

MERCHANT TERMS AND CONDITIONS OF USE

Version 2026.1.2 – 9-15-26 – Supersedes all prior versions.

BY USING OR OTHERWISE ACCEPTING THE “ROUND 2 PLATFORM” (AS DEFINED IN SECTION 36 – “DEFINITIONS”), YOU AGREE TO THESE MERCHANT TERMS AND CONDITIONS OF USE (THESE “TERMS”). YOU ALSO AGREE TO ANY ORDER FORM, ROUND 2’S PRIVACY POLICY, ROUND 2’S END USER LICENSE AGREEMENT, AND ANY OTHER AGREEMENT BETWEEN YOU AND ROUND 2 THAT INCORPORATES THESE TERMS (COLLECTIVELY, THE “REFERENCED AGREEMENTS”), AND YOU FURTHER AGREE THAT THESE TERMS AND THE REFERENCED AGREEMENTS GOVERN YOUR USE OF THE ROUND 2 PLATFORM. IF YOU DO NOT AGREE TO THESE TERMS, DO NOT ACCESS OR USE THE ROUND 2 PLATFORM. IF THERE IS A CONFLICT BETWEEN THESE TERMS AND ANY REFERENCED AGREEMENT, THESE TERMS CONTROL, EXCEPT AS FOLLOWS AND IN EACH CASE ONLY TO THE EXTENT OF THE CONFLICT: (I) A WRITTEN ORDER FORM SIGNED BY YOU AND COUNTERSIGNED BY ROUND 2 CONTROLS OVER THESE TERMS AS TO THE SPECIFIC PRODUCTS, SERVICES, QUANTITIES, LOCATIONS, AND FEES IDENTIFIED IN THAT ORDER FORM; AND (II) A PRODUCT-SPECIFIC AGREEMENT CONTROLS OVER THESE TERMS AS TO THE SUBJECT MATTER OF THAT PRODUCT-SPECIFIC AGREEMENT. A “PRODUCT-SPECIFIC AGREEMENT” MEANS A REFERENCED AGREEMENT THAT ROUND 2 DESIGNATES AS GOVERNING A SPECIFIC PRODUCT, MODULE, OR SERVICE OFFERED AS PART OF OR IN CONNECTION WITH THE ROUND 2 PLATFORM. ROUND 2 ALSO PUBLISHES THE “ONLINE ORDERING TERMS OF USE,” WHICH ARE ROUND 2’S CUSTOMER-FACING TERMS FOR THE ONLINE ORDERING SERVICE; THOSE TERMS ARE AN AGREEMENT BETWEEN ROUND 2 AND YOUR CUSTOMERS AND ARE NOT A PRODUCT-SPECIFIC AGREEMENT. YOU REPRESENT THAT YOU ARE ACCESSING AND USING THE ROUND 2 PLATFORM FOR BUSINESS PURPOSES AND NOT FOR PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES, THAT YOU ARE AT LEAST 18 YEARS OF AGE, AND THAT THE INDIVIDUAL ACCEPTING THESE TERMS IS AUTHORIZED TO BIND YOU.

The following rules govern the relationship between these Terms and any Product-Specific Agreement. These Terms continue to apply in full to the subject matter of a Product-Specific Agreement except to the extent of an actual and irreconcilable conflict. The absence of a provision from a Product-Specific Agreement is not a conflict, and no provision of these Terms is limited, waived, or superseded by implication. Where both these Terms and a Product-Specific Agreement address the same subject and can be read consistently, both apply, and the provision imposing the greater obligation on you or affording Round 2 the greater protection controls. No Product-Specific Agreement increases Round 2’s liability beyond the limitations in Sections 22, 23, and 24, reduces your obligations under Section 21, or alters Section 31 or Section 36, unless it expressly identifies the Section of these Terms that it amends and is signed by an authorized officer of Round 2. A Product-Specific Agreement may state a lower limitation of Round 2’s liability for claims relating to its subject matter, and that lower limitation applies to those claims.

ROUND 2 MAY MODIFY THESE TERMS FROM TIME TO TIME UPON PRIOR NOTICE TO YOU BY EMAIL, THROUGH THE ROUND 2 PLATFORM, OR BY ANOTHER REASONABLE METHOD. ANY REVISED VERSION WILL APPLY PROSPECTIVELY ONLY AND WILL NOT APPLY RETROACTIVELY. UNLESS OTHERWISE STATED IN THE NOTICE, THE REVISED VERSION WILL BECOME EFFECTIVE ON THE DATE STATED IN THE NOTICE. YOUR CONTINUED USE OF THE ROUND 2 PLATFORM AFTER THE EFFECTIVE DATE OF THE REVISED VERSION

CONSTITUTES YOUR ACCEPTANCE OF THE REVISED VERSION. ANY DISPUTE ARISING BEFORE THE EFFECTIVE DATE OF A REVISED VERSION WILL BE GOVERNED BY THE VERSION OF THESE TERMS THAT WAS IN EFFECT WHEN THE DISPUTE AROSE. THE MODIFICATION PROCEDURE IN THIS PARAGRAPH IS THE ONLY MEANS BY WHICH ROUND 2 MAY MODIFY THESE TERMS. ROUND 2 SHALL RETAIN A DATED COPY OF EACH VERSION OF THESE TERMS AND A RECORD OF YOUR ACCEPTANCE.

1. **Use of the Round 2 Platform.** Before using the Round 2 Platform, you must create an account for the Round 2 Platform and provide all required information. You shall keep your account information updated and accurate. You represent that all information you provide is accurate and complete and that you are authorized to provide it. If you provide personal information, Round 2 shall treat your information in accordance with Round 2's privacy policy, currently available at www.round2pos.com/privacy (or such other location as Round 2 may designate from time to time), which is incorporated into these Terms by reference.

As part of the registration process, you must identify an administrative username and password for your account. You shall maintain your username and password in confidence. In its sole discretion, Round 2 may refuse any registration or cancel any passwords it deems inappropriate. You are responsible for all activity occurring under your account and access credentials, whether or not authorized by you.

Round 2 may modify, suspend, or terminate your access to the Round 2 Platform at any time for any reason in its sole discretion. If Round 2 suspends or terminates your access for convenience and not (i) for your breach of these Terms, (ii) for non-payment, (iii) as required by applicable Law, Card Brand rules, or a Partner, or (iv) in response to a security, legal, or reputational risk, then Round 2 shall refund the pro-rata portion of any prepaid recurring Fees attributable to the period after the effective date of the suspension or termination, and that refund is your exclusive remedy for the suspension or termination. Each employee or other authorized end user must have his or her own access information and you shall ensure that each employee and authorized end user keeps his or her access information in confidence and does not share this information with any other person or entity.

2. **Software.** During the Term, Round 2 grants you a revocable, non-exclusive, non-transferable, non-sublicensable, limited right to access and use the Round 2 Platform (including the Round 2 Software in object code only) (the "Use Right") and any Documentation only for your internal business purposes and only at the locations you specify in your Order Form. Round 2 Software must only be installed on Hardware that was provided to you by Round 2, an Authorized Reseller, or otherwise approved by Round 2 in writing. You shall not exceed the number of licenses, locations, POS Terminals, or authorized end users set forth in your Order Form. Upon at least ten (10) business days' prior written notice, and no more than once in any twelve (12) month period (or at any time following a suspected breach of this Section 2), Round 2 may audit your use of the Round 2 Platform to verify compliance with these Terms, and you shall promptly pay Additional Fees at Round 2's then-current rates for any use in excess of your Order Form.

