



550 Reserve Street, STE 190, Southlake, Texas 76092

Toll-Free: (888)247-1886

MERCHANT APPLICATION - CRB

BUSINESS INFORMATION

Legal Name of Business or Corporate Owner Registered with the IRS			DBA (Doing Business As) Name		
Billing Address			Location Address		
City	State	Zip	City	State	Zip
Business Phone	Business Fax Number		Customer Service Phone	Federal Tax ID Number	
Contact Name/Office Manager	Contact Phone Number		Contact Email		
Website Address					

BUSINESS DESCRIPTION

Processing Category	<input type="checkbox"/> Mobile	<input type="checkbox"/> Card Not Present (Ecommerce)	<input type="checkbox"/> Card Present (Retail)			
	<input type="checkbox"/> Mail Order / Telephone (MOTO)	<input type="checkbox"/> Other				
Type of Ownership	<input type="checkbox"/> LLC	<input type="checkbox"/> Corporation (Identify Type)	<input type="checkbox"/> Sole Prop	<input type="checkbox"/> Personal	<input type="checkbox"/> S-Corp	<input type="checkbox"/> Partnership / LLP
	<input type="checkbox"/> Non-Profit	<input type="checkbox"/> Financial Institution	<input type="checkbox"/> Publicly Traded (Exchange & Ticker _____)			

Seed-to-Sale Provider

Name of Provider	<input type="checkbox"/> Metric	<input type="checkbox"/> BioTrac	<input type="checkbox"/> Leaf Data Systems
Merchant ID			

POS Provider Information

POS Provider	<input type="checkbox"/> MyBud POS	<input type="checkbox"/> Dutchie	<input type="checkbox"/> Meadow	<input type="checkbox"/> DisTru	<input type="checkbox"/> Treez
	<input type="checkbox"/> Lightspeed	<input type="checkbox"/> Canix			
Other					
Merchant ID					

SETTLEMENT: ATTACH VOIDED BUSINESS CHECK OR CONFIRMATION OF ACCOUNT ON BANK LETTERHEAD

Bank Name	ABA / Routing Number
Account Name	DDA Number
Bank Officer Name	
Bank Officer Phone	Bank Officer Email



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BENEFICIAL OWNERSHIP

This Beneficial Ownership section is made a part of the original Merchant Agreement between Corduro and the undersigned.

By signing below, I attest that I have accurately provided the name, address, date of birth and Social Security Number (SSN) for the following individuals (i.e. the beneficial owners):

(iii) Each individual, if any, who owns directly or indirectly, 10 percent or more of the equity interests of the legal entity customer (e.g., each natural person that owns 10 percent or more of the shares of a corporation); AND

(iv) An individual with significant responsibility for managing the legal entity customer (e.g., a Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Managing Member, General Partner, President, Vice President, or Treasurer)

The number of individuals that satisfy this definition of "beneficial owner" may vary. Under section (i), depending on the factual circumstances, up to four individuals (but as few as zero) may need to be identified. Regardless of the number of individuals identified under section (i), you must provide the identifying information of one individual under section (ii). It is possible that in some circumstances the same individual might be identified under both sections (e.g., the President of Acme, Inc. who also holds a 30% equity interest). Thus, a completed form will contain the identifying information of at least one individual (under section (ii)), and up to five individuals (i.e., one individual under section (ii) and four 25 percent equity holders under section (i)).

BENEFICIAL OWNERS OF THE BUSINESS (NO P.O. BOXES)

Principal #1 Name			SSN		% Ownership	Title
Residential Address			City	State	Zip	
Email	Date of Birth	State Issued ID	ID Number	Exp. Date	Cell Phone	Home Phone
Principal #2 Name			SSN		% Ownership	Title
Residential Address			City	State	Zip	
Email	Date of Birth	State Issued ID	ID Number	Exp. Date	Cell Phone	Home Phone
Principal #3 Name			SSN		% Ownership	Title
Residential Address			City	State	Zip	
Email	Date of Birth	State Issued ID	ID Number	Exp. Date	Cell Phone	Home Phone
Principal #4 Name			SSN		% Ownership	Title
Residential Address			City	State	Zip	
Email	Date of Birth	State Issued ID	ID Number	Exp. Date	Cell Phone	Home Phone

MANAGEMENT RESPONSIBILITY / INDIVIDUAL WITH SIGNIFICANT CONTROL - SECTION 2

Administrator Name			SSN		% Ownership	Title
Residential Address			City	State	Zip	
Email	Date of Birth	State Issued ID	ID Number	Exp. Date	Cell Phone	Home Phone

Please provide the following for all beneficial owners, either a copy of the front and back of their Drivers License or their US Passport

I hereby certify, to the best of my knowledge, that the information provided on this form is complete and correct for all accounts. It is further agreed that Bank will be immediately notified by the legal entity of any change in such information provided on this form.

Signature: _____

Date: _____



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Fee Schedules

Sales Information	ACH volume (if applicable)	Discount Payment Method: _____
Average Ticket: _____	Average Ticket: _____	
High Ticket: _____	High Ticket: _____	
Monthly Volume: _____	Monthly Volume: _____	
Annual Volume: _____	Annual Volume: _____	

Pricing

Qualification	Disc Fee (%)	Per Item (\$)	Qualification	Disc Fee (%)	Per Item (\$)	Minimum Fee	Qualification	Disc Fee (%)	Per Item (\$)
Other Services									
			Consumer						
PIX									

Supporting Information

License (State): _____	Monthly Min: _____	Industry Compliance: _____
	Wireless Fee: _____	Monthly Service Fee: _____
	Industry Non-Compliance: _____	Misc Monthly Fee: _____
		PCI Monitoring Fee: _____

Miscellaneous

Sales Transaction Fee: _____	Annual Fee: _____	Enable Gateway: _____	What Gateway: _____
Retrieval Fee: _____	Annual Fee Bill Month: _____	Monthly Fee: _____	
Batch Fee: _____	Chargeback Fee: _____	Auth Fee: _____	
ACH Reject: _____		Transaction Fee: _____	
Return Transaction Fee: _____		Batch Fee: _____	

Equipment

Equipment Name	Quantity	Price	Addendum	Notes
			In addition to Corduro's standard Terms & Conditions please refer to Addendum to Corduro CRB T&C Addendum.	
Shipping Costs		Pass-Through		
Bill To Merchant?	<input type="checkbox"/> Yes	<input type="checkbox"/> No		



