

ROUND 2 TERMS AND CONDITIONS OF USE

Round 2, POS, Inc. (“Round 2” or “we”) owns and provides various software, technologies, and services (the “Services”) to merchants and other end users to facilitate business operations and the use of these business operations. These terms and conditions (these “Terms”) govern your use of and access to and use of any of the Services (as defined below). These Terms, along with Round 2’s Privacy Policy, Order Form, End User License Agreement, and any service agreements or policies referenced by these Terms constitute a legally binding agreement between you and Round 2.

IF YOU PLACE AN ORDER, CREATE AN ACCOUNT, OR OTHERWISE ACCESS OR USE ANY OF THE SERVICES, YOU AFFIRM THAT YOU HAVE READ, UNDERSTOOD AND AGREE TO BE BOUND BY THESE TERMS. IF YOU ARE USING THE SERVICES FOR OR ON BEHALF OF AN ENTITY, YOU STATE THAT (a) YOU ARE AUTHORIZED BY THE ENTITY TO BIND THE ENTITY TO THESE TERMS AND (b) ON THE ENTITY’S BEHALF YOU AGREE TO BE BOUND BY THESE TERMS. IF YOU DO NOT AGREE, THEN YOU MAY NOT AND MUST NOT USE THE R2 SERVICES. NOTE THAT THESE TERMS CONTAINS AN ARBITRATION AGREEMENT (SEE SECTION 9), WHICH WILL, WITH LIMITED EXCEPTION, REQUIRE YOU TO SUBMIT CLAIMS YOU PURPORT TO HAVE AGAINST ROUND 2 TO BINDING AND FINAL ARBITRATION.

1. ROUND 2’S SERVICES

Round 2’s Services include, among other things, Round 2’s websites (<https://round2pos.com>), point-of-sale system (including its software) (the “POS System”), online ordering system (the “Online Ordering System”) that Round 2 offers through certain online ordering pages for its Merchants, Round 2’s QR2 Pay, which is Round 2’s quick response pay at the table offering, Round 2’s cloud back of house offering, which allows the ability to remotely manage the POS System from the internet, and payment processing transactions facilitated through Round 2’s point-of-sale system but relying on third parties to process such transactions. Each merchant who uses one or more of Round 2’s Services will herein be referred to as a “Merchant.”

2. ACCEPTANCE OF THESE TERMS AND INCORPORATION OF RELATED TERMS

2.1 These Terms apply to any Services, whether performed by Round 2 or by a third party on Round 2’s behalf, such as payment processing, and any merchant or person using any Service. By agreeing to these Terms, you state that (a) you are at least 18 years old (or at least 13 years old and your parent or guardian has agreed to the Agreement on your behalf) and have the legal capacity to contract, (b) you have not previously been suspended or removed from any Services, and (c) your registration and your use of the Services is and will comply with all applicable laws and regulations. If you are eligible, it’s important that you understand that: (i) just by using the Services you (or, if applicable, your parent or guardian on your behalf) enter a legally binding contract with based on these Terms, the Privacy Policy and any other agreements reference in these Terms, as may be update over time; and (ii) these Terms contain an arbitration provision (described in more detail below) which limits your rights to a class action lawsuit and trial by jury if a dispute occurs.

2.2 If you are using and Round 2 Services to interact with a Merchant, the Merchant’s terms of use and/or privacy policy also apply, so you should review these documents before using any of the Services. Because Round 2 cannot guarantee that any Merchant acts in accordance with its terms of use and/or privacy policy, Round 2 shall not be liable for such Merchant’s compliance with them. Similarly, if a third-party delivery management system or other service, such as credit card processing, is involved in delivering the Services or part of any of the Services, Round 2 shall not be responsible for such third party and you should review the terms of use and privacy policy of any such third party. In each case, whether a Merchant or third party, the Merchant or third party, as applicable, is solely responsible for

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any and all damages, claims, liabilities, costs, injuries or illness caused in whole or in part by the Merchant or third party (or both). Round 2 does not independently verify the quality of any Merchant's products, services, or its compliance with applicable laws, rules, or regulations. Round 2 shall not be liability and specifically disclaims any liability for any acts or omissions by any Merchant or third party provider, including any deficiencies in the quality or character of the food or service (including dietary deficiencies or food safety), the timeliness of service (such as delivery or pick up periods), or, in the case of charges made directly to consumer by the Merchant (such as payment processing), the accuracy or fairness of those charges. To avoid doubt, all payment processing is governed by the Merchant Processing Agreement signed between the Merchant, Round 2's payment processor (currently Fiserv) and Fiserv's bank (currently Citizens Bank).