Regarding your use of and access to the Round 2 Platform, you shall not: (a) copy and distribute the Round 2 Platform or any portion of it; (b) sublicense, lease, rent, or transfer the Round 2 Platform to another person or entity; (c) cause or permit reverse engineering, disassembly, alterations, decompilation, or creation of derivative works from the Round 2 Platform, except to the minimum extent that this restriction is unenforceable under applicable Law; (d) remove any product identification,

copyright notices, or other notices or proprietary restrictions from the Round 2 Platform; or (e) copy the Documentation accompanying the Round 2 Platform or distribute any of the Documentation to any third party without Round 2's prior written approval. In addition, you shall not: (f) access or use the Round 2 Platform to build, train, or benchmark a competing product or service, or disclose any performance or benchmarking results relating to the Round 2 Platform; (g) use the Round 2 Platform in violation of any applicable Law or Card Brand rule, or to store, transmit, or process any unlawful, infringing, or malicious material; (h) circumvent or attempt to circumvent any security, usage, licensing, or access limitation of the Round 2 Platform; or (i) permit any person other than your employees and authorized end users to access the Round 2 Platform.

The Round 2 Platform is proprietary to Round 2 and is protected by copyright and other intellectual property rights.

Round 2 owns or has licensing rights to all the constituent parts of the Round 2 Platform, and your Use Right under these Terms does not grant you any ownership interest in the Round 2 Platform (or any constituent part). This Use Right does not grant you any right to any Work Product, trademarks or other intellectual property relating to or arising from the Round 2 Platform, all of which shall be owned by Round 2 or its licensors. Round 2 reserves all rights not expressly granted to you in these Terms; nothing in these Terms is granted by implication or estoppel. The Round 2 Platform may include third-party or open-source components licensed under separate terms, which Round 2 shall make available to you on request and which control as to those components.

3. **Ownership of Data and Feedback.**

a. *Ownership of Data.* As between the parties, and subject to the license granted in Section 4 and Round 2's rights in Section 5, Merchant owns all right, title, and interest in and to Merchant Data, and Round 2 owns all right, title, and interest in and to Round 2 Data and Platform Usage Data.

b. *Feedback.* If you, any employee, or any contractor working for you provides feedback regarding the performance of the Round 2 Platform (or any constituent part, including the Round 2 Software), support services, customer service or any other information related to the Round 2 Platform, you hereby grant Round 2 a perpetual, irrevocable, worldwide, royalty-free, fully paid-up, sublicensable, and transferable license to use, reproduce, modify, distribute, and otherwise exploit such feedback for any purpose without attribution or compensation, and, to the extent assignable, you hereby assign to Round 2 all right, title, and interest in and to such feedback. You represent that you have the right to grant the foregoing license and assignment with respect to feedback provided by your employees, agents, and contractors. Round 2 may use this feedback as it deems appropriate, and Round 2 shall have no obligation to you or any third party to respond to or act on any feedback it receives from you.

4. **Permitted Use of Merchant Data.** Merchant grants Round 2 a non-exclusive, worldwide, royalty-free license during the Term (and for a reasonable period after the Term as necessary to complete deletion in the ordinary course, comply with Law, and resolve disputes) to access, use, host, copy, transmit, and process Merchant Data solely as necessary to provide, maintain, support, secure, and improve the Round 2 Platform and related services, and for lawful internal business purposes, including creating aggregated and de-identified data. Where Round 2 uses Merchant Data to develop, test, improve, or benchmark its

products and services, or to generate statistical or analytical data, Round 2 shall use only aggregated and de-identified Merchant Data that does not identify Merchant, Merchant's customers, or any individual. Round 2 shall comply with applicable Law in its access to and use of Merchant Data.

a. **Security**. Round 2 shall maintain commercially reasonable administrative, physical, and technical safeguards designed to protect Merchant Data in Round 2's possession or control against unauthorized access, use, disclosure, alteration, or destruction. Round 2 shall notify you without unreasonable delay after Round 2 confirms a breach of the security of Round 2's systems affecting Merchant Data, and shall reasonably cooperate with your investigation and with any notifications you are required by Law to make. To the extent Round 2 possesses, stores, processes, or transmits cardholder data on your behalf, or could otherwise impact the security of your cardholder data environment, Round 2 acknowledges that it is responsible for the security of that cardholder data. The Round 2 Platform is designed so that cardholder data is captured, transmitted, authorized, and stored by the Gateway, the Processor, and other third-party providers, and not by Round 2. Round 2 does not represent or warrant that any configuration of the Round 2 Platform removes you or your environment from the scope of PCI DSS, and you remain responsible for determining your own PCI DSS scope, validation level, and reporting obligations. Nothing in this Section 4.a expands Round 2's liability beyond the limitations in Sections 22, 23, and 24.

b. **Data Retrieval**. During the Term, and for thirty (30) days after termination or expiration of these Terms, you may export Merchant Data using the export functionality Round 2 makes available in the Round 2 Platform. After that period, Round 2 may delete Merchant Data in the ordinary course, subject to any legal or Card Brand retention requirement. Round 2 may charge Additional Fees for any extraction Round 2 performs on your behalf.

5. **Platform Usage Data**. Round 2 may collect certain information in connection with your access to or use of the Round 2 Platform, such as access records, date and time stamps, transaction and activity records, and system performance data ("Platform Usage Data"). Platform Usage Data does not include Merchant Data in any form that identifies Merchant, Merchant's customers, or any individual. Round 2 may use this Platform Usage Data to deliver and manage the Round 2 Platform (and any other services or products), perform maintenance and support, develop, test, and improve the Round 2 Platform, and generate statistical data about usage of its products and services. Round 2 shall own all Platform Usage Data.

6. **Improvements and Software Updates**. During the Term, you shall receive the Improvements to the Round 2 Platform that Round 2 makes generally available to its merchants. Any new version of the Round 2 Platform, however, may, at Round 2's sole discretion, be subject to different or additional pricing. Round 2 may eliminate or sunset any version of the Round 2 Platform in its sole discretion, and shall use reasonable efforts to give you at least sixty (60) days' prior notice before doing so. Once eliminated, Round 2 shall no longer provide maintenance and support for such sunset version. Round 2 shall only provide maintenance and support for the then current version of the Round 2 Platform and the prior version of the Round 2 Platform (e.g., if there are versions 1, 2, and 3 of the Round 2 Platform, Round 2 shall support versions 3 and 2, but not version 1). If you continue to use an unsupported version of the Round 2 Platform, you do so at your own risk. Except as expressly provided in Section 4.a, Round 2 shall not be

liable for any loss of information or Merchant Data, loss of use, or failure of a third party's product to interoperate with the Round 2 Platform, after an Improvement or update.

7. **New Services and/or Products.** Using the Round 2 Platform does not entitle you to any new or additional products or services, beyond those products and services listed on your Order Form. Any additional product or service must be purchased under a new Order Form, and any customization must be documented in a statement of work signed by both parties that identifies the agreed specifications, timeline, and fees. ROUND 2 WARRANTS ONLY THAT A CUSTOMIZATION WILL BE DONE IN ACCORDANCE WITH ANY SPECIFICATIONS AGREED TO BY ROUND 2 AND YOU REGARDING SUCH CUSTOMIZATION. ROUND 2 DOES NOT REPRESENT OR WARRANT THAT ANY CUSTOMIZATION WILL BE ERROR-FREE OR FREE FROM DEFECTS.

8. **Payment Processing; Gift Cards.** The Round 2 Platform integrates with third party payment processors, and you shall use the payment gateway provider ("Gateway") (if any) and a payment processing services provider ("Processor") Round 2 designates. You shall agree to a Gateway's or Processor's terms in whatever form required: you cannot use the Round 2 Platform until you reach an agreement with the Gateway (if any) and Processor. To use gift cards with the Round 2 Platform, you must use Factor4, LLC, or such other gift card provider as Round 2 designates, and you must enter into and maintain a direct agreement with that provider, as further provided in the Gift Card Program provisions below. Round 2 is not a party to your agreement with any Gateway, Processor, or gift card provider and is not responsible for their acts, omissions, fees, services, or the availability of their services. Round 2 does not provide payment processing, money transmission, settlement, or funding services, and does not hold or take title to any funds. Any claim relating to those services is between you and the applicable provider.