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CERTIFICATION & AGREEMENT

On behalf of the forgoing legal business ("Merchant"), to induce Hagen Pay Company, Inc, Corduro Processing, Inc., and Corduro Merchant Services, LLC. herein referred to "CORDURO", the Acquiring Bank Card Member ("ACQUIRER") and Sponsoring Member ("SPONSOR") herein known as ("BANK"), service providers, 3rd party senders and 3rd party servicers herein known as ("PROCESSOR"), acting through CORDURO and reliance thereon, the undersigned certifies the accuracy of all the forgoing information and authorizes CORDURO, BANK, PROCESSOR, Credit Bureau, sponsor, 3rd party sender or receiver, or other investigative agencies contracted by CORDURO or others who are authorized to investigate any and all references, statements or other data contained herein or obtained from Merchant, other persons, companies or agencies pertaining to Merchant's and/or Guarantor's credit, financial responsibility and accuracy of any of the forgoing information. The undersigned further agrees to notify CORDURO and BANK of any and all changes which may occur from time to time in the information and statements contained herein. The person(s) signing this agreement certifies that he/she is authorized to enter into this agreement on behalf of Merchant "By executing this Merchant Application on behalf of the Merchant, the undersigned individual(s), represent(s), warrant(s), and acknowledge(s) that: (i) All information contained in this Merchant Application ("Application") is true, correct and complete as of the date of this Application; (ii) If the Merchant is a corporation, limited liability company, or partnership, the individual(s) executing this Application have the requisite legal power and authority to complete and submit this Application on behalf of the Merchant and to make and provide the acknowledgements, authorizations and agreements set forth herein on behalf of the Merchant and Individually; (iii) The information contained in this Application is provided for the purpose of obtaining, or maintaining, a merchant account for the Merchant as applicable, with the BANK; (iv) The undersigned has received, read, understood, the CORDURO Merchant Services Agreement, BANK Merchant Agreement and CORDURO and BANK's Addendum's ("AGREEMENT"), all of which, to the extent applicable, are incorporated herein and deemed a part hereof by reference and agrees on behalf of the Merchant to be bound by the terms and conditions of the AGREEMENT. The Merchant on whose behalf this Application is being submitted, acknowledges that this Application may be submitted to the BANK, who shall also be party to the AGREEMENT. Merchants acknowledges that CORDURO, PROCESSOR and BANK shall rely on the representations and warranties set forth in this Application for extending processing services defined in the AGREEMENT and unless otherwise specified or prohibited by applicable law, CORDURO shall have all the rights of BANK under this Application and AGREEMENT. By signing this Agreement, Merchant agrees to allow CORDURO to execute on behalf of MERCHANT, any agreements required by BANK or PROCESSORS to permit CORDURO to provide the services contracted for by Merchant under this Agreement.

MERCHANT ATTESTMENT

By completing this form, I hereby certify that the information and documentation provided for onboarding as a cannabis merchant are accurate, complete, and truthful to the best of my knowledge. I understand and agree to comply with all applicable laws, regulations, and policies governing cannabis-related business operations and transactions. I hereby agree to provide Corduro sales information for payment transactions that Corduro processes and I also authorize Corduro to contact and access as applicable the bank, pos provider, compliance provider and seed-to-sale provider as needed for compliance and reporting to ensure compliance is managed in accordance with the Corduro CRB T&C Addendum.

CORPORATE RESOLUTION

I, the undersigned, hereby certify that I hold the office indicated below of Merchant, organized and existing under the laws of the state indicated above and the attached document is a true copy of certain resolutions adopted at a meeting of the board of directors/general partnership/manager or members of a limited liability company, as appropriate, in accordance with the by-laws or other governing document of the company and the resolutions have not been rescinded or modified:

1. Resolved that any of the undersigned officers of the corporation are authorized to:
 - A. execute on behalf of this corporation, a Merchant Application and any agreements or other necessary documents including any amendments;
 - B. execute any document requested from time to time to be executed in furtherance of the Merchant Application or relationship resulting therefrom;
 - C. perform all acts that may be necessary to carry out the intent of the Merchant Application and the Corporate Resolution.
2. Resolved that the Merchant Application and the resulting relationship is ratified and approve.
3. Resolved that the entities receiving this Merchant Application are authorized to rely upon this Corporate Resolution until advised in writing by a like certification of any changes and are authorized to rely on such changed certification.

We agree and accept the terms and conditions specified and referenced in this Merchant Application.

Merchant: _____

Corduro:

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Signature: _____

Signature: _____

EXHIBIT A

BENEFICIAL OWNER ADDENDUM

MERCHANT	MERCHANT NAME (DBA OR TRADE NAME)	CORPORATE / LEGAL NAME
LOCATION ADDRESS	CORPORATE / MAILING ADDRESS	
CITY / STATE / ZIP	CITY / STATE / ZIP	

This Beneficial Ownership Addendum shall be attached to and made a part of the original Merchant Agreement between Bank and the undersigned.

To help the government fight financial crime, Federal regulation requires certain financial institutions to obtain, verify, and record information about the beneficial owners of legal entity customers. Legal entities can be abused to disguise involvement in terrorist financing, money laundering, tax evasion, corruption, fraud, and other financial crimes. Requiring the disclosure of key individuals who own or control a legal entity (i.e., the beneficial owners) helps law enforcement investigate and prosecute these crimes.

By signing below, I attest that I have accurately provided the name, address, date of birth and Social Security Number (SSN) for the following individuals (i.e. the beneficial owners):

- (iii) Each individual, if any, who owns directly or indirectly, 25 percent or more of the equity interests of the legal entity customer (e.g., each natural person that owns 25 percent or more of the shares of a corporation); AND
- (iv) An individual with significant responsibility for managing the legal entity customer (e.g., a Chief Executive Officer, Chief Financial Officer, Chief Operating Officer, Managing Member, General Partner, President, Vice President, or Treasurer).

The number of individuals that satisfy this definition of “beneficial owner” may vary. Under section (i), depending on the factual circumstances, up to four individuals (but as few as zero) may need to be identified. Regardless of the number of individuals identified under section (i), you must provide the identifying information of one individual under section (ii). It is possible that in some circumstances the same individual might be identified under both sections (e.g., the President of Acme, Inc. who also holds a 30% equity interest). Thus, a completed form will contain the identifying information of at least one individual (under section (ii)), and up to five individuals (i.e., one individual under section (ii) and four 25 percent equity holders under section (i)).