3. PERMISSION TO USE SERVICES

3.1 By accepting these Terms, Round 2 grants you a non-transferable, non-sublicensable, non-exclusive, limited, revocable license to use the applicable Service(s), including the applicable software. Round 2 may refuse to offer any Services to anyone at any time, may withdraw access to any Services from anyone at any time, or may stop providing any Services at any time in its sole discretion.

3.2 Merchant hereby grants to Round 2 a non-exclusive, worldwide, perpetual, fully paid-up, royalty-free right and license to use, copy, encode, collect, retrieve (including by automated means), store, archive, distribute, transmit, modify, edit, render into an audible and/or visual format, publicly-display, and publicly-perform any Merchant data, content or information ("Merchant Information") and to Merchant's trademarks ("Merchant Marks"). and the Merchant Marks in any and all media now known or hereafter devised in order to provide the Services to the Merchant, including marketing or advertising the Services.

3.3 In order to provide any of the Services, you also grant Round 2 the right to: (a) access and use the hardware on any of your relevant devices or systems in your business space to deliver the Services and allow Round 2's service partners to do the same.

3.4 Round 2 may change content on the Services without prior notice. Round 2 does not guarantee the accuracy of any content pertaining to any Merchant, such as the hours of operation, the location, or the prices or the availability of menu items. Round 2 does not guarantee the operations or quality of any Merchant product or service, which remain the responsibility of the Merchant at all times.

4. USE OF THE SERVICES AND PROHIBITIONS

4.1 You may use any Service or Services for any lawful business purpose, and provided you may comply with these Terms.

4.2 You shall not, and shall not permit any employee, agent, representative or third party to, use the Services: (a) in violation of any applicable law, regulation, Card Brand rules, or PCI DSS requirements; (b) to transmit any viruses, malware, or harmful code; (c) to engage in any fraudulent, deceptive, or misleading activities; (d) for any purpose that infringes, misappropriates, or otherwise violates the intellectual property or other rights of any person of entity; (e) modify, adapt, appropriate,

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reproduce, distribute, translate, create derivative works or adaptations of, publicly display, sell, trade, or exploit the Services, except as Round 2 may permit in writing; (f) Modify, adapt, appropriate, reproduce, distribute, translate, create derivative works or adaptations of, publicly display, sell, trade, or exploit the Services; (g) disable any security-related features Modify, adapt, appropriate, reproduce, distribute, translate, create derivative works or adaptations of, publicly display, sell, trade, or exploit the Service; (h) alter or modify or otherwise change any Services or hardware provided by Round 2, including any repairs, unless authorized by Round 2; and (i) for any fraudulent, unlawful or nefarious purposes.

4.3 If you are a consumer and purchase alcohol, you expressly state that you are of legal age, you are not procuring alcoholic beverage products for any person under the legal age; you will provide bona fide government-issued photo identification showing your legal age upon delivery or pickup of any beverages; and you are purchasing alcoholic beverages for personal consumption and not for resale or any other commercial purpose.

5. COMMUNICATIONS TO AND FROM YOU

If you provide us or a Merchant with your email address or mobile telephone number, you hereby consent to accept and receive communications from Round 2, Merchants, or third parties providing services to you, Round 2 or Merchants, including via email, text message, direct message, chat, calls, and push notifications to a cellular telephone number you provided. You also specifically consent to receive direct dial telephone calls and SMS and MMS text messages (from Round 2 or a Merchant) at that number relating to the Services (for among, other things, notifications, promotions, account verification, invitations, and other transactional, informational or operational purposes). If your mobile carrier ("Carrier") charges standard messaging, data, and other fees, you are responsible for these charges. The Services may send and receive text messages through cellular telephone operators or other networks, and the level of reliability may vary. Round 2 is not responsible for the timeliness or final delivery of the message, as this is out of our control and is the responsibility of the Carrier or other networks. Round 2 is not responsible for any incorrect information you provide, including any information that becomes out of date and is no longer accurate.