9. **Gift Card Program.** The following provisions apply if you use gift cards with the Round 2 Platform (the "Gift Card Program").

a. **Direct Relationship; Round 2 Is Not the Provider.** The Gift Card Program is provided by Factor4, LLC or such other gift card provider as Round 2 designates (the "Gift Card Provider") under a separate agreement between you and the Gift Card Provider (the "Gift Card Agreement"). You shall enter into and maintain the Gift Card Agreement, and you may not use gift cards with the Round 2 Platform unless that agreement is in effect. Round 2 is not a party to the Gift Card Agreement and acts solely as a reseller of and referral source for the Gift Card Provider's program. Round 2 does not issue, sponsor, administer, underwrite, guarantee, or manage the Gift Card Program or any gift card. Gift cards issued under the Gift Card Program are the Gift Card Provider's cards, are not Round 2 products, and, unless Round 2 expressly agrees otherwise in a writing signed by an authorized officer of Round 2, do not bear and shall not be presented as bearing Round 2's name, marks, or endorsement.

b. **No Funds; No Issuer Obligations.** Round 2 does not issue or sell gift cards as principal, does not hold, control, or take title to gift card funds or unredeemed balances, does not process, authorize, or settle any gift card activation, load, or redemption, does not maintain the record of any card balance, and does not act as a money transmitter with respect to the Gift Card Program. Round 2 has no obligation to honor, redeem, replace, reissue, or fund any gift card or any outstanding or unredeemed balance, whether before or after termination of these Terms or of the Gift Card Program, and has no reporting, remittance,

retention, or other obligation with respect to unredeemed balances under any unclaimed property, abandoned property, or escheat Law.

c. **Your Compliance.** You are solely responsible for determining and satisfying every requirement of applicable Law governing the gift cards you sell and your gift card program, including 12 C.F.R. § 1005.20 and the other requirements of the Electronic Fund Transfer Act and Regulation E relating to expiration dates, dormancy, inactivity and service fees, and on-card and pre-purchase disclosures; state Law governing gift card expiration, fees, cash redemption, and balance disclosure; state unclaimed property, abandoned property, and escheat Law; and applicable sales, use, and transaction tax Law. Round 2 does not represent or warrant that the Round 2 Platform, the Gift Card Program, the Gift Card Provider, or any gift card, card design, disclosure, receipt, fee, expiration setting, or program configuration complies with any of those requirements, and Round 2 provides no legal, tax, accounting, or compliance advice regarding gift cards. You shall determine, and obtain from the Gift Card Provider, which party is the issuer of the gift cards for purposes of those Laws. You alone select any expiration period and any dormancy, inactivity, or service fee applied to a gift card, and you shall make that selection directly with the Gift Card Provider. Round 2 does not select, recommend, configure, validate, or advise on any expiration period, fee, or card disclosure.

d. **Round 2's Only Role.** Round 2's sole obligation with respect to the Gift Card Program is to make available the Round 2 Platform's integration with the Gift Card Provider, as and when Round 2 makes that integration generally available to its merchants. Round 2 is not responsible for the Gift Card Provider's acts, omissions, fees, pricing, card stock, artwork, fulfillment, delivery, service levels, availability, outages, errors, balance calculations, data, security, insolvency, or cessation of service, or for any change the Gift Card Provider makes to its program, systems, pricing, or interfaces. Round 2 may modify, suspend, or discontinue the integration, or designate a different gift card provider, in its sole discretion and without liability to you, and upon notice you shall transition to the designated provider or discontinue use of gift cards with the Round 2 Platform, in each case subject to and in accordance with your obligations under the Gift Card Agreement. You are solely responsible for terminating the Gift Card Agreement in accordance with its terms, including any exclusivity, notice, minimum term, trailing settlement, or termination fee provision, and Round 2 is not responsible for, and has no obligation to indemnify you against, any cost, fee, or liability arising from that termination or from your continuing obligations to the Gift Card Provider. Nothing in these Terms requires you to breach the Gift Card Agreement.

e. **Assistance Is an Accommodation Only.** Round 2 may, as a courtesy and in its sole discretion, receive, relay, escalate, or assist with a gift card inquiry or issue, and may communicate with the Gift Card Provider on your behalf. Any such assistance is an accommodation only. It does not make Round 2 a party to the Gift Card Agreement; does not create, imply, or evidence any duty, undertaking, standard of care, service level, response time, or agency, brokerage, fiduciary, or advisory relationship; does not make Round 2 responsible for the Gift Card Provider's obligations or for the outcome of any inquiry; and does not waive, limit, or modify any provision of this Section 9 or of Sections 22, 23, or 24. The foregoing applies regardless of whether Round 2 has provided that assistance previously, provides it regularly, or is the party you customarily contact. Round 2 may decline or discontinue that assistance at any time without notice. Except for an issue Round 2 determines is caused by the Round 2 Platform, you

shall direct every gift card inquiry, dispute, and claim to the Gift Card Provider under the Gift Card Agreement and not to Round 2.

f. Compensation. You acknowledge that Round 2 may receive compensation from the Gift Card Provider in connection with your enrollment in or use of the Gift Card Program, that Round 2 retains that compensation for its own account, and that Round 2 does not act as your agent, broker, fiduciary, or advisor in designating or recommending a gift card provider.

g. Gift Card Data. Gift card and program data that you submit to, or that is generated or stored through, the Round 2 Platform is Merchant Data. You authorize Round 2 to transmit that data to, and receive that data from, the Gift Card Provider as reasonably necessary to operate the integration, and you are solely responsible for providing every notice to, and obtaining every consent from, your customers that applicable privacy Law requires. Round 2's access to and use of that data is governed by Section 4. You shall provide the Gift Card Provider with any authorization, consent, or instruction that provider requires in order to disclose gift card and program data to Round 2, and Round 2 has no obligation to provide any assistance, report, or reconciliation that depends on data the Gift Card Provider declines or fails to share with Round 2.

h. Termination; Survival. Upon termination or expiration of these Terms, the integration, or the Gift Card Program, your gift card program, all outstanding gift cards, and all unredeemed balances remain governed by the Gift Card Agreement and remain solely your responsibility and that of the Gift Card Provider. Round 2 has no obligation to migrate, convert, export, or preserve gift card balances or program data other than through the export functionality described in Section 4.b, and may charge Additional Fees for any extraction Round 2 performs on your behalf. Any file or report of gift card accounts or balances must be obtained from the Gift Card Provider under the Gift Card Agreement and at that provider's charge. This Gift Card Program block survives termination of these Terms.

10. **Internet Access and Security.**

a. To function as intended, the Round 2 Platform requires high-speed internet connection and related equipment and cabling. You shall procure and maintain all network connections, equipment, and cabling at your sole expense. You shall comply with all laws applicable to your business operations, including your access to and use of customer credit card information and employee personal information. You represent and warrant that you are, and shall at your own cost remain, compliant during the Term with the Payment Card Industry Data Security Standard, as amended and supplemented from time to time ("PCI DSS"). Upon Round 2's request, you shall provide evidence of your current PCI DSS validation, including a completed Self-Assessment Questionnaire or Attestation of Compliance. You shall store and back up your own Merchant Data, and Round 2 shall make export functionality available to you as provided in Section 4.b. Except as expressly provided in Section 4.a, Round 2 shall not be liable for any loss or destruction of Merchant Data.

b. You shall secure your IT network from any disruptions resulting from a security breach. You shall maintain all prudent network security measures to protect your network, Merchant Data, and systems, including maintaining virus protection. If Round 2 provides a wireless router or other access

technology to you, Round 2 may encrypt and filter internet traffic data for security purposes and to manage or modify internet transmissions. Except as expressly provided in Section 4.a, Round 2 shall not be liable or responsible for any breach of your network, systems, premises, or personnel, or of any network or system not owned or operated by Round 2, or for any related losses or damages to you or any third party.

11. **Round 2 Platform, Compliance with Law, and Disclaimer.** You shall comply with all applicable state, local and federal laws and regulations, and all Card Brand rules and regulations and the standards required for PCI DSS compliance. Round 2 may treat any non-compliance of any law or regulation as a breach of these Terms pursuant to which Round 2 may terminate these Terms. In addition to any other remedy, Round 2 may suspend your access to the Round 2 Platform, in whole or in part, immediately upon notice if Round 2 reasonably believes that your use violates applicable Law, Card Brand rules, or PCI DSS, or creates a security risk to the Round 2 Platform or to any other merchant.