OWNERS / PARTNERS / OFFICERS				
BENEFICIAL OWNERS OF THE BUSINESS – SECTION 1 (NO P.O. BOXES)				
PRINCIPAL #1 NAME	SSN	% OWNERSHIP 0%	DATE OF BIRTH	TITLE
RESIDENTIAL ADDRESS		CITY / STATE / ZIP		
EMAIL	STATE ISSUED ID		EXP. DATE	
PRINCIPAL #2 NAME	SSN	% OWNERSHIP 0%	DATE OF BIRTH	TITLE
RESIDENTIAL ADDRESS		CITY / STATE / ZIP		
EMAIL	STATE ISSUED ID		EXP. DATE	
PRINCIPAL #3 NAME	SSN	% OWNERSHIP 0%	DATE OF BIRTH	TITLE
RESIDENTIAL ADDRESS		CITY / STATE / ZIP		
EMAIL	STATE ISSUED ID		EXP. DATE	
PRINCIPAL #4 NAME	SSN	% OWNERSHIP 0%	DATE OF BIRTH	TITLE
RESIDENTIAL ADDRESS		CITY / STATE / ZIP		
EMAIL	STATE ISSUED ID		EXP. DATE	
MANAGEMENT RESPONSIBILITY / INDIVIDUAL WITH SIGNIFICANT CONTROL-SECTION 2				
ADMINISTRATOR NAME	SSN	% OWNERSHIP 0%	DATE OF BIRTH	TITLE
RESIDENTIAL ADDRESS		CITY / STATE / ZIP		
EMAIL	STATE ISSUED ID		EXP. DATE	

I hereby certify, to the best of my knowledge, that the information provided on this form is complete and correct for all accounts. It is further agreed that Bank will be immediately notified by the legal entity of any change in such information provided on this form.

Signature: _____

SIGN

Date: _____



Merchant Attestation

By completing this form, I hereby certify that the information and documentation provided for onboarding as a cannabis merchant are accurate, complete, and truthful to the best of my knowledge. I acknowledge that any false or misleading information may result in termination of the onboarding process or other actions as deemed necessary. I understand and agree to comply with all applicable laws, regulations, and policies governing cannabis-related business operations and transactions. I hereby authorize Corduro to access the Compliance Software providers identified below as needed for compliance and reporting. I hereby agree to adopt a Compliance Provider if none is used today to ensure compliance is managed in accordance with the CRB T&C Addendum – Exhibit C.

Merchant Legal Name

Signature

Printed Name

Title

Date

Please provide who you work with for compliance and/or manages your account at your Bank:

Bank Name: _____

Bank Address: _____

Primary Contact: _____

Email: _____

Phone: _____

Compliance Management:

POS Provider: _____

S2S Provider: _____

Compliance Provider: _____

Other: _____



Exhibit B: Cannabis MERCHANT DOCUMENT CHECKLIST

1. General Business Documentation

- Completed and Signed Merchant Application “**A - Corduro MSA – CRB**”
- Completed and Signed “**B - Beneficial Ownership Document – Exhibit A**”
- Completed and Signed “**E - CRB Merchant Attestation - Exhibit D**”
- Depository Account Confirmation
 - Merchant Application (MPA) details confirmed with your bank, if we are unable to confirm we will need a Voided Check or Bank Letter on official bank letterhead.*
- Provide directly or provide Authorization and Access to 3rd Party Compliance portal, for the following:
 - SS-4 IRS EIN Confirmation Letter or W9
 - Articles of Incorporation or LLC Agreement (including ownership percentages)
 - Operating Agreement or Bylaws (if applicable)
 - Certificate of Good Standing from the state of incorporation
 - Business License & State/Local Permits and Licenses (as required by state law)
 - State & Local Cannabis Licenses (retail, cultivation, manufacturing, distribution, etc.)
 - Insurance Coverage (general liability, product liability, etc.)
- Authorization and Access to your Seed-to-Sale (S2S) provider or 3rd Party to confirm product compliance
 - Alternatively, COA (Certificate of Analysis) for all cannabis products you produce if the information is not available in the S2S provider.*
- Authorization and Access to your POS system or 3rd Party that has access to the details.
 - Alternatively, Supplier Agreements (contracts with wholesalers/manufacturers) with your primary suppliers (providing you 20% or more of your products).*

2. Financial Documentation

- Most recent business bank statements, last month minimally, last three months ideally.
- Profit & Loss Statement and Balance Sheet, last two years, as applicable.
 - Alternatively, Personal Tax Returns (last 2 years as applicable)*
 - Alternatively, Internal Financial Reports (e.g., reports from accounting software)*

3. Compliance and Policy Documentation

- AML/KYC Compliance Policies
- Refund Policy and related disclosures
- Marketing & Advertising policy and details
- Delivery Compliance Documents (GPS tracking, age verification, if applicable)
- Other Compliance / Certifications as applicable (e.g. PCI AOC, SOC)

4. Compliance Software Providers

We will work with any compliance software provider that provides similar services to please provide details as requested on the “E - Merchant Attestation - Exhibit D”.



Addendum to Corduro Terms & Condition for CRB

This addendum to Corduro MSA Terms and Conditions are incorporated by reference to the Merchant Services Agreement (“Agreement”) between the business indicated on the Merchant Services Application (“Merchant” or “Client” or “you”), and (“Corduro”, Processor or Gateway or Acquirer or “us” or “we”).

Addendum Definitions

- a. Corduro MSA Terms and Conditions can be found at
https://www.corduro.com/documents/Corduro_MSA_TermsandConditions.pdf
- b. Surcharges are additional fees for payment by the Buyer (also known as Customer) that are assessed against the total amount of purchased goods and/or services.
- c. Processing Costs are defined as all costs assessed by 3rd parties to process the transaction including but not limited to compliance fees, monitoring fees, Debit Network, FiServ, and sponsor bank.
- d. Cut-Off time is the time in that marks the end of the business day for transaction processing, for PIN DEBIT the Cut-Off time is 9pm CDT.

Processing Details

- a. We will send funds to your depository account the next business day for any transactions processed before the Cut-Off time from the prior business day.
- b. We will collect our Processing Costs and Surcharges on a daily basis for the prior business days transaction processing as applicable.
- c. In general we will collect any other costs associated with processing and managing your account on a monthly basis, unless otherwise requested or warranted, and the details will be included in your Monthly statement.
- d. We will provide a Monthly statement by the 15th of the month for the proceeding month as applicable.
- e. Merchant may request an audit of such billing but no more frequently than every 120 days.

Surcharges

- a. Surcharges are allowed for Debit transactions
- b. Surcharges can be %, Fixed, %+Fixed, and may have a minimum fee.
- c. Surcharges are based on the total amount of the sale including sales tax and tips if applicable.
- d. Surcharges are assessed to all sale, purchase transactions as applicable.
- e. Any changes to Surcharges if acceptable to all parties will require no less than 4 business days to implement.
- f. Surcharge fees will be stated in your Merchant Services Application.
- g. Surcharges are not refundable by us to you or the buyer.

Marketing

- a. You agree to adhere to state guidelines for the marketing of products sold at your dispensary

Refunds

- a. Merchant agrees to a no fault refund policy unless one has been provided by Merchant to Corduro for review and approval.
- b. Refunds shall only be in cash or store credit per the Merchants policy. If no refund policy exists then the Merchant agrees to provide a cash refund to the buyer.
- c. In the event that Merchant deems a refund is owed to the consumer, the merchant shall refund the entire amount of the purchase including any applicable tips, fees, taxes and surcharges in cash or store credit in accordance to your return policy.
- d. If the refund is a partial refund due to the nature of the return then the Merchant is obligated to refund the pro-rated amount of the tips, fees, taxes and surcharge that is applicable.