6. PAYMENTS AND FEES

6.1 Round 2 facilitates the exchange of information between customers and Merchants. Round 2 is not a seller of any Merchant products or services. Round 2 is not responsible for any prices, including any additional fees or taxes, provided by the Merchants and Round 2 does not independently verify any pricing information provided by a Merchant.

6.2 If you make payments, such as debit or credit card payments for one or more of the Services, you authorize the Merchant, Round 2 and its third-party processing partners to charge your chosen payment method to make the payment and agree to pay all applicable charges, including gratuities, fees and taxes, and any part thereof in connection with the payment. If you are entitled or subject to a refund, reversal, chargeback, or other adjustment associated with the payment, you also authorize a credit to your chosen payment method (as applicable) to make the necessary adjustment.

6.3 Round 2 provides third-party products and technology that facilitate payment transactions by you and to the Merchant, which payment transactions are processed through a processor and settled by banks. Round 2 does not store any credit card information and it shall have no liability to you for any

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issue or problem related such a card or similar non-cash payment, unless the issue or problem is directly caused by Round 2's own technology or software.

6.4 If making a payment, whether instore or online, the Merchant is responsible at all times for the security of your credit card data that it possesses, stores, processes, transmits on your behalf. Because Round 2 uses third-party providers to process and transmit payments and to store your credit card data, Round 2 does not transmit or store your credit card data during the payment processing transaction. The Merchant shall obtain your consent as it relates to the use, storage and transmission of your credit card data during the payment process. Round 2 does not warrant, indemnify or accept liability regarding or relating to any payment processing claims.

7. ACCOUNT CREATION AND TERMINATION

7.1 In order to use the Services, you may have to create an account or, if applicable, you may be able to check out as a guest. In either case, you state that the information you provide shall be truthful and accurate. You shall be responsible for any use of your account or information regardless if its authorized or unauthorized.

7.2 Round 2 may suspend or terminate your account with or without notice. If Round 2 terminates your account, all use rights and licenses provided to you under an agreement, including these Terms, ends and you must cease using any of the Services.

7.3 Unless you have open or pending purchases, you may close your account related to any Service, which you may do at any time. You will, however, be liable for any payments you are obligated to pay. Round 2 is not liable to you or any third party for any amounts of money owed or due resulting from the termination or suspension of your account and/or the permanent destruction of your information.

8. ROUND 2 INTELLECTUAL PROPERTY

8.1 The Services and related content are owned by Round 2, its third-party partners or the Merchants. This content includes the text, software, scripts, graphics, photos, sounds, interactive features, visual interfaces, design, compilation, information, data, computer code (including source code or object code), products, services, and the trademarks, service marks, and logos contained in the Services ("IP Content"). IP Content is subject to copyright, trademark, and other intellectual property rights under United States law, the law of the jurisdiction where you reside, and international conventions. All present and future rights in and to trade secrets, patents, copyrights, trademarks, service marks, know-how, and other proprietary rights of any type under the laws of any governmental authority, domestic or foreign, including rights in and to all applications and registrations relating to Round 2 or the Services will, as between you and Round 2, be and remain the sole and exclusive property of Round 2.

8.2 Round 2 may change content on the Services without prior notice. Round 2 does not guarantee the accuracy of any content pertaining to any Merchant, such as the hours of operation, the location, or the prices or the availability of menu items.

8.3 For the avoidance of doubt, (a) certain menu or other description information displayed on the Services may be the property of the applicable Merchant or its licensors and protected by intellectual property laws and (b) the trademarks, service marks, designs, and logos of Merchants

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displayed on the Services may be the registered and unregistered trademarks of those Merchants and their licensors. Your use of any of the foregoing intellectual property, except as provided in the Agreement, is strictly prohibited without the authorization of the Merchant or their licensors.

8.4 Round 2 grants no license to you under any of the above-described IP Content by virtue of these Terms, except for the conditional right to use the Services as provided. The Services are licensed, not sold, to you for use only under the terms of the Agreement.

9. ARBITRATION AGREEMENT

YOU AND ROUND 2 AGREE TO GIVE UP ANY RIGHTS TO LITIGATE CLAIMS IN A COURT OR BEFORE A JURY OR TO PARTICIPATE IN A CLASS ACTION OR REPRESENTATIVE ACTION WITH RESPECT TO A CLAIM. OTHER RIGHTS THAT YOU WOULD HAVE IF YOU WENT TO COURT, SUCH AS ACCESS TO DISCOVERY, ALSO MAY BE UNAVAILABLE OR LIMITED IN ARBITRATION.

9.1 Because legal disputes can and often are costly, in money, time and energy, you and Round 2 agree that any controversy, claim, action, or dispute between you and Round 2, its affiliated companies and their respective officers, directors, employee, agents or contractors arising from or relating to the Online Ordering Services or these Terms (“Dispute”), will be resolved by this dispute resolution procedure and arbitration provision (“Arbitration Provision”).

9.2 Informal Dispute Resolution. Prior to initiating any arbitration, you must first present any Dispute to Round 2 by contacting the Round 2 at 1-412-213-8355 to allow for an opportunity to resolve the Dispute. You or we may initiate arbitration if your Dispute cannot be resolved within 60 days. Both you and Round 2 agree that this dispute resolution procedure is a condition precedent which must be satisfied prior to initiating any arbitration or filing any claim against the other party.

9.3 Right to Opt Out of this Arbitration Provision. You may opt out of this Arbitration Provision within the first 30 days after the first time you submit an online order. You may also opt out of this Arbitration Provision within 30 days after we notify you regarding a material change to this Arbitration Agreement. You may opt out by sending an email to Round 2 at legal@r2pos.com or by sending a letter to Round 2, Attn: Legal Department, 1735 N. Main St. Ext., Butler, PA 16001. You should include your printed name, mailing address, and the words “Reject Arbitration.”

9.4 Right to Bring Small Claims in Court. Instead of arbitration, either you or Round 2 may bring any individual claim in small claims court consistent with the jurisdictional and dollar limits that may apply, as long as it is brought and maintained as an individual claim.

9.5 How Arbitration Works. Either party may initiate arbitration, which shall be conducted by the American Arbitration Association (“AAA”) pursuant to its Consumer Arbitration Rules (“AAA Rules”), as modified by this Arbitration Agreement. The AAA Rules are available on the AAA’s website www.adr.org, or by calling the AAA at (800) 778-7879. In the event the AAA is unavailable or unwilling to hear the Dispute, the parties shall agree to another arbitration provider. Payment of all filing, administration and arbitrator fees will be governed by the AAA’s applicable rules. Round 2 will reimburse those fees in an amount up to \$10,000. Round 2 also waives its own right to seek attorneys’ fees and costs in arbitration. You may choose to have the arbitration conducted by telephone, based on written submissions, or in person in the county where you live or at another mutually agreed location.

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9.6 Waiver of Right to Bring Class Actions and Representative Claims. All arbitrations shall proceed on an individual basis. The arbitrator is empowered to resolve the Dispute with the same remedies available in court, however, any relief must be individualized to you and shall not affect any other customer. You and Round 2 agree that each may bring claims against the other in arbitration only in your or their respective individual capacities and in so doing you and Round 2 hereby waive the right to a trial by jury, to assert or participate in a class action lawsuit or class action arbitration (either as a named-plaintiff or class member), and to assert or participate in any joint or consolidated lawsuit or joint or consolidated arbitration of any kind. If a court decides that applicable law precludes enforcement of any of this paragraph's limitations as to a particular cause of action, then that cause of action (and only that cause of action) must remain in court and be severed from any arbitration.

9.7 Other Terms. This Arbitration Agreement shall be governed by, and interpreted, construed, and enforced in accordance with the Federal Arbitration Act and, where applicable, the law of the Commonwealth of Pennsylvania. The terms of the Arbitration Agreement provisions shall survive after your relationship with Round 2 and/or you use of the Services ends. Any arbitration will be confidential, and neither you nor we may disclose the existence, content or results of any arbitration, except as may be required by law or for purposes of enforcement of the arbitration award. Judgment on any arbitration award may be entered in any court having proper jurisdiction. Except as set forth above, if any portion of this Arbitration Agreement is deemed invalid or unenforceable, it will not invalidate the remaining portions of the Arbitration Agreement.

10. LIMITATION OF LIABILITY

ROUND 2, INCLUDING ANY OF ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR REPRESENTATIVES, SHALL NOT BE LIABLE TO YOU, ANY MERCHANT OR ANY OTHER THIRD PARTY; REGARDING OR RELATED THE USE OF ANY SERVICES OR FOR ANY DATA COLLECTED FROM YOU BY ROUND 2 OR A MERCHANT THROUGH THE USE OF THE SERVICES.

Without limiting the foregoing,

- (I) ROUND 2 SHALL NOT HAVE ANY LIABILITY, ON ANY LEGAL BASIS WHATSOEVER, TO YOU, ANY MERCHANT OR ANY THIRD PARTY FOR ANY INDIRECT, SPECIAL, EXEMPLARY, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING DAMAGES FOR LOSS OF PROFITS, USE, DATA OR OTHER INTANGIBLES, ARISING OUT OF OR RELATED TO YOUR USE OF THE ONLINE ORDERING SERVICES, EVEN IF THE MERCHANT AND/OR ROUND 1 WAS ADVISED OF OR WAS AWARE OF THE POSSIBILITY OF SUCH DAMAGES, AND
- (II) YOU UNDERSTAND AND AGREE THAT ROUND 2 IS NOT RESPONSIBLE FOR THE MERCHANT RESPONSIBILITIES RELATED TO THE SERVICES, INCLUDING FOOD PREPARATION, DATA PRIVACY, AND OPERATIONS OF MERCHANT'S BUSINESS." YOU SHALL NOT MAKE ANY ALLEGATION OR TAKE ANY ACTION AGAINST ROUND 2 BASED ON THE ACTUAL OR ALLEGED FULFILLMENT OR NON-FULFILLMENT BY A MERCHANT OF ITS RESPONSIBILITIES. IF PERMITTED UNDER APPLICABLE LAW, YOU HEREBY RELEASE ROUND 2 FROM ANY AND ALL CLAIMS OR LIABILITY RELATED TO OR ARISING FROM ANY ACTION OR INACTION BY A MERCHANT (INCLUDING ANY FAILURE OF A MERCHANT TO COMPLY WITH ANY LAWS OR REGULATIONS OR RULES). IN CONNECTION WITH THE FOREGOING, YOU HEREBY WAIVE CALIFORNIA CIVIL CODE SECTION 1542 AND ANY SIMILAR PROVISION IN ANY OTHER JURISDICTION. CALIFORNIA CIVIL CODE SECTION 1542 STATES: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR

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DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH, IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.”

SOME JURISDICTIONS DO NOT ALLOW CERTAIN LIMITATIONS OR EXCLUSIONS OF DAMAGES, SO SOME OF THE FOREGOING DISCLAIMERS AND LIMITATIONS MAY NOT APPLY TO YOU. YOU AGREE THAT WITHOUT THE FOREGOING LIMITATIONS OF LIABILITY, EXCLUSIONS OF DAMAGES, RELEASES AND WAIVERS IT WOULD NOT BE FEASIBLE FOR ROUND 2 AND MERCHANTS TO OFFER YOU THE ONLINE ORDERING SERVICES WITHOUT CHARGE, THAT SUCH LIMITATIONS OF LIABILITY, EXCLUSIONS OF DAMAGES, RELEASES AND WAIVERS ARE FUNDAMENTAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN YOU, THE MERCHANTS, AND ROUND 2, PURSUANT TO WHICH THE SERVICES ARE OFFERED TO YOU, AND THAT THE SERVICES WOULD NOT BE MADE AVAILABLE TO YOU IF YOU DID NOT AGREE TO SUCH LIMITATIONS, EXCLUSIONS, RELEASES AND WAIVERS.

11. ACCESSIBILITY

We are committed to ensuring that the Services provided over the internet, such as Online Ordering, are accessible to all customers, including individuals with disabilities. We strive to conform to the Web Content Accessibility Guidelines (WCAG) 3 and to comply with applicable accessibility requirements under the Americans with Disabilities Act (ADA) and similar state and local laws.

We are continually working to improve the accessibility and usability of our website so all customers can browse menus, place orders, and access important information with ease. If you have any issues placing an order, please contact the merchant from whom you are ordering, and it will be able to assist you with your order.

We welcome your feedback as we work to provide an inclusive and accessible experience for all guests.

12. MISCELLANEOUS

If any provision of these Terms is held by a court of competent jurisdiction to be invalid or unenforceable, it will not impact the validity and enforceability of any other provision of these Online Ordering Terms, all of which will remain in full force and effect. Failure of Round 2 to exercise or enforce any right or provision of these Online Ordering Terms will not constitute a waiver of such right or provision in that or any other instance.

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