EXCEPT AS EXPRESSLY PROVIDED IN THESE TERMS, THE ROUND 2 PLATFORM, INCLUDING THE ROUND 2 SOFTWARE, IS PROVIDED "AS IS" AND "AS AVAILABLE." ROUND 2 DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT. ROUND 2 DOES NOT WARRANT THAT THE ROUND 2 PLATFORM WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE, THAT ALL DEFECTS WILL BE CORRECTED, OR THAT THE ROUND 2 PLATFORM WILL OPERATE WITH ANY THIRD-PARTY PRODUCT OR SERVICE.

12. **Employment Matters.** Round 2 is not an employer, joint employer, co-employer, staffing agency, professional employer organization, or payroll provider of your personnel, and nothing in these Terms or in your use of the Round 2 Platform creates any such relationship. You alone hire, direct, supervise, schedule, discipline, and compensate your personnel, and you are solely responsible for compliance with every employment, wage and hour, and payroll Law applicable to you, including the accuracy, completeness, and retention of time, attendance, break, and scheduling records; minimum wage, overtime, and meal and rest break requirements; the declaration, allocation, pooling, and distribution of tips and gratuities; and the calculation, withholding, reporting, and remittance of payroll and employment taxes. Any timekeeping, scheduling, tip, payroll, biometric, or labor reporting functionality of the Round 2 Platform is a recording and reporting tool only, configured as you direct. Your collection, use, storage, retention, and destruction of biometric identifiers and biometric information through the Round 2 Platform is governed by the End User License Agreement, and you are solely responsible for satisfying every requirement of applicable Law, including the Illinois Biometric Information Privacy Act and any comparable Law, before enabling or using any such feature. Round 2 does not determine, verify, validate, or advise on any of the foregoing and does not represent or warrant that the Round 2 Platform or its output complies with any employment, wage and hour, or biometric privacy Law.

13. **Dual Pricing and Cash Discount Programs.** If you operate a dual pricing program, a cash discount program, or any similar pricing program in connection with the Round 2 Platform, that program is yours and you are solely responsible for it. You shall: (i) display prices in the manner required by applicable Law and Card Brand rules, including by displaying both the card price and the cash price or, where a single price is displayed, the card price; (ii) ensure that the card price is a price displayed for the item and is not

achieved by adding a separate fee, percentage, or line item to a card transaction, which a Card Brand may treat as a surcharge; (iii) not add any surcharge, fee, or percentage to a debit card or prepaid card transaction, it being understood that whether a debit card transaction is charged at the card price or at the cash price is your decision, subject to your Merchant Processing Agreement and to applicable Law and Card Brand rules; (iv) provide every disclosure, signage, receipt itemization, and notice that applicable Law and Card Brand rules require, including at the point of entry, at the point of sale, and on the transaction receipt; (v) make any notification or registration required by your Merchant Processing Agreement, your acquirer, or a Card Brand before operating the program; and (vi) configure, verify, and monitor the program settings in the Round 2 Platform. Round 2 makes the pricing functionality of the Round 2 Platform available as a configurable tool only. Round 2 does not select, design, configure, validate, monitor, or approve your prices, price displays, signage, receipts, disclosures, or program settings; does not determine whether your program is a dual pricing program, a cash discount program, or a surcharge; and does not determine whether your program complies with any Law or Card Brand rule, including the Law of your state. Any handout, summary, template, sign, script, or other material that Round 2 or an Authorized Reseller provides regarding dual pricing or cash discounting is general information only, is not legal, tax, or compliance advice, is not warranted to be current, complete, or correct, and is not a representation that any program complies with any Law or Card Brand rule. You shall not rely on any such material, or on any statement by Round 2 or an Authorized Reseller, in deciding whether or how to operate a program, and you shall obtain your own legal advice. Round 2 is not responsible for any assessment, fine, penalty, chargeback, refund, or claim arising from your program.

14. **Online Ordering; End User Terms.** If your Order Form includes online ordering, your use of that service is also governed by Section 35 (Online Ordering). You shall display Round 2's then-current Online Ordering Terms of Use and Privacy Policy wherever Round 2 makes them available for presentation to your customers, and you shall not alter, remove, or obscure them or impose on your customers any term applicable to the online ordering service that conflicts with them. As between you and your customers, you are the seller of all products and services ordered through the online ordering service. You are solely responsible for the accuracy and completeness of the menus, item and ingredient descriptions, allergen information, prices, taxes, fees, hours, and fulfillment representations you publish through the online ordering service, and for order acceptance, fulfillment, cancellation, and refunds. You are solely responsible for determining and satisfying your obligations to collect and remit sales, use, meals, beverage, delivery, and similar transaction taxes on orders placed through the online ordering service, except to the extent applicable Law expressly imposes that obligation on Round 2 as a marketplace facilitator. Round 2 does not provide delivery services; where the online ordering service transmits an order to a third-party delivery provider, that provider acts as an independent contractor and Round 2 is not responsible for its acts or omissions. You are solely responsible for the accessibility of any website, ordering page, or mobile experience you control or configure, including compliance with the Americans with Disabilities Act and any other accessibility Law. The Online Ordering Terms of Use are an agreement between Round 2 and your customers; they create no right or remedy in your favor and no obligation of Round 2 to you, and they do not limit your obligations under these Terms or any Product-Specific Agreement.

15. **Term & Termination.**

a. These Terms begin on the date you sign the applicable Order Form (the “Effective Date”) and continue on a month-to-month basis until terminated as provided in these Terms (the “Term”). Either party may terminate these Terms for convenience effective at the end of any monthly period upon thirty (30) days’ prior written notice to the other party.

b. In addition to termination under Section 15.a, Round 2 may terminate these Terms, or suspend the Round 2 Platform in whole or in part, immediately upon notice to you and without further obligation to you if: (A) you breach these Terms or any Referenced Agreement; (B) you fail to pay any Fee when due; (C) you fail to maintain PCI DSS compliance or violate any Card Brand rule or applicable Law; (D) you become insolvent, make an assignment for the benefit of creditors, or become the subject of any bankruptcy or receivership proceeding; (E) you default under, or your Merchant Processing Agreement or agreement with a Gateway terminates or is suspended; or (F) Round 2 reasonably believes that your use of the Round 2 Platform creates a security, legal, or reputational risk. These Terms will automatically terminate without either party having to do anything if (i) any Card Brand or Round 2’s Partners prohibit Round 2 from performing under these Terms or otherwise make it impractical for Round 2 to perform; (ii) Round 2’s agreement with its Partners terminates; (iii) Round 2’s acquiring bank stops being a member of the Card Brands, or (iv) changes in the Card Brand rules or applicable Law prevent Round 2’s performance under these Terms or makes such performance impractical.

c. Upon termination for any reason, your Use Right and all licenses provided to you under these Terms shall terminate immediately and you shall no longer be permitted to use the Round 2 Platform (other than as expressly permitted by Section 4.b) and, unless specifically provided in these Terms, Round 2’s obligations to you shall immediately cease. For purposes of these Terms, your failure to make timely payments may be considered, at our sole discretion, a breach of these Terms and Round 2 may terminate these Terms because of such breach. Subject to Section 4.b, Round 2 may, in its sole discretion, disable the Round 2 Platform or any constituent part at any time for any reason. Within fifteen (15) days after termination you shall, at your expense, return to Round 2 (or permit Round 2 to retrieve) all Round 2-Owned Hardware in good working condition, ordinary wear and tear excepted, or pay Round 2’s then-current replacement cost for that Hardware. Termination does not relieve you of the obligation to pay all Fees and Additional Fees accrued before the effective date of termination. In addition to any payment obligations you may have that survive termination, the following Sections survive and remain in effect in accordance with their terms: this Section 15; Sections 2 (as to restrictions and ownership), 3, 4, 5, 8, 9, 12, 13, 16, 17, 19 (as to Hardware), 21, 22, 23, 24, 25, 26, 27, 28, 30, 31, 33, 35.a, 35.b, 35.c, 35.g, and 36.

16. **Fees; Administrative Collection.** Fees payable for the Round 2 Platform and related products and services are stated in the applicable Round 2-approved Order Form. Merchant agrees that disclosed recurring non-processing fees may be combined into a single aggregate amount and included in information submitted during merchant setup for collection through an available Processor billing method. If collected and remitted to Round 2, Round 2 may retain its applicable portion and remit the reseller portion to the Authorized Reseller. This is an administrative collection arrangement only; it does not make non-processing fees processing fees, place them under the MPA, or make Round 2 the provider or owner of reseller-provided Hardware or services. Processing fees, settlement, reserves, chargebacks,

and Processor rights remain governed solely by the MPA. If the collection arrangement is unavailable or discontinued, you shall pay the applicable party by another reasonable method after notice.

If you voluntarily deactivate your account, or if Round 2 deactivates your account for any reason, Round 2 shall charge you its then-current reactivation fee (currently \$50) to reactivate your account.

17. **Additional Fees.** If Round 2 performs additional services or provides additional products to you that are not included in these Terms (or any other agreement between you and Round 2), you shall pay additional fees (“Additional Fees”) in the amount of Round 2’s then-current pricing for such services and/or products. Additional Fees also include amounts payable under Section 2 for use of the Round 2 Platform in excess of your Order Form and the reactivation fee under Section 16. Additional Fees are payable on the same terms as Fees.

18. **Installation, Training, Customization, and Hardware.** An Authorized Reseller generally provides installation, activation, configuration, menu setup, training, and first-line support under its separate agreement with you. Round 2 will consider Platform or software customization requests submitted through your Authorized Reseller and may accept or reject any request in its discretion. Round 2 may charge for accepted customization, including software configuration or menu-related Platform work, if the charge is disclosed before work begins. Round 2 does not guarantee completion of any request unless a statement of work signed by Round 2 states otherwise. Round 2’s obligations are limited to the Platform, software, and services Round 2 directly agrees to provide; an Authorized Reseller remains responsible for its own Hardware and services.

19. **Hardware.** The applicable Order Form must identify each item of Hardware as: (i) purchased by Merchant; (ii) owned by an Authorized Reseller and provided as a service; or (iii) owned by Round 2 and provided as a service (“Round 2-Owned Hardware”). Unless the Order Form expressly identifies Round 2 as the seller or owner, Round 2 does not sell, lease, own, install, maintain, or warrant the Hardware. Reseller-owned Hardware is governed by Merchant’s agreement with that reseller. This paragraph applies to Round 2-Owned Hardware only when the Order Form expressly identifies Round 2 as owner. Round 2 retains title to such Hardware; Merchant bears risk of loss after delivery, shall keep it free of liens and insured at replacement value, shall not relocate or modify it without consent, and shall return it within fifteen (15) days after termination or pay Round 2’s reasonable replacement cost. Manufacturer warranties are passed through only to the extent transferable.

20. **Support Services.** If Round 2 provides any direct support or maintenance to you, it shall be at the fees set forth in your Order Form. Round 2 may change the support services, maintenance, or fees set forth in your Order Form if Round 2 gives you at least thirty (30) days’ prior notice of the change. Round 2 does not commit to any service level, uptime, or response time unless expressly stated in a written service level agreement signed by Round 2. If you have an arrangement with an Authorized Reseller, your support services terms and fees will be governed by that arrangement.

21. **Indemnification.** You shall indemnify and, at Round 2’s request, defend Round 2 and its affiliates, successors and assigns (and its and their officers, directors, employees, sublicensees, customers and agents) from and against any and all claims, losses, liabilities, damages, settlements, expenses and costs

(including, without limitation, attorneys' fees and court costs) that arise out of or relate to: (a) any breach (or claim or threat thereof that, if true, would be a breach) of these Terms by you (or your employees, agents or representatives); (b) Merchant Data provided by you or on your behalf, or your materials, including any third party claim alleging that such Merchant Data or your materials infringe or misappropriate the rights of a third party or violate any Law; (c) any violation of or failure to comply with applicable Law or any Card Brand rules by you, including PCI DSS; (d) any breach of the security of your network, systems, premises, or personnel, or any unauthorized access to, use, or disclosure of Merchant Data resulting from the acts or omissions of you or your employees, agents, contractors, or representatives; (e) any misuse of the Round 2 Platform, including the Round 2 Software; (f) your business operations, products, or services, including any claim brought by your customers or employees; (g) the content, accuracy, or completeness of any menu, item or ingredient description, allergen information, price, tax, fee, or fulfillment representation you publish through any online ordering service; (h) any claim by a customer or end user relating to an order placed through any online ordering service, including any claim relating to food safety, allergens, foodborne illness, order accuracy, fulfillment, delivery, cancellation, or refund; (i) any assessment, penalty, or interest relating to sales, use, meals, beverage, delivery, or similar transaction taxes on orders placed through any online ordering service; (j) any claim that a website, ordering page, or mobile experience you control or configure, or any content or design you select for it, fails to comply with any accessibility Law, including the Americans with Disabilities Act; (k) your gift card program, any gift card sold, activated, loaded, or honored by you or on your behalf, the Gift Card Agreement, or any claim relating to gift card expiration, fees, disclosures, balances, redemption, non-redemption, or unclaimed property or escheat obligations; (l) your collection, capture, use, storage, retention, disclosure, or destruction of any biometric identifier or biometric information, or your wage and hour, timekeeping, scheduling, break, overtime, payroll, or tip practices, including any claim under the Illinois Biometric Information Privacy Act or any comparable Law and any claim that Round 2 is an employer, joint employer, or co-employer of your personnel; or (m) your dual pricing, cash discount, or similar pricing program, including any claim by a customer or end user, any class, collective, or representative action, any action by a governmental authority, and any Card Brand, Processor, or acquirer assessment, fine, or non-compliance charge relating to price display, disclosure, signage, receipts, program configuration, or the pricing or treatment of debit card or prepaid card transactions. Your obligations under this Section 21 do not apply to the extent a claim arises from Round 2's gross negligence or willful misconduct. Round 2 shall give you prompt notice of any claim for which it seeks indemnification (provided that any delay does not relieve you of your obligations except to the extent you are materially prejudiced), and you shall not settle any claim in a manner that imposes any obligation, payment, or admission on Round 2 without Round 2's prior written consent. Round 2 may participate in the defense of any such claim with counsel of its own choosing at its own expense.

22. **Limitation of Warranties.** NOTWITHSTANDING ANY OTHER PROVISIONS TO THE CONTRARY CONTAINED IN THESE TERMS, THE EXPRESS WARRANTIES SPECIFICALLY SET FORTH OR INCORPORATED BY REFERENCE IN THESE TERMS ARE THE ONLY REPRESENTATIONS AND WARRANTIES WHICH APPLY TO THE ROUND 2 SOFTWARE OR ANY OTHER PRODUCTS OR SERVICES FURNISHED UNDER THESE TERMS. ROUND 2 MAKES NO OTHER REPRESENTATIONS OR WARRANTIES WHETHER STATUTORY, WRITTEN, ORAL, EXPRESS, OR IMPLIED, ABOUT THE PERFORMANCE OF THE ROUND 2 SOFTWARE OR THAT IT WILL BE ERROR-FREE OR MISTAKE-FREE, AND ROUND 2 SPECIFICALLY DISCLAIMS THE WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR USE, TITLE, AND NONINFRINGEMENT.

UNLESS OTHERWISE PROVIDED IN THESE TERMS, ANY SPECIFICATIONS ATTACHED TO OR FURNISHED WITH ROUND 2 PLATFORM OR ANY OTHER SERVICES OR PRODUCTS FURNISHED UNDER THESE TERMS ARE DESCRIPTIVE AND ARE NOT WARRANTIES.

23. **Limitation of Liability.** IN NO EVENT, AND TO THE MAXIMUM EXTENT PERMITTED UNDER APPLICABLE LAW, SHALL ROUND 2, ITS SHAREHOLDERS, AFFILIATES, CONTRACTORS, SUPPLIERS AND AGENTS AND ITS OR THEIR RESPECTIVE DIRECTORS, OFFICERS AND EMPLOYEES (COLLECTIVELY THE "ROUND 2 PARTIES") BE LIABLE TO YOU OR ANY THIRD PARTY FOR ANY SPECIAL, CONSEQUENTIAL, PUNITIVE, EXEMPLARY, INCIDENTAL OR INDIRECT DAMAGES OR ANY OTHER COMMERCIAL OR ECONOMIC LOSS OR DAMAGES OF ANY KIND OR NATURE WHATSOEVER (INCLUDING, WITHOUT LIMITATION, IN RESPECT OF LOSS OF PROFIT OR REVENUE, COSTS OF DELAY, LOSS OF TIME OR INCONVENIENCE OR COSTS OF PROCURING SUBSTITUTE PRODUCTS), EVEN IF SUCH DAMAGES ARE FORESEEABLE OR ROUND 2 HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ROUND 2'S TOTAL LIABILITY AND OBLIGATION IN THE AGGREGATE FOR ANY AND ALL CLAIMS ARISING OUT OF OR RELATED TO THESE TERMS, WITH RESPECT TO ANY EXPENSE, DAMAGE, LOSS, INJURY, OR LIABILITY OF ANY KIND, REGARDLESS OF THE CAUSE OR FORM OF ACTION OR THEORY OF LIABILITY (INCLUDING FOR BREACH OF CONTRACT, TORT, NEGLIGENCE, BY STATUTE OR OTHERWISE) SHALL BE LIMITED TO THE ACTUAL DIRECT DAMAGES SUFFERED AND SHALL NOT EXCEED THE GREATER OF (A) THE ACTUAL AMOUNTS PAID BY YOU TO ROUND 2 UNDER THESE TERMS IN THE SIX (6) MONTHS THAT PRECEDED THE EVENT GIVING RISE TO ANY SUCH CLAIM AND (B) ONE THOUSAND DOLLARS (\$1,000). THE LIMITATIONS AND EXCLUSIONS IN THIS SECTION 23 APPLY NOTWITHSTANDING THE FAILURE OF ANY LIMITED OR EXCLUSIVE REMEDY OF ITS ESSENTIAL PURPOSE, AND ARE AN ESSENTIAL BASIS OF THE BARGAIN BETWEEN THE PARTIES; THE FEES REFLECT THIS ALLOCATION OF RISK. THE LIMITATIONS IN THIS SECTION 23 ARE AGGREGATE AND NOT CUMULATIVE ACROSS THESE TERMS AND THE REFERENCED AGREEMENTS, AND MULTIPLE CLAIMS DO NOT ENLARGE THEM; THE TOTAL AGGREGATE LIABILITY OF THE ROUND 2 PARTIES UNDER THESE TERMS AND ALL REFERENCED AGREEMENTS COMBINED SHALL NOT EXCEED THE CAP STATED IN THIS SECTION 23, DETERMINED ONCE AND NOT ONCE PER AGREEMENT, PER CLAIM, PER LOCATION, OR PER PERIOD, EXCEPT THAT WHERE A PRODUCT-SPECIFIC AGREEMENT STATES A LOWER CAP FOR CLAIMS RELATING TO ITS SUBJECT MATTER, THAT LOWER CAP APPLIES TO THOSE CLAIMS. THIS SECTION 23 DOES NOT LIMIT YOUR OBLIGATIONS TO PAY FEES OR YOUR OBLIGATIONS UNDER SECTION 21.

24. **Limitations and State Law.** If state law does not permit the exclusion of implied warranties or limitation of liability for incidental or consequential damages, the limitations or exclusions set forth above may not apply to you. IN SUCH STATES, ROUND 2'S LIABILITY WILL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW.

25. **Confidentiality.** Your login information to the Round 2 Platform and any payment information contained in the Round 2 Platform must be protected and remain confidential. You are responsible for consequences of any access gained by using your login information, and Round 2 has no obligation to ensure that your login information has not been compromised. If you think your login information has been compromised, you shall immediately notify Round 2 by email at help@r2pos.com. You shall treat all information Round 2 provides to you regarding or relating to the Round 2 Platform as confidential information, which you shall use only to fulfill your rights and obligations under these Terms. You shall not share any confidential information with any third party, unless such party has a need to know to fulfill

the purpose of these Terms and agrees to maintain the confidentiality of such confidential information. You shall remain liable for any breach of confidentiality by any employee, contractor, representative or other third party. Confidential information does not include information that (a) is or becomes publicly available other than through your breach of these Terms, (b) you lawfully knew without restriction before Round 2 disclosed it, (c) you lawfully receive from a third party without restriction, or (d) you independently develop without use of or reference to Round 2's confidential information. You may disclose confidential information to the extent required by Law or by court or governmental order, provided that (where legally permitted) you give Round 2 prompt prior notice and reasonably cooperate with Round 2's efforts to obtain confidential treatment. Your obligations under this Section 25 continue after termination of these Terms for so long as the information remains confidential, and indefinitely with respect to Round 2's trade secrets and source code. You acknowledge that a breach of this Section 25 or of Section 2 may cause Round 2 irreparable harm for which monetary damages are an inadequate remedy, and that Round 2 may seek injunctive or other equitable relief without the necessity of posting a bond, in addition to any other remedy.

26. **Publicity.** Round 2 may issue a press release or similar writing announcing the relationship between you and Round 2. Round 2 may also discuss this relationship for marketing purposes. Before issuing any written materials discussing this relationship, Round 2 will provide you with a copy of the written materials (in whatever form) for your review and comment. You grant Round 2 a non-exclusive, royalty-free license during the Term to use your name, logo, and trademarks solely to identify you as a customer of Round 2 in Round 2's customer lists, website, and marketing materials, subject to any trademark usage guidelines you provide to Round 2 in writing.

27. **Subcontracting.** Round 2 may use the resources of (and subcontract to) its affiliates and third-party contractors, within or outside of the United States (each, a "Round 2 Vendor") for internal, administrative and compliance purposes or in connection with the hosting or provision of the Round 2 Platform and other products and services to be provided by Round 2 pursuant to these Terms. Round 2 may provide information, data and materials that Round 2 receives in connection with these Terms (including Merchant Data) to the Round 2 Vendors for such purposes. Round 2 shall require each Round 2 Vendor that receives Merchant Data to be bound by confidentiality and information security obligations no less protective of Merchant Data than those in these Terms.

28. **Waiver.** No waiver of satisfaction of a condition or nonperformance of an obligation under these Terms will be effective unless it is in writing and signed by the party granting the waiver. No failure or delay by a party in exercising any right or remedy operates as a waiver of that right or remedy, and no single or partial exercise of a right or remedy precludes any further exercise of it or of any other right or remedy.

29. **Severability.** If any court or legal authority of competent jurisdiction determines that any part, term or provision of these Terms is illegal or invalid, such determination will not affect the validity of the remaining parts, terms, or provisions, and the affected part, term, or provision will be modified to the minimum extent necessary to make it valid and enforceable and, if it cannot be so modified, will be severed.

30. **Assignment.** Merchant shall not assign, delegate, subcontract, license, franchise, or in any manner attempt to extend to any third party any right or obligation under these Terms except as otherwise permitted herein without the prior written consent of Round 2. Round 2 may assign any right or obligation it has under these Terms. Any purported assignment, delegation, or transfer in violation of this Section 30 is void. A change in control of Merchant, whether by merger, consolidation, sale of a majority of its equity, or sale of all or substantially all of its assets, is deemed an assignment requiring Round 2's prior written consent. These Terms bind and benefit the parties and their permitted successors and assigns.

31. **Governing Law; Venue.** The laws of the Commonwealth of Pennsylvania govern these Terms and any dispute arising out of or relating to them, without regard to any conflict-of-laws principle that would require the application of the law of another jurisdiction, and excluding the United Nations Convention on Contracts for the International Sale of Goods. Any litigation or similar legal or quasi-legal action arising out of or relating to these Terms must be brought exclusively in the United States District Court for the Western District of Pennsylvania sitting in Pittsburgh, Pennsylvania or, if that court lacks subject matter jurisdiction, in the Court of Common Pleas of Butler County, Pennsylvania. Each party consents to the personal jurisdiction of and venue in those courts and waives any objection based on lack of personal jurisdiction, improper venue, or inconvenient forum. EACH PARTY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION ARISING OUT OF OR RELATING TO THESE TERMS. EACH PARTY WAIVES ANY RIGHT TO BRING OR PARTICIPATE IN ANY CLASS, COLLECTIVE, CONSOLIDATED, OR REPRESENTATIVE ACTION. ANY CLAIM YOU BRING ARISING OUT OF OR RELATING TO THESE TERMS MUST BE BROUGHT WITHIN ONE (1) YEAR AFTER THE CLAIM ACCRUES, OR IT IS PERMANENTLY BARRED.

32. **Force Majeure.**

a. If a Force Majeure Event prevents a party from complying with any one or more obligations under these Terms, that inability to comply will not constitute breach if (1) that party uses reasonable efforts to perform those obligations, (2) that party's inability to perform those obligations is not due to its failure to (A) take reasonable measures to protect itself against events or circumstances of the same type as that Force Majeure Event or (B) develop and maintain a reasonable contingency plan to respond to events or circumstances of the same type as that Force Majeure Event, and (3) that party complies with its obligations under the first sentence of Section 32.c.

b. For purposes of these Terms, "**Force Majeure Event**" means, with respect to a party, any event or circumstance beyond that party's reasonable control, whether or not foreseeable, that was not caused by that party, and any consequences of that event or circumstance, including an act of God, flood, fire, earthquake, epidemic, war, terrorism, civil unrest, government action, labor stoppage, and failure of a telecommunications, internet, or utility provider. A Force Majeure Event does not include a party's inability to pay, financial hardship, lack of funds, or any event that the party could have avoided or overcome by exercising reasonable diligence.

c. If a Force Majeure Event occurs, the noncomplying party shall promptly notify the other party of occurrence of that Force Majeure Event, its effect on performance, and how long the noncomplying party expects it to last. Thereafter the noncomplying party shall update that information as reasonably necessary. During a Force Majeure Event, the noncomplying party shall use reasonable

efforts to limit damages to the other party and to resume its performance under these Terms. If a Force Majeure Event prevents a party's material performance for more than thirty (30) consecutive days, either party may terminate these Terms upon notice to the other party, without liability other than for amounts accrued before termination.

33. **General Terms.**

a. **Amendments; Entire Agreement.** Round 2 may modify these Terms only as provided in the introduction to these Terms. No modification, amendment, or waiver requested by you is effective unless it is in writing and signed by an authorized officer of Round 2. These Terms, together with the Referenced Agreements, constitute the entire agreement between the parties regarding their subject matter and supersede all prior and contemporaneous agreements, proposals, understandings, and representations, whether written or oral, regarding that subject matter.

b. **Independent Contractors; No Third-Party Beneficiaries.** The parties are independent contractors. Nothing in these Terms creates a partnership, joint venture, agency, franchise, or employment relationship, and neither party may bind the other. These Terms do not confer any right or remedy on any person other than the parties and their permitted successors and assigns. Except where these Terms expressly provide an exclusive remedy, all rights and remedies are cumulative. Section headings are for convenience only and do not affect interpretation. The rule that ambiguities are construed against the drafter shall not apply to these Terms.

c. **Electronic Communications and Acceptance.** You consent to receive these Terms, notices, and other communications from Round 2 electronically, and you agree that your electronic acceptance of these Terms, including by clicking to accept or by accessing or using the Round 2 Platform, has the same legal effect as a handwritten signature. Round 2's records of your acceptance and of each version of these Terms are admissible as evidence of their contents.

d. **Export Controls; U.S. Government End Users.** You represent that you are not, and are not owned or controlled by, a person subject to sanctions administered by the U.S. Department of the Treasury's Office of Foreign Assets Control or otherwise designated on any U.S. restricted-party list, and you shall not export, re-export, or make the Round 2 Platform available in violation of U.S. export control or sanctions Laws. The Round 2 Software is commercial computer software; if you are a U.S. Government end user, your rights are limited to those set forth in these Terms in accordance with FAR 12.212 and DFARS 227.7202, as applicable.

34. **Notices.** Formal notices must be in writing and identify that they are given under this Section. Notices to Round 2 must be sent to Round 2 POS, Inc., 230 Executive Drive, Suite 120, Cranberry Twp., PA 16066, Attention: Legal, with a copy by email to legal@r2pos.com. Notices to you may be sent to the postal or email address in your account or delivered through the Round 2 Platform. Notice is effective on delivery by hand or nationally recognized overnight courier; three (3) business days after certified U.S. mail; or when sent by email if no delivery-failure message is received. Notices of changes to these Terms and Fees may be given as provided in the introduction and Section 16.

35. **Online Ordering.** This Section 35 applies only if your Order Form includes online ordering, and applies in addition to, and not in place of, the rest of these Terms. In this Section 35, “Online Ordering Service” means the functionality of the Round 2 Platform that enables your customers to submit orders to you electronically.

a. **Merchant Content and Merchant Marks.** “Merchant Content” means the content that you, or anyone on your behalf, submit to or make available through the Online Ordering Service, including menus, item and ingredient descriptions, allergen information, prices, photographs, images, video, audio, and text. “Merchant Marks” means your trademarks, service marks, trade names, logos, and other distinctive brand features. You grant Round 2 a non-exclusive, worldwide, royalty-free, fully paid-up license, sublicensable to Round 2 Vendors and to any third party that displays or transmits orders on your behalf, to use, reproduce, store, transmit, publicly display, publicly perform, and reformat the Merchant Content and the Merchant Marks (i) to operate, provide, secure, and support the Online Ordering Service, and (ii) during the Term, to identify and promote you as a user of the Online Ordering Service and to market and promote Round 2 and the Round 2 Platform. Round 2 may reformat or resize Merchant Content and Merchant Marks to meet the technical or display requirements of the Online Ordering Service but shall not otherwise materially alter a Merchant Mark. All goodwill arising from Round 2’s use of the Merchant Marks inures to your benefit. The license in clause (i) continues after the Term only as necessary for Round 2’s archival and reference records and to complete deletion in the ordinary course. Round 2 may refuse, remove, or disable any Merchant Content at any time in its sole discretion. You represent and warrant that you own or have all rights necessary to grant the license in this Section 35.a and that the Merchant Content and the Merchant Marks, and Round 2’s exercise of that license, do not and will not infringe or misappropriate any third-party right or violate any Law.

b. **Order Data.** “Order Data” means the records of orders placed through the Online Ordering Service, including the items ordered, prices, taxes, fees, gratuities, timestamps, fulfillment method, and the customer information submitted with the order. Order Data is Merchant Data, and as between the parties you own it, subject to the license in Section 4 and Round 2’s rights in Sections 3 and 5. You shall not sell or share Order Data, as those terms are defined under applicable privacy Law, and shall not disclose Order Data to any third party except (i) to a service provider that is bound by written contract to hold it in confidence, to use it only to perform services for you, and not to sell or share it, or (ii) as required by Law. You are solely responsible for providing every notice to, and obtaining every consent from, your customers that applicable privacy Law requires for your collection, use, retention, and disclosure of Order Data, including any use of Order Data for marketing. Round 2’s access to and use of Order Data is governed by Section 4 and Round 2’s privacy policy.

c. **Merchant Security Incidents.** You shall notify Round 2 within forty-eight (48) hours after you become aware of any actual or reasonably suspected unauthorized access to, acquisition of, use of, or disclosure of Order Data, or of any credential used to access the Online Ordering Service (a “Merchant Security Incident”). You shall promptly investigate the Merchant Security Incident, provide Round 2 with the information Round 2 reasonably requests about it unless prohibited by Law or by law enforcement, and cooperate with Round 2 on the response. You shall not issue any public statement or customer notification that identifies Round 2, the Round 2 Platform, or the Online Ordering Service without Round 2’s prior written consent, unless and to the extent required by Law.

d. **Pricing; Order Acceptance and Fulfillment.** The price you charge a customer for an item through the Online Ordering Service shall not exceed the price you charge for the same item at the location fulfilling the order, except for a delivery fee, service fee, or other charge that is separately and conspicuously disclosed to the customer before the order is submitted. You shall accept only those orders you can reasonably fulfill; shall process each accepted order and make it available to the customer with at least the same timeliness and care you apply to an order placed in person at that location; and shall package each order appropriately for its fulfillment method. If you breach this Section 35.d, you shall reimburse the affected customer the difference between the price charged and the price required by this Section 35.d, and you authorize Round 2 to charge your account under Section 16 for any amount Round 2 pays or credits to a customer on your behalf together with any related Card Brand or Processor fee. This Section 35.d does not limit Round 2's rights under Section 15 or Section 21.

e. **Alcohol and Age-Restricted Items.** You shall not offer any alcoholic beverage, tobacco or nicotine product, cannabis or hemp-derived product, or any other age-restricted or regulated item through the Online Ordering Service unless permitted by applicable Law and by Round 2 in writing. If Round 2 permits you to offer any such item, you are solely responsible for holding and maintaining every required license and permit; for verifying the age and identity of the purchaser and of the recipient at the time of pickup or delivery; for refusing any sale that Law requires be refused; and for complying with every applicable Law and Card Brand rule governing that item, including any restriction on delivery to a place where consumption is prohibited and any prohibition on leaving such an item unattended.

f. **Delivery Services.** If you use a delivery service, whether your own personnel or a third party, you are solely responsible for that service. You shall ensure that each delivery service you use complies with applicable Law, including privacy and data protection Law, and uses Order Data solely to deliver the applicable order and for no other purpose. You shall not permit any delivery service to retain, sell, share, or use Order Data for its own purposes.

g. **Survival; No Expansion of Liability.** Sections 35.a (as to the license granted to Round 2 and your representations), 35.b, 35.c and this Section 35.g survive termination of these Terms. Nothing in this Section 35 expands Round 2's liability beyond Sections 22, 23, and 24, and nothing in this Section 35 limits your obligations under Section 21.

36. **Definitions**

a. **"Authorized Reseller"** means an independent sales organization, dealer, or other reseller authorized by Round 2 to market, install, or support the Round 2 Platform.

b. **"Card Brand"** means Visa U.S.A. Inc., Mastercard International Incorporated, DFS Services, LLC, American Express Travel Related Services Company, Inc., and any other association, card payment brand, payment instrument issuer, debit network, or payment methodology.

c. “Documentation” means Round 2’s electronic user manual for the Round 2 Platform, which may be updated by Round 2 from time to time in its sole discretion, and any other written materials related to the Round 2 Platform provided or made available by Round 2.

d. “Fees” means the amounts payable by you for the products, services, modules, equipment, and support you select, as stated in the applicable Order Form, together with any Additional Fees. Fees exclude processing fees, interchange, assessments, and other amounts payable to a Processor, Gateway, sponsor bank, or Card Brand under the MPA, and exclude amounts payable to an Authorized Reseller under your separate agreement with that reseller, except where the Order Form expressly provides otherwise.

e. “Hardware” means the terminals or other hardware (including displays, monitors, payment terminals, scales, tablets and handheld devices) provided to Merchant by Round 2 or an Authorized Reseller, or otherwise approved by Round 2 in writing, on which the Round 2 Platform will be installed and/or run. Hardware excludes any computer programs, applications and software embedded therein.

f. “Improvements” means all improvements, updates, enhancements, error corrections, bug fixes, release notes relating to the Round 2 Platform. Improvements do not include a new version of the Round 2 Platform.

g. “Law” means any applicable federal, state, local, or foreign statute, regulation, rule, ordinance, judgment, order, or other requirement of a governmental authority.

h. “Merchant” means you, as defined in Section 36.s.

i. “Merchant Data” means all information, data, and content that is provided by Merchant or on Merchant’s behalf to the Round 2 Platform, or that is collected, generated, transmitted, processed, or stored through the Round 2 Platform in connection with Merchant’s business operations, customers, employees, products, inventory, or transactions. Merchant Data includes, without limitation, transaction data, SKU-level data, pricing data, product and menu data, tax and gratuity data, refund and chargeback data, customer information, loyalty and gift card information, employee and timekeeping records, inventory records, and reporting data specific to Merchant. Merchant Data does not include Platform Usage Data, Round 2 Data, or any data or other information developed by Round 2 or its third-party licensors independent of Merchant’s use of the Round 2 Platform.

j. “Merchant Processing Agreement” or “MPA” means the merchant processing agreement among you, the Processor, and the applicable sponsor bank, as amended, restated, or replaced from time to time, under which payment processing, settlement, funding, reserves, chargebacks, and processor fees are governed.

k. “Merchant Services” means the payment processing and related services that allow a Merchant to accept a payment for services and/or products through a secure (encrypted) channel using a customer’s credit card.

l. “Order Form” means the Round 2-approved order form used by you to subscribe to the Round 2 Platform and to purchase support (if any) or any other services and products related to your use of the Round 2 Platform, including an order form presented to you by an Authorized Reseller, in each case as accepted by Round 2 by countersignature, by written or electronic confirmation, or by provisioning the Round 2 Platform for you. An Order Form identifies the products, services, modules, locations, POS Terminals, authorized end users, Hardware, and Fees applicable to you.

m. “Partners” means Round 2's processors and banks supporting processors’ transactions and any other vendors Round 2 contractually engages to facilitate the use and performance of the Round 2 Platform.

n. “Round 2 Data” means all data, information, and materials that are owned, developed, licensed, or controlled by Round 2 and are used in connection with the Round 2 Platform and related services, including, without limitation, the Round 2 Software, Documentation, system architecture, technical information, platform usage records, access logs, date and time stamps, system performance data, diagnostic data, support data, telemetry, audit logs, aggregated data, de-identified data, benchmarking data, analytics, models, derivative works, and product or service improvement data. Round 2 Data includes Platform Usage Data and other data derived from Merchant’s use of the Round 2 Platform to the extent such data does not identify Merchant, Merchant’s customers, or any individual. Round 2 Data does not include Merchant Data in identifiable form.

o. “Round 2 Platform” means the platform commercialized by Round 2 to conduct or facilitate point of sale (“POS”) transactions and/or electronic commerce transactions for Merchants and end users, including, among other things, POS terminals (“POS Terminals”), back end technology (including all technology relating to data analytics, data management, data storage, reporting, payroll management and other back end portal functionality, API/XMLs, networking, financial and electronic transaction clearing, omnichannel functionality, and all other aspects of physical and/or electronic commerce transactions processed through POS Terminals and/or the back end). For clarity, the Round 2 Platform includes the Round 2 Software.

p. “Round 2 Software” means Round 2’s proprietary software, applications, and other computer programs developed by Round 2 that are installed on the Hardware and are used to operate the Round 2 Platform to facilitate the Merchant Services.

q. “Term” has the meaning given in Section 15.a.

r. “Work Product” means all materials, software, tools, data, inventions, works of authorship, methods, processes, and other innovations of any kind that Round 2, or personnel working for or through Round 2, may create or develop, alone or jointly with others, in the course of performing services or providing deliverables or as a result of such services or deliverables, whether or not eligible for patent, copyright, trademark, trade secret or other legal protection.

s. “You” and “your” in uppercase or lowercase means the entity (e.g., company, corporation, partnership, sole proprietor, etc.) or government agency agreeing to these Terms.