Delivery

- a. Product must be purchased in the store by the consumer.

License Management

- a. Merchant is required to provide the cannabis and state license for its business.
- b. Merchant is required to provide notice of any negative news, adverse action or similar notifications upon receipt via email to compliance@corduro.com.
- c. Merchant acknowledges that we will monitor license status with the applicable regulatory authority in their state.
- d. Merchant acknowledges that various events including but not limited to suspension of your license may require us to suspend processing until the matter is resolved.
- e. Merchant acknowledges that suspension of their license will require us to hold any funds unsettled from the date of the suspension for that dispensary until the matter is resolved.

Depository Institution

- a. Merchant may only use depository institutions that comply with the following requirements;
 1. Maintain a compliance group to manage state and federal filing requirements including but not limited to preliminary and ongoing verification that they are processing SAR reports.
- b. Merchant acknowledges that we will establish a direct relationship with their depository institution so that they receive the necessary processing data or reports as needed for their regulatory filing.
- c. Merchant agrees to notify us at least 10 business days prior to making a depository institution change to allow for time to confirm compliance requirements and make changes to settlement.

COA – Certificate of Analysis

- a. Merchant agrees to provide COA's for any products they produce.
- b. Merchant agrees to provide update COA's in a timely manner for what they produce.
- c. Merchant agrees to provide access to their Seed-to-Sale provider to verify COA's for any products they sell as needed to confirm compliance for payments processed by Corduro®.

AML / KYC Compliance

- a. Payments processed by Corduro® for Merchant must have a corresponding sales transaction in the Merchants POS as a primary requirement for AML compliance.
- b. Customer information associated with the payment processed through Corduro® must match the corresponding sales transaction between the Merchant and the consumer.
- c. Merchant agrees to provide a monthly report of sales information associated with payments acquired and processed through Corduro®. The report will contain at a minimum the detail sales information including but not limited to SKU's, description, quantity, unit price, date of sale, and customer identification.
- d. Merchant may also provide Corduro® access to their POS system to gather this information on a monthly basis.
- e. Merchant may also authorize Corduro® to access the data via a compliance vendor such as GreenCheckVerified.

Compliance Management

- a. We may request access to your providers to monitor reporting to government entities and to ensure all cannabis sales are legal and reported sales, such access could be direct, via your banking partner, POS provider (e.g. Dutchie), compliance 3rd Party (e.g. GreenCheckVerified), and a Seed-to-Sale provider (e.g. Metric).
- b. In the event that Dispensary is found non-compliant as it pertains to its ownership, licensure status, tax status, depository bank non-compliance, COA's, or other qualifying events, the Dispensary must provide evidence that they are working to correct its non-compliance status to avoid a non-compliance fee assessment and suspension.
- c. In the event that the Dispensary has been unable to remedy such non-compliance they will be subject to a non-compliance fee and suspension, details will be identified in the notice of non-compliance.
- d. In the event that the Dispensary has not corrected said non-compliance within the timelines specified in the notice of non-compliance, Dispensary will be subject to termination.
- e. In the event that the Depository bank is no longer compliant, Merchant acknowledges that Corduro® will hold deposits until such time a depository institution is compliant or Merchant moves its banking relationship to a compliant bank.

Reporting

- a. Merchant agrees to provide a monthly report of sales information associated with payments acquired and processed through Corduro®. The report will contain at a minimum the detail sales information including but not limited to SKU's, description, quantity, unit price, date of sale, and customer identification.
- b. Merchant may also provide Corduro® access to their POS system and/or Seed-to-Sale provider to gather this information on a monthly basis.
- c. Corduro® will provide the depository institution a monthly and quarterly report for payments processed by Corduro®.



This Merchant Services Agreement ("Agreement") is entered into on the Effective Date defined in Section 1.1, below, between the business indicated on the Merchant Application ("Merchant" or "Client" or "you"), Corduro Merchant Services, LLC., Corduro Processing, Inc., and Corduro Payments, Inc. f/k/a Hagen Pay Company, Inc. ("CORDURO" or Processor or Gateway or Acquirer or "us" or "we").

Recitals

Merchant desires to accept Debit Cards and/or Other Cards, and/or Electronic Checks ("ACH") stored value, prepaid, payroll, EBT, and gift cards as indicated in an Addendum to this Agreement, "Debit Cards" means debit cards validly issued by the debit card networks indicated in Section 1.3 below, such as on-line (PIN-based), and off-line (non PIN-based) consumer and business debit cards, and. "Other cards" means all cards issued by non-U.S. bank and all Discover Network, Visa, Mastercard, American Express, JCB cards other than Debit Cards, including but not limited to business and consumer credit cards.

1. TERM

- 1.1 Term. The Agreement is effective on the date signed by CORDURO (the "Effective Date"), and shall continue for a period of four (4) years from the Effective Date (the "Initial Term"). Notwithstanding the foregoing, if you submit a transaction prior to the Effective Date, you will be bound by all terms of this Agreement.
- 1.2 Extensions. Following completion of the Initial Term, this Agreement will be extended automatically for a successive two (2) year terms (each, a "Renewal Term," and together with the Initial Term and all Renewal Terms, the "Term"), unless either party sends written notice of termination to the other party no more than ninety (90) days and not less than thirty (30) days prior to the expiration of the then current Term, and such termination will be effective upon the expiration of the then current Term.
- 1.3 Debit Networks means those debit card networks accepted by CORDURO, including but not limited to the following organizations and their successors: Star, NYCE, Pulse, Interlink, Maestro, AFFN, Alaska, Jeanie, Accel, CU24, Shazam, and Money Station.

2. SCOPE OF SERVICES

- 2.1 Our Services. This Agreement covers those authentication and payment processing services described in the Schedules attached to this Agreement, for the fees set forth therein (the "Services"). Any additional terms and conditions set forth in the attached Schedules shall apply only to the Services described in such Schedule and are, with respect to such Services hereby incorporated into this Agreement by reference
- 2.2 Exclusivity. You will not use the services of any bank, corporation, entity or person other than us to provide you with the Services.
- 2.3 Software. The services may consist of certain software components.
- 2.4 Installation. You agree to install any such software on your computers. If necessary, at your request, we will use reasonable commercial efforts to install the Software on your computer server(s) on your behalf. In the event that we are unable to install the Software to our reasonable satisfaction, we may terminate this Agreement without any further liability to provide you with the Services.
- 2.5 Software License. We hereby grant to you a non-exclusive, non-transferable, limited right and license to use, display and perform the Software, solely in connection with your authorized use of the Service. This license extends to the object code form of the Software and you shall not have access to, or any rights with respect to, the source code of the Software.
- 2.6 Software Restrictions. You shall not, without our prior written consent: (a) use the Software at any location other than the server(s)

on which the Software has been installed; (b) modify, translate, make compilations of, reverse engineer, disassemble, decompile, tamper with, disclose, attempt to discover the source code or create any derivative work based on the Software; (c) use the Software in performance of authentication or payment processing services for others, or license or sublicense, or otherwise transfer the Software except where expressly permitted in writing by CORDURO; or (d) copy the Software, except for archival or back-up purposes.

