

## **BBS POS SYSTEM TERMS AND CONDITIONS OF USE**

This POS System Use Agreement (this “Agreement”), dated as of the Effective Date (defined below) is between Butler Business Systems, LLC (“BBS”), and the Merchant (“Merchant”) whose name appears on the Point of Sale and Payment Processing Order Form (the “Order Form”) signed by the Merchant. Hereinafter BBS and Merchant each may be referred to as a “Party” and, collectively, the “Parties.”

WHEREAS BBS is a reseller in the business of providing comprehensive, customized point-of-sale and payment processing solutions for restaurants and retail businesses;

WHEREAS Merchant desires to obtain from BBS such comprehensive, customized point-of-sale solutions; and

WHEREAS Merchant has entered into a Merchant Processing Agreement (the “MPA”) with a third-party processor (the “Processor”) and the Processor’s bank to accept and process credit card and other non-cash payments – neither BBS nor Round 2, the POS Platform licensor, is a party to the MPA.

THEREFORE, the Parties agree as follows:

1. This Agreement constitutes the sole and entire agreement of the Parties with respect to the subject matter of this Agreement, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, regarding this subject matter. If there are any conflicts or inconsistencies between the provisions of this Agreement, the Order Form, or the End User License Agreement (the “EULA”) between end user and Round 2, or the Round 2 Terms and Conditions of Use, the priority shall be as follows: (i) The EULA; (ii) this Agreement; (iii) the Round 2 Terms and Conditions of Use, and (iv) the Order Form. Notwithstanding anything to the contrary, and for the avoidance of doubt, this Agreement does not and is not intended to supersede the MPA. If there is a direct conflict between the terms of this Agreement and the MPA, the terms of the MPA controls solely for payment processing services and processor-related obligations and not the POS System and/or Hardware.
2. Definitions. As used in this Agreement, the following terms have the following meanings:
  - a. “Authorized Users” means authorized employees, officers, contractors, agents, or representatives of a Merchant (as defined below) – which Merchant is licensed to use the Round POS System – and who needs access the POS System to perform their job duties for the Merchant.
  - b. “BBS Data” means all data, information, and materials that are owned, developed, licensed, or controlled by BBS or its licensors and are used in connection with the POS System and related services, including, without limitation, the 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. BBS Data includes data derived from Merchant’s use of the POS System only to the extent such data has been aggregated and/or de-identified so that it does not identify Merchant, Merchant’s customers, or any individual. BBS Data does not include Merchant Data in identifiable form.

- c. “Card Brand” means each of Visa U.S.A., Inc., MasterCard International, Incorporated, DFS Platform, LLC, American Express Travel Related Services Company, Inc., and any other association, card payment brand, payment instrument issuer, debit network, or payment methodology.
  - d. “Effective Date” means the date signed by the Merchant.
  - e. “End User” means any Authorized User.
  - f. “Hardware” means the terminals or other hardware and peripherals (including displays, monitors, payments devices, scales, tablets and handheld devices) used by Merchant on which Round 2’s Platform will be integrated. All Hardware is manufactured by third parties, separate from BBS or its software licensor. All Hardware is provided by BBS, not Round 2.
  - g. “Merchant Data” means all information, data, and content that is provided by Merchant or on Merchant’s behalf to the POS System, or that is collected, generated, transmitted, processed, or stored through the POS System 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 BBS Data or any data, content, or information that is generated by BBS or its licensors independently of Merchant’s use of the POS System or that constitutes BBS’s or its licensors’ intellectual property or confidential information.
  - h. “Platform” means the proprietary operating system, software, firmware, applications, and any documentation, tools, components, APIs, and any updates thereto (including software customizations, maintenance, service information, help content, bug fixes, updates or maintenance releases) BBS and/or its licensors provide.
  - i. “POS System” means Round 2’s proprietary point-of-sale system that is made up of the Hardware and the Platform.
  - j. “Round 2 POS, Inc.” or “Round 2” means the licensor of the Platform and the company for whom BBS is a reseller of the Platform and Merchant Services (defined below).
3. Processing Requirements. Use of the POS System by Merchant requires the exclusive use of the credit card and merchant services (collectively, the “Merchant Services”), which services are set forth in and governed by the MPA, all provided by or through BBS. If Merchant uses gift cards, Merchant must use gift cards provided by Factor Four, a third-party provider of BBS. Merchant shall, at any time upon request by BBS, execute such additional documents and take such additional acts as may be necessary to ensure that the POS System is able to support and be used for the Merchant Services. Merchant’s failure to use the Merchant Services or Factor Four gift cards will be a material breach this Agreement pursuant to which BBS may immediately terminate the Agreement.

