceable under applicable law, then it shall be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law, and the remaining provisions will continue in full force and effect.

## **8. Governing Law**

This Agreement will be governed by Texas law as applied to agreements entered into and to be performed entirely within Texas, without regard to its choice of law or conflicts of law principles that would require application of law of a different jurisdiction, and applicable federal law. The parties hereby consent to the exclusive jurisdiction and venue in the state courts or federal courts in Tarrant

County, Texas. Headings are included for convenience only, and shall not be considered in interpreting this Agreement. The Agreement does not limit any rights that Corduro may have under trade secret, copyright, patent or other laws. Corduro's failure to assert any right or provision under this Agreement shall not constitute a waiver of such right or provision. No waiver of any term of this Agreement shall be deemed a further or continuing waiver of such term or any other term.

## **9. Arbitration**

For any claim (excluding claims for injunctive or other equitable relief) where the total amount sought is less than \$10,000.00 USD, the party requesting relief may elect to resolve the dispute through binding non-appearance-based arbitration before a sole arbitrator and through an alternative dispute resolution (ADR) provider selected by the party initiating arbitration from a list of qualified providers maintained by Corduro. The parties further agree that the prevailing party in the arbitration shall be entitled to recover its costs of arbitration or of any related court proceedings (including attorneys' fees and expenses), collection agency fees, and any applicable interest. The arbitrator's award shall be final and binding on the parties, who undertake to fulfill the terms of the award without delay. Judgment on the award may be entered in any court of competent jurisdiction.

## **10. Limitation on Time to Sue**

Unless otherwise required by law, an action or proceeding by you to enforce an obligation, duty or right arising under this Agreement or by law must commence within one year after the cause of action accrues.

## **11. Right to Amend**

We have the right to change or add to the terms of this Agreement at any time, and to change, delete, discontinue, or impose conditions on any feature or aspect of the Service with notice that we in our sole discretion deem to be reasonable in the circumstances, including such notice on our website at Corduro.com or any other website maintained or owned by us for the purposes of providing services in terms of this Agreement. Any use of the Service after our publication of any such changes shall constitute your acceptance of this Agreement as modified.

## **12. Assignment**

This Agreement, and any rights and licenses granted hereunder, may not be transferred or assigned by you, but may be assigned by Corduro without restriction.

## **13. Third Party Services and Links to Other Web Sites**

You may be offered services, products and promotions provided by third parties and not by Corduro. If you decide to use these Third Party Services you will be responsible for reviewing and understanding the terms and conditions associated with these services. You agree that Corduro is not responsible for the performance of these services. The Corduro website may contain links to third party websites as a convenience to you. The inclusion of any website link does imply an approval, endorsement, recommendation by Corduro. You agree that you access any such website at your own risk, and that the site is not governed by the terms and conditions contained in this Agreement. Corduro expressly disclaims any liability for these websites. Please remember that when you use a link to go from our website to another website, our privacy statement is no longer in effect. Your browsing and interaction on any other website, including those that have a link on our website, is subject to that website's own rules and policies.

## **14. Modification of Terms of Service**



We have the right to change or add to the terms of this Agreement at any time, and to change, delete, discontinue, or impose conditions on any feature or aspect of the software or services with notice that we in our sole discretion deem to be reasonable in the circumstances, including notice on our website at [www.corduro.com](http://www.corduro.com) or any other website maintained or owned by us for the purposes of providing services in terms of this Agreement, and communicate to you. Any use of our software or services after our publication of any such changes shall constitute your acceptance of this Agreement as modified.

## **15. Other Provisions**

Except as expressly provided in this Agreement, these terms are a complete statement of the agreement between you and Corduro. In the event of a conflict between this Agreement and any other Corduro agreement or policy, this Agreement shall prevail on the subject matter of this Agreement. If any provision of this Agreement is invalid or unenforceable under applicable law, then it shall be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law, and the remaining provisions will continue in full force and effect.

## **16. Survival**

In addition to any provision that is reasonably necessary to accomplish or enforce the purpose of this Agreement, the following sections of this Agreement survive and remain in effect in accordance with their terms upon the termination of this Agreement: (Part 1) 6, 7, 13, 15-20 and (Part 2) 2, 5-10.

Version 03.10.2012

Effective Date: March 12, 2012