- 2.7 Ownership of Software. CORDURO is and shall remain the sole and absolute owner of the Software, including but not limited to any updates, upgrades or enhancements thereof and additions thereto, and any other utilities, or related data we install on your server(s). We reserve the right to modify or replace or remove the Software at any time. Our suppliers are intended third party beneficiaries of this Agreement to the extent of any terms herein pertaining to such suppliers' ownership rights, and such suppliers have the right to rely on and directly enforce such terms against you.
- 2.8 Operation of the Software. The operating instructions provided to you by us will instruct you in the proper use of the Software, and you shall use and operate the Software only in such manner. You agree to cooperate with us in any attempt to diagnose any problem with the Software. In the event we require additional software or enhancements to the Software, you agree to cooperate and participate in any dial-in download procedure.

3. YOUR RESPONSIBILITIES

- 3.1 Compliance. In addition to the terms and conditions set forth in this Agreement, you agree to comply, at all times, with the operating rules of applicable processing networks we use in providing the Services. You further acknowledge and agree that we may, from time to time, amend this Agreement as may be necessary to comply with the applicable operating rules. We will provide you with written notice of any such change.
- 3.2 Financial Information. If required by the sponsoring institution You agree to the following; (a) To furnish us with such financial statements and information concerning you, your owners, principals, partners, proprietors or your affiliates as we may from time to time request, and; (b) You hereby authorize us to order a credit report on you or any of your owners, officers, shareholders, and partners, proprietors, managing agents or guarantors, and; (c) Further, you hereby authorize any depository institution to release any financial information concerning your or your accounts to us, and; (d) Subsequent credit reports may be ordered in connection with updating, renewing or continuing this Agreement, and; (e) Upon the written request of any individual who is the subject of a consumer credit report, we will provide the name and address of the consumer credit reporting agency furnishing such report, if any, and (f) We may exchange information about you, your owners, principals, partners, proprietors, officers, shareholders, managing agents and guarantors with financial institutions and network organizations and any other party, and; (g) You hereby authorize us to disclose information concerning your activity to any network organization, or any of their member financial institutions, or any other party without any liability whatsoever to you.
- 3.3 Change in Business. You agrees to provide us with thirty (30) days prior written notice of your intent to (a) transfer or sell any substantial part (10% or more) of its total stock, assets and/or to liquidate, (b) change the basic nature of your business, or (c) change your product line or service(s), trade name, or the manner in which you accept transaction payments. Upon the occurrence of any such event, the terms of this Agreement may be modified to address issues arising therefrom, as we may deem appropriate. If we determine such a change is material to our relationship with you, we may refuse to process transactions made pursuant to such changes.
- 3.4 Change of Financial Status. You agree to give us prompt written



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notice if you are the subject of any voluntary or involuntary bankruptcy or insolvency petition or proceeding.

- 3.5 **Taxes.** You shall be solely and fully responsible for payment of any and all applicable local, state, and federal use, or value-added taxes associated with your use of our Service (other than taxes based upon our income).
- 3.6 **Credit Card Processing.** CORDURO has entered into arrangements with sponsoring financial institutions for the processing and settlement of credit card transactions. As part of these arrangements, these financial institutions require that certain terms and conditions govern CORDURO's credit card processing services. These terms and conditions are set forth in the Credit Card Processing Addendum attached hereto and are incorporated by reference into this Agreement. The parties acknowledge and agree that terms and conditions set forth in the Credit Card Processing Addendum shall only apply to credit card payment transactions processed by CORDURO through the Services.
- 3.7 **Debit Card Processing.** CORDURO has entered into arrangements with sponsoring financial institutions for the processing and settlement of debit card transactions. As part of these arrangements, these financial institutions require that certain terms and conditions govern CORDURO's debit card processing services. These terms and conditions are set forth in the Debit Card Processing Addendum attached hereto and are incorporated by reference into this Agreement. The parties acknowledge and agree that terms and conditions set forth in the Debit Card Processing Addendum shall only apply to debit card payment transactions processed by CORDURO through the Services.
- 3.8 **ACH Processing.** CORDURO has entered into arrangements with sponsoring financial institutions for the processing and settlement of ach transactions. As part of these arrangements, these financial institutions require that certain terms and conditions govern CORDURO's ach processing services. These terms and conditions are set forth in the ACH Processing Addendum attached hereto and are incorporated by reference into this Agreement. The parties acknowledge and agree that terms and conditions set forth in the ACH Processing Addendum shall only apply to ach payment transactions processed by CORDURO through the Services.

4. REQUIREMENTS FOR TRANSACTION DATA.

- 4.1 **Transaction Data.** As to each transaction you tender to us or tendered on your behalf for processing through the Services, you represent and warrant that: (a) the transaction data represents payment or refund of payment, for the bona fide purchase of goods or services which you have provided in the ordinary course of your business, and the transaction data is not submitted on behalf of a third party; (b) the transaction data is free from any aberration not authorized by your customer or us; (c) the transaction complies with all applicable local, state, and federal laws, ordinances, and regulations; (d) you have made no representation or agreements for the issuance of refunds except as it states in your return/cancellation policy, and (e) you have no knowledge or notice of information that would lead you to believe that the enforceability of the subject transaction data is in any manner impaired, and you have originated the transaction data in compliance with this Agreement.
- 4.2 **Customer Approvals.** You are required to obtain your customer's authorization/approval for all transactions to be submitted through the Services.
- 4.3 **Refusal.** We reserve the right to refuse to process any transaction presented by you (a) unless a proper authorization/approval is recorded, (b) if we determine the transaction is or will not be paid, or (c) if we determine the transaction was prepared in violation of any provision of this Agreement.

5. RECORDS

- 5.1 **Record Requirements.** You agree to store documentation for each

transaction for at least one (1) year from the date of each transaction. You will not charge a fee for the creation and storage of such records.

- 5.2 **Retrieval Requests.** If we, or a card issuer, network or third party processor requires more information to properly process a transaction, we will send you a "Retrieval Request" specifying the necessary information requested. You agree to provide us, in writing by certified mail or by overnight courier or by confirmed fax or by other means we may agree to, the information specified in the Retrieval Request, including legible copies of any documentation required by the Retrieval Request, within seven (7) business days after the request is sent. You acknowledge that your failure to fulfill a Retrieval Request may result in an irreversible charge back against your transaction proceeds, the Merchant Account or Reserve Account.