4. Modifications to Platform. BBS or its licensor, Round 2, may modify, update, upgrade, enhance, supplement or discontinue the Platform or any features or functionalities thereof at any time. BBS may charge for any additional features or functionalities added to the Platform.
5. License. Subject to Merchant's and its Authorized Users' compliance with this Agreement, BBS and its licensors grant Merchant a limited, non-exclusive, non-transferable, non-sublicensable, revocable, license to use the Platform, with the accompanying Hardware, for its own internal business purposes. BBS and its licensors reserve all rights, title, and interest in and to the Platform, including all intellectual property rights, that are not expressly granted to Merchant hereunder. Merchant may not, and shall not permit any third party to alter, modify, adapt, translate, reverse engineer, decompile, disassemble, or otherwise attempt to access or derive the source code or underlying structure, ideas, know-how, or algorithms of the Platform. Merchant may not, and shall not permit any third-party to manufacture, reproduce, copy, sublicense, distribute, sell, lease, rent, load, assign, replicate, transfer, or otherwise dispose of or make available, any copies of the Platform, in whole or in part, without the prior express written consent of BBS. Nothing contained in this Agreement shall give Merchant any ownership interest in, or title to the Platform. Merchant acknowledges and agrees that the performance, functionality, and availability of the Platform are contingent upon Merchant providing, at its sole cost and expense, a continuously available, reliable, and secure internet connection and network infrastructure. This license granted in this Agreement shall immediately terminate upon expiration or termination of this Agreement. This license does not grant Merchant any rights to use any trademarks, service marks, trade names, or logos of BBS or its licensors, nor does it grant any rights to use any software other than the Platform as expressly licensed herein. BBS and its licensors may amend, modify, or supplement the terms of this license at any time upon notice to Merchant. Merchant's continued access or use of the Platform after any such amendment, modification, or supplement becomes effective will constitute its acceptance of the revised license terms.
6. Title, Relocation, Assignment. BBS and its licensors shall retain all right, title, and interest in and to the POS System, including its constituent parts, and Merchant shall hold the same subject and subordinate thereto. Merchant shall, at its expense, defend BBS's and its licensors' title against all persons claiming against or through Merchant and shall at all times keep the POS System free and clear from any liens and encumbrances whatsoever. EXCEPT AS EXPRESSLY PERMITTED BY THIS AGREEMENT, MERCHANT MAY NOT RELOCATE, SELL, LEASE, SUBLEASE, TRANSFER, ASSIGN, PLEDGE, CONVEY OR OTHERWISE DISPOSE OF THE POS SYSTEM OR ANY PART THEREOF, NOR ASSIGN OR DELEGATE ANY OF ITS RIGHTS OR OBLIGATIONS HEREUNDER, WHETHER VOLUNTARILY, INVOLUNTARILY, BY OPERATION OF LAW OR OTHERWISE, WITHOUT BBS'S PRIOR WRITTEN CONSENT WHICH MAY BE WITHHELD IN BBS'S SOLE DISCRETION.
7. Fees and other Payments. In addition to the fees (the "Fees") set forth in the Order Form, Merchant shall also pay to BBS: (i) all applicable sales, use, value-added, excise, and similar taxes, duties, tariffs, withholdings, and other governmental charges of any kind, however designated, or levied; (ii) all costs required for the shipment, delivery, installation, maintenance, servicing, repair, replacement, removal, deinstallation, packaging, shipping, and return of the POS System, and (iii) fines, penalties, assessments, or other fees imposed at any time because of the use of the POS System by any government, governmental entity or regulatory authority, or other taxing jurisdiction. Merchant shall be solely responsible for all such amounts, regardless of whether they are billed directly to Merchant or to BBS. Merchant's obligation to pay these Fees and other amounts under this Agreement shall remain in full force and effect and is not subject to any abatement, delay, reduction, set-off, defense, counterclaims, interruption, deferment or recoupment

for any reason, including any failure of the POS System. BBS shall collect the Fees and other amounts (if any) as set forth in this Agreement and as may be authorized by the MPA. All such payments shall be made in lawful currency of the United States, in immediately available funds, without deduction or withholding for any taxes or other charges, except as required by applicable law.