6. PAYMENT AND SETTLEMENT PROCESSING

- 6.1 **Merchant Bank Account.** You agree to maintain a Merchant Bank Account at a bank that is a member of the Automated Clearing House ("ACH") System, the Federal Reserve wire system and connected to a least one of the participating EFT networks or processors ("Merchant Account"). You are solely responsible for all costs and fees associated with the Merchant Account. You agree not to give us at least five (5) business days notice if intend to change or close the Merchant Account and we must approve such change in writing any proposed changes taking effect. You hereby authorize us to debit and credit the Merchant Account at any time pursuant to the terms of this Agreement.
- 6.2 **Processing Statements.** We will provide you with a daily status report, in an electronic format concerning transactions processed by us on your behalf.
- 6.3 **Remittances.** The Merchant Account will be credited for the gross amount of the transaction value less the associated Processing Fees. Availability of any such funds shall be subject to the procedures of the applicable financial institution. In addition, you agree to pay, and the Merchant Account will be debited on a daily basis for: (a) Any permitted chargebacks or other adjustments; and (b) Any fees, arbitration fees, fines, penalties, etc., charged by the card associations or network organizations on account of processing your transactions under this Agreement. If an error occurs, the Merchant Account may be debited or credited therefore. You represent and warrant that no one other than you has any claim against the transaction amounts except as authorized in writing by us.
- 6.4 **Minimum Balance.** You acknowledge that any charges, refunds, chargebacks or similar offsetting transactions may result in the Merchant Account having a negative balance, and you are solely responsible for maintaining sufficient balance in your account to pay this negative balance. In the event that such charges cannot be applied to the Merchant Account, we may pursue one or more of the following actions: (a) Demand and receive immediate payment of such amount(s); (b) Withhold all settlement payments until such amount(s) are paid; (c) Collect any amount(s) due from any other of your bank accounts without notice to you; or (d) Pursue any remedies we may have at law or in equity.
- 6.5 **Statement Reporting.** We will provide you online detailed statements reflecting your transaction activity, settlements and payments. We will not be responsible for any error that you did not bring to our attention within ninety (90) days from the date of the transaction.
- 6.6 **Transactions Audit.** With prior notice and during your normal hours of operation, our duly authorized representatives may visit your business premises and may examine only that part of your books and records that pertain to transactions sent to us for processing.
- 6.7 **ACH Authorization.** You authorize CORDURO to initiate debit/credit entries to the Designated Account, the Reserve Account, or any other account maintained by you at any institution, all in accordance with this Agreement. This authorization will remain in effect beyond termination of this Agreement. In the event you



change the Designated Account, this authorization will apply to the new account.

7. CHARGEBACKS

- 7.1 **Reasons for Chargebacks.** If a transaction is charged back by the card issuing institution, or if we have any reason to believe a transaction charge is not genuine, or is otherwise unacceptable, the amount of such transaction may be charged back and deducted from any payment due to you or may be charged against the Merchant Account or the Reserve Account (as defined below). You understand that obtaining an authorization for any transaction shall not constitute a guarantee of payment, and such transactions can be returned or charged back to you.
- 7.2 **Excessive Chargebacks.** If we determine that you are receiving excessive amount of chargebacks, in addition to other remedies we may have under this Agreement we may take the following actions: (a) review your internal procedures relating to transaction processing and notify you of any new procedures you should adopt (at your sole discretion) in order to avoid future chargebacks; (b) notify you of a new rate we will charge you to process your chargebacks; (c) establish or increase the amount of the Reserve Account (defined below) to an amount reasonably determined by us to be sufficient to cover anticipated chargebacks and related fees and fines; or (d) terminate this Agreement with written notice of termination.
- 7.3 **Excessive Chargeback Thresholds.** For purposes of this Agreement, an excessive number of chargebacks means one chargeback per one hundred (100) transactions or the total dollar amount of chargebacks is greater than or equal to one (1) percent of the total dollar amount of transactions for any thirty (30) day period. The foregoing percentages are subject to change in accordance with card issuer, network or applicable third party processor rules.
- 7.4 **CORDURO Chargeback Liability.** CORDURO shall not be responsible for any type of "returned", "disputed", "rescinded", or "charged-back" items processed.

8. RESERVE ACCOUNT

- 8.1 **Establishment of Reserve Account.** We may temporarily suspend payments to you and/or designate an amount of funds that we will maintain in order to protect us against the risk of existing or anticipated charges and/or chargebacks and to satisfy any other obligations under this Agreement (the "Reserve Account"). The Reserve Account will contain sufficient funds to cover any unbilled processing costs plus our estimated exposure based on reasonable criteria for chargebacks, returns and unshipped merchandise and/or unfulfilled services. The Reserve Account may be funded through any or all of the following: (a) direct payment by you, in which event, you will deposit funds in the Reserve Account upon our request; (b) the proceeds of processed transactions; or (c) the transfer by us into the Reserve Account of funds withdrawn from any Merchant Account.
- 8.2 **Use of Reserve Account.** We may, but are not required to, apply funds in the Reserve Account toward, and may set off any funds that would be otherwise payable to you against the satisfaction of any amounts which are or become due from you pursuant to this Agreement, and you hereby authorize us to deduct amounts from the Reserve Account for this purpose.
- 8.3 **Standing Funds.** The Reserve Account will not bear interest and you will have no interest in the funds in the Reserve Account. Any funds in the Reserve Account may be commingled with other funds, and need not be maintained in a separate account. Any funds in the Reserve Account may be held until the expiration of any potentially applicable chargeback rights in respect of processed transactions, which holding period may extend beyond termination of this Agreement. Without limiting the generality of the foregoing, upon termination of this Agreement, we shall be allowed to transfer into the Reserve Account any or all funds and proceeds for the sole

purpose of satisfying any customer refunds, credits, rescissions, chargeback's, fees, fines, or penalties levied by the source bank, network or financial institution or regulatory agency, and hold such amounts for a period of six (6) months.

- 8.4 **Security Interest in Reserve Account.** Upon establishment of a Reserve Account, you irrevocably grant to us a security interest in any and all funds, together with the proceeds thereof, that may at any time be in our possession and would otherwise be payable to you pursuant to this Agreement. You agree to execute and deliver to us such agreements and documents that we may reasonably request to perfect and confirm the security interest and the right of setoff against the Reserve Account as set forth in this Agreement.

9. CUSTOMER INFORMATION; SECURED DATA

- 9.1 **Collection of Customer Information.** We will collect certain information related to the transaction data from your customers in connection with the utilization of the Services. We shall be the sole recipient of such information and at no time shall you have rights in or to such information and you may not access, seek to access, copy, maintain, or disclose any such information in any form or manner.
- 9.2 **Secured Data.** You shall at all times maintain technical security levels in compliance with our requirements as described in the Rules. We shall have the right to periodically audit your systems and processes to ensure that they comply with all such security requirements. We may suspend the performance of Services to the extent that we determine that you are not complying with the security requirements until such time as you comply. If at any time, you determine that the required security has been compromised, you will notify us immediately and assist in providing notification to the proper parties we deem necessary.

10. CONFIDENTIALITY AND INTELLECTUAL PROPERTY

- 10.1 **Confidential Information.** The term Confidential Information means and shall include any information in any form emanating directly or indirectly from us including, but not limited to any software provided by us to you in connection with the Services and any other technical or business documents, drawings, models, apparatus, sketches, designs, software, techniques, technology, features or functions, any data compilations, analyses, service levels, errors, incidents, our performance under this Agreement and know-how furnished to you by CORDURO in connection with this Agreement or the provision of the Services and which are designated in writing to be confidential. All customer information collected by us shall be our Confidential Information regardless of whether or not the same are marked as confidential. You shall only use the Confidential Information in connection with the Services and for no other purpose.
- 10.2 **Need-to-Know.** You shall not communicate Confidential Information to any third party without our prior written consent. You shall use reasonable efforts to prevent inadvertent disclosure of our Confidential Information to any third party; provided, however, that each party may disclose on a need-to-know basis the Confidential Information to any of its directors, officers, employees, agents or consultants (collectively "Representatives"), it being understood that such Representatives shall be informed by each party of the confidential nature of the Confidential Information and shall agree to be bound by the terms of this Agreement.
- 10.3 **Public Information.** The obligations of this Agreement shall terminate with respect to any particular portion of the Confidential Information when you can document that it was in the public domain at the time of the disclosure or it entered the public domain through no fault of your subsequent to the time of disclosure.
- 10.4 **Legal Proceedings.** In the event that you or any of your Representatives are requested or required (by oral question or request for information or documents and legal proceedings, interrogatories, subpoena, civil investigative demand or similar process) to disclose Confidential Information or if you are advised



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by your legal counsel in connection with any transaction involving you that you are legally required to disclose any Confidential Information, it is agreed that you: (a) will provide us prompt notice of any request or requirement; (b) will provide us full and complete cooperation to seek an appropriate order or remedy; (c) will cooperate with us in obtaining reliable assurances that confidential treatment will be accorded to the disclosure of Confidential Information, and (d) will, if disclosure of said Confidential Information is required, disclose only that portion of the Confidential Information which is legally required to be disclosed. You or your Representative shall not be liable for disclosure of Confidential Information under a regulation or to a tribunal compelling such disclosure, if you have complied with the notice and cooperation provisions of this paragraph, unless such disclosure to such tribunal is caused by or resulted from a previous disclosure by you or any of your Representatives not permitted by this Agreement.

- 10.5 Intellectual Property. All rights, title and interest in and to any original works of authorship, discoveries, patents, ideas, concepts, procedures or any improvements to the Software or Services which are created by or conceived, first reduced to practice, made or developed by CORDURO prior to the Effective Date or in anticipation of, in the course of, or as a result of design and development work pursuant to this Agreement, including without limitation any source coded and object code relating to the Software shall be solely owned by CORDURO. In any application in which CORDURO develops the programming, unless otherwise agreed to in writing, CORDURO shall be the sole owner of all rights in and to such programming.
- 10.6 Use of Marks. Except as specifically set forth in this Agreement, neither party shall publish or use or change the party's names, logos, trademarks or service marks in any manner inconsistent with the functional use of the CORDURO program(s) or service(s) without mutual prior written consent.
- 10.7 Remedy. It is understood and agreed that money damages would not be a sufficient remedy for any breach of this Agreement. Each party shall be entitled to seek specific performance and injunctive or other equitable relief as a remedy for any such breach. Both parties further agree to waive any requirement for the securing or posting of any bond in connection with such remedy. Such remedy shall not be deemed to be the exclusive remedy for breach of this Agreement, but shall be in addition to all other remedies available at law or equity.
- 10.8 Return of Information. Upon termination of this Agreement for any reason, you shall return to us all Confidential Information and all of our other intellectual property, and all copies thereof in your possession or control.
- 10.9 Survival. Nothing in this Agreement shall be construed as granting or conferring any rights, by license or otherwise, in any Confidential Information or Intellectual Property disclosed to you by CORDURO. The provisions of this Agreement shall survive any termination of this Agreement.

11. TERMINATION

- 11.1 Termination with Notice. We may terminate this Agreement if you fail to comply with any material term or condition of this Agreement and your failure to comply remains un-remedied for thirty (30) days after your receipt of written notice from us specifying such failure.
- 11.2 Termination for Convenience. Notwithstanding any provision in this Agreement to the contrary, if you terminate this Agreement for convenience prior to the expiration of the then current Term, in order to compensate us for our lost revenue, you agree to pay us as liquidated damages an amount calculated by multiplying the average monthly fees (net of card association, bank and network fees and any assessments and fines) from the prior six (6) months by the number of months remaining in the term of this Agreement. We may deduct such amount from any transaction proceeds then held by us, or we may send you an invoice for such amount, or any combination of these two methods. In the event we send you an invoice, such invoice shall be due and payable within thirty (30) days of the

invoice date. If the invoice becomes past due, the past due amount shall accrue interest at the lesser of (a) one and one half percent (1 ½%) per month, or (b) the highest rate permitted by applicable law, until paid in full.

- 11.3 Termination without Notice. In addition, we may terminate this Agreement without any notice if (a) We have cause to believe you are, were, or will be using our services for questionable or illegal activity; (b) You fail to pay any charge when due; (c) Any card issuer, sponsor, network or third party processor is no longer willing to accept your transactions; (d) You become listed in the MATCH file (Member Alert to Control High-Risk Merchants) maintained by Visa and MasterCard; (e) Your insolvency, bankruptcy, receivership or dissolution; (f) We deem you to be financially insecure.
- 11.4 Effect of Termination. Upon termination, it is your responsibility to immediately discontinue use and access to the Software and Service and all related data and information. Termination shall not affect any party's rights and obligations arising under this Agreement prior to such termination. If you submit transaction data to us after the date for which you have given us notice of termination, we may, at our discretion, but without (a) waiving any rights arising from such termination, or (b) reinstating the termination of any rights or obligations under this Agreement, process such transaction data in accordance with the terms of this Agreement.

12. WARRANTY, LIMITATION OF LIABILITY AND INDEMNIFICATION

- 12.1 NO WARRANTY. CORDURO MAKES NO WARRANTY, EXPRESSED OR IMPLIED, WITH RESPECT TO ANY SOFTWARE PROVIDED BY US TO YOU IN CONNECTION WITH THE SERVICES OR THE SERVICES OR TO THE QUALITY RELIABILITY, FITNESS FOR A PARTICULAR PURPOSE OR SUITABILITY OF THE SOFTWARE OR THE SERVICES FOR YOUR APPLICATION, WEBSITE(S), PRODUCTS, SERVICES, OR TRANSACTIONS. THE SOFTWARE AND SERVICES ARE NOT WARRANTED TO BE ERROR-FREE OR INTERRUPTION-FREE.
- 12.2 LIMITATION OF LIABILITY. IF THE SOFTWARE OR SERVICES PROVIDED BY CORDURO PROVES TO BE DEFECTIVE IN ANY REGARD, CORDURO'S SOLE AND ENTIRE LIABILITY WILL BE TO REPAIR OR REPLACE THE DEFECTIVE SOFTWARE OR SERVICE WITH CONFORMING SOFTWARE OR SERVICE, AS APPLICABLE AND IF POSSIBLE, AT NO CHARGE TO YOU. NO DEALER, DISTRIBUTOR, AGENT, THIRD PARTY OR EMPLOYEE OR CORDURO IS AUTHORIZED TO MAKE ANY WARRANTIES ON BEHALF OF CORDURO, OR TO ASSUME FOR CORDURO ANY LIABILITY IN CONNECTION WITH THE SOFTWARE OR SERVICE(S). IN NO EVENT SHALL CORDURO BE LIABLE FOR INDIRECT, CONSEQUENTIAL, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES OR LOST SALES OR LOST PROFITS OF ANY KIND, WHETHER OR NOT CORDURO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, UNDER ANY THEORY OF RECOVERY, IN LAW OR IN EQUITY, OR OTHERWISE. THE LIMITATIONS OF LIABILITY SET FORTH IN THIS SECTION SHALL APPLY REGARDLESS OF THE FORM OF THE CLAIM OR ACTION, AND WHETHER OR NOT DAMAGES WERE FORESEEABLE. IN NO EVENT SHALL CORDURO BE LIABLE FOR: (a) ANY BILLING, COLLECTION, TECHNICAL, OR OTHER MISTAKES OR ERRORS; OR (b) CLAIMS, DEMANDS OR ACTIONS AGAINST CLIENT BY ANY OTHER PARTY. THE REMEDIES OF THE PARTIES ARE EXCLUSIVE IN THIS REGARD.
- 12.3 Indemnification. Upon our demand, you agree to indemnify and hold harmless CORDURO, our employees, shareholders, officers, agents, and director from any and all fines, penalties, losses,

damages, claims, expenses (including court costs and attorney fees) and other liabilities attributable to, arising out of, resulting from or in connection with (a) this Agreement or the breach by you of any of your representations, warranties or covenants contained herein, (b) any act, omission or negligence, gross negligence or willful misconduct, by you or your employees, or any subcontractor or agent or employee of any one of them, , or (c) claims of third parties arising out of, or resulting from or in connection with your products or services, messages, programs, telemarketing, promotions, advertising, infringement or any claim for libel or slander, obscenity or violation of copyright, trademark or other intellectual property.

13. MISCELLANEOUS

- 13.1 **Relationship.** The relationship between the parties under this Agreement is one of independent contractors. This Agreement is not intended to and does not create an agency, partnership, or joint venture relationship between the parties.
- 13.2 **Financial Accommodation.** The acquisition and processing of transactions under this Agreement is a financial accommodation and, as such, in the event you become a debtor in bankruptcy, this Agreement cannot be assumed or enforced, and we shall be excused from performance hereunder.
- 13.3 **No Assignment.** You may not assign this Agreement without the prior written consent of CORDURO. Any attempt to assign this Agreement or any rights or to delegate obligations under this Agreement in violation of this Section shall be void.
- 13.4 **Entire Agreement; No Third Party Beneficiaries.** This Agreement (including the exhibits hereto and the documents and the instruments referred to herein and therein): (a) constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, among the parties with respect to the subject matter hereof, and (b) are not intended to and do not confer upon any person other than the parties hereto any rights or remedies hereunder.
- 13.5 **Binding Agreement.** This Agreement binds you and us and our respective heirs, representatives, successors (including those by merger and acquisition) and permitted assigns.
- 13.6 **Severability.** If any provision of this Agreement is held to be illegal, invalid or unenforceable under present or future laws effective during the Term, such provision shall be fully severable and this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision never comprised a part hereof, and the remaining provisions hereof shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance herefrom. Furthermore, in lieu of such illegal, invalid or unenforceable provision, there shall be added automatically as part of this Agreement a provision as similar in terms and intent to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable. If any law, regulation, order, whether federal, state, or local, becomes effective, which substantially and materially alters the ability of either party to perform under this Agreement, the affected party, shall have the right to terminate this Agreement, without penalty, upon 30 days advance written notice to the other party.
- 13.7 **Notices.** Any notice required by this Agreement will be effective and deemed delivered: (a) three (3) business days after posting with the United States Postal Service when mailed by certified mail, return receipt requested, properly addressed and with the correct postage, or (b) one (1) business day after pick-up by the courier service when sent by overnight courier, properly addressed and prepaid. Notices will be sent to the address set forth in this Agreement, and copies of all notices to CORDURO shall be sent to: 550 Reserve Street, STE 190, Southlake, Texas 76092, Attn: Legal Department. This address information may not be changed unless either party notifies the other party in accordance with the terms of this Section.
- 13.8 **Force Majeure.** We shall not be liable for failure to provide the Services if such failure is due to any cause or condition beyond our

reasonable control. Such causes or conditions shall include, but shall not be limited to, acts of God or of the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine, restrictions, strikes, shortages of labor or materials, freight embargoes, unusually severe weather, breakdown, operational failures, electrical power failures, communication failures, unavoidable delays, or other similar causes beyond our control.

- 13.9 **Choice of Law; Jurisdiction.** This Agreement shall be construed and enforced in accordance with the laws of the State of Texas and the venue for any action, dispute or proceeding with respect to this Agreement shall be the city and county of Dallas, Texas.
- 13.10 **Expenses of Enforcement.** In any action to enforce our rights under this Agreement, you will liable for all of our costs, expenses and reasonable attorney's fees.
- 13.11 **Merchant Application.** As a material inducement to CORDURO entering into this Agreement, you represent and warrant to us that all statements made by you on your Merchant Application, attached hereto as Exhibit A, are true as of the date of your execution of this Agreement. CORDURO is authorized to investigate, either through its own agents or through credit bureaus/agencies, the credit of the Client and each person listed on this Application CORDURO may require certain identifying or other information regarding principals of Client as a condition for processing or underwriting transactions in accordance with this Agreement.
- 13.12 **Headings.** Section headings are for convenience only and do not define, limit or describe the scope or intent of this Agreement.
- 13.13 **No Waivers.** No provision of this Agreement shall be deemed waived by any party unless such waiver is in writing and signed by the party against whom enforcement is sought. It is further understood and agreed that no failure or delay by either party in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege hereunder.