8. Warranties/Disclaimer. TO THE EXTENT PERMITTED BY LAW, BBS AND ITS LICENSORS MAKE NO WARRANTIES, EXPRESS OR IMPLIED, BY OPERATION OF LAW OR OTHERWISE, WITH RESPECT TO THE POS SYSTEM UNDER THIS AGREEMENT. BBS, FOR ITSELF AND FOR ITS LICENSORS, DOES NOT MAKE (AND EXPRESSLY AND SPECIFICALLY DISCLAIMS) ANY REPRESENTATIONS OR WARRANTIES IN RESPECT OF THE POS SYSTEM, AND/OR THE SERVICES PROVIDED BY BBS OR ITS LICENSORS UNDER THIS AGREEMENT, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, WITHOUT LIMITATION, SPECIFICALLY ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, QUIET ENJOYMENT, OR NON-INFRINGEMENT, AND ANY WARRANTIES THAT MAY ARISE FROM COURSE OF PERFORMANCE, COURSE OF DEALING, OR USAGE OF TRADE. NEITHER BBS NOR ITS LICENSORS GUARANTEE, WARRANT, OR REPRESENT THAT THE POS SYSTEM OR ANY RELATED SERVICES WILL MEET OR SATISFY THE MERCHANT'S REQUIREMENTS OR EXPECTATIONS, OR THAT THE OPERATION OR USE OF SUCH WILL BE UNINTERRUPTED, TIMELY, SECURE, ACCURATE, COMPLETE, OR ERROR-FREE. POS SYSTEM AND RELATED SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE," WITH ALL FAULTS, AND THE ENTIRE RISK AS TO SATISFACTORY QUALITY, PERFORMANCE, ACCURACY, AND EFFORT SHALL BE BORNE SOLELY BY MERCHANT. SHOULD THE POS SYSTEM, OR ANY RELATED SERVICES PROVE DEFECTIVE, MERCHANT, AND NOT BBS OR ITS LICENSORS, ASSUMES THE ENTIRE COST OF ALL NECESSARY SERVICING, REPAIR, CORRECTION, OR REPLACEMENT. NEITHER BBS NOR ITS LICENSORS SHALL BE LIABLE FOR ANY COSTS, DAMAGES, OR LOSSES, OR FOR PERFORMING ANY SERVICES HEREUNDER ARISING IN CONNECTION WITH OR RESULTING FROM MERCHANT'S NEGLIGENCE, ABUSE, MISUSE, FAILURE TO PERFORM ROUTINE MAINTENANCE, FAILURE TO IMPLEMENT UPDATES OR UPGRADES, OR FAILURE TO FOLLOW STANDARD OPERATING PROCEDURES OR BBS'S OR ITS LICENSORS' INSTRUCTIONS, SPECIFICATIONS, OR GUIDELINES. WITHOUT LIMITING THE FOREGOING, MERCHANT ACKNOWLEDGES AND AGREES THAT NO ORAL OR WRITTEN INFORMATION, ADVICE, OR REPRESENTATION PROVIDED BY BBS OR ITS LICENSORS OR THEIR REPRESENTATIVES SHALL CREATE ANY WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF ANY WARRANTY EXPRESSLY PROVIDED HEREIN.

BBS AND ITS LICENSORS DISCLAIM ANY WARRANTY, EXPRESS OR IMPLIED, THAT THE POS SYSTEM OR MERCHANT'S DATA IS OR WILL REMAIN VIRUS-FREE OR FREE FROM MALWARE, TROJAN HORSES, WORMS, OR OTHER HARMFUL CODE OR COMPONENTS. MERCHANT HEREBY WAIVES ANY AND ALL CLAIMS HEREUNDER AGAINST BBS AND ITS LICENSORS ARISING FROM OR RELATING TO MERCHANT'S FAILURE TO HAVE OR MAINTAIN CURRENT, UPDATED, AND INDUSTRY-STANDARD VIRUS PROTECTION, ANTI-MALWARE, FIREWALLS, ENCRYPTION, INTRUSION DETECTION, OR OTHER SECURITY SAFEGUARDS, OR FROM A FAILURE OR BREACH OF MERCHANT'S SECURITY FOR MERCHANT'S SYSTEMS OR DATA, OR FROM ANY UNAUTHORIZED ACCESS TO, INTERCEPTION OF, ALTERATION OF, THEFT OF, OR DESTRUCTION OF MERCHANT'S SYSTEMS OR DATA, WHETHER BY HACKING,

CYBER ATTACK, OR OTHERWISE. BBS AND ITS LICENSORS FURTHER DISCLAIM ANY RESPONSIBILITY OR LIABILITY FOR PROBLEMS ARISING FROM OR RELATED TO MERCHANT'S DECISION TO USE A PARTICULAR INTERNET SERVICE PROVIDER, NETWORK PROVIDER, TELECOMMUNICATIONS PROVIDER, OR CLOUD SERVICE PROVIDER, OR MERCHANT'S ABILITY TO CONNECT TO THE INTERNET OR TO ANY NETWORK OR PLATFORM. MERCHANT ACKNOWLEDGES THAT ITS ABILITY TO ACCESS DATA, RECEIVE REMOTE TECHNICAL SUPPORT, AND OPERATE THE POS SYSTEM MAY BE AFFECTED BY PROBLEMS, INTERRUPTIONS, OR FAILURES WITH MERCHANT'S INTERNET CONNECTIVITY, NETWORK INFRASTRUCTURE, OR TELECOMMUNICATIONS SERVICES, ALL OF WHICH ARE OUTSIDE OF BBS AND ITS LICENSORS' CONTROL. MERCHANT HEREBY WAIVES ANY AND ALL CLAIMS IT MAY HAVE AGAINST BBS AND ITS LICENSORS ARISING OUT OF OR RELATING TO MERCHANT'S INABILITY TO ACCESS DATA, CONNECT TO THE INTERNET, OR OTHERWISE OPERATE THE POS SYSTEM DUE TO ANY OF THE FOREGOING REASONS OR ANY OTHER REASONS BEYOND THE REASONABLE CONTROL OF BBS OR ITS LICENSORS.

THIS WARRANTY IS NOT INTENDED TO NEGATE ANY BBS SUPPORT OBLIGATIONS EXPRESSLY SET FORTH IN THIS AGREEMENT OR NEGATE ANY APPLICABLE THIRD-PARTY WARRANTY.

9. Legal Compliance. Merchant acknowledges and agrees that the POS System, and any related services provided by BBS or its licensors are tools designed to assist Merchant in managing its business operations, including, without limitation, recording time entries employees and reporting data and other information. However, BBS and its licensors make no representations or warranties that the use of the POS System or any related services will ensure or guarantee Merchant's compliance with any applicable federal, state, local, or international laws, regulations, requirements, or Card Brand rules, including, without limitation, any wage and hour laws, employment laws, or recordkeeping requirements. Merchant remains solely responsible for ensuring the accuracy, adequacy, and legality of all time entries, data, and records created, stored, or processed using the POS System or any related services, and for complying with all applicable laws, rules, and regulations governing its business and employees. BBS expressly disclaims any liability or responsibility for Merchant's failure to comply with any such laws, rules, or regulations.
10. Care, Use, Maintenance, Repair and Risk of Loss.
  - a. Merchant shall, at its sole cost and expense, provide adequate and appropriate storage and care for the POS System and shall keep it in good condition and working order at all times, reasonable wear and tear excepted. Merchant shall use the POS System solely in accordance with the applicable specifications, instructions, documentation, and guidelines provided by the manufacturer, BBS, and/or its licensors, and shall do nothing to invalidate or adversely affect any manufacturer's warranties and/or maintenance services for the Hardware or any warranties, licenses, rights, or maintenance services of BBS or its licensors. Merchant shall be solely responsible for any loss, damage, or degradation of the POS System resulting from misuse, negligence, improper storage, failure to maintain, unauthorized modifications, or any use not in strict accordance with such guidelines, and any such damages shall be repaired or replaced at Merchant's sole cost and expense prior to their return to BBS. Merchant shall ensure that BBS and its representatives have full, free, and unfettered access to the POS System at all times, including, without limitation, when it is necessary to access the POS System for inspection, audit, maintenance, repair,

replacement, servicing, or removal purposes. Merchant shall provide all necessary assistance to facilitate such access promptly upon BBS's request.

- b. Upon delivery to Merchant, Merchant shall assume and bear all risks of loss, damage, theft, destruction or any other physical harm to the POS System, regardless of cause. In the event that the POS System (or any constituent part thereof) is lost, stolen, destroyed, rendered unusable, or otherwise incapable of being returned or will not be returned to BBS for any reason, Merchant shall immediately provide written notice to BBS. Merchant shall promptly pay BBS an amount equal to (i) all accrued and unpaid Fees attributable to such POS System, plus (ii) the fair market value of the POS System, as reasonably determined by BBS (the "Casualty Value"). Upon BBS's receipt of the Casualty Value and all other amounts due and owing under this Agreement, Merchant's obligation to pay further fees with respect to such POS System shall cease.

11. Representations and Warranties of Merchant. Merchant represents and warrants as follows:

- a. that the execution, delivery and performance of this Agreement by the Merchant have been duly authorized by all necessary corporate action and do not and will not violate any provision of Merchant's organizational documents, any other agreement to which Merchant is a party, or any applicable law, regulation, or order;
- b. that the individual executing this Agreement on behalf of Merchant is duly authorized to do so and has full power and authority to bind Merchant to all terms and conditions contained herein;
- c. that this Agreement constitutes a legal, valid, and binding obligation of the Merchant, enforceable against Merchant in accordance with its terms, except as enforcement may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, or similar laws affecting creditors' rights generally and by general principles of equity;
- d. that Merchant shall, at its sole cost and expense, maintain all virus protection, firewalls, encryption, intrusion detection, and other security measures necessary for the protection of its systems, data, and networks in accordance with industry standards and best practices;
- e. that Merchant shall promptly notify BBS in writing of any failure, problem, issue, error, malfunction, breach, or security incident related to the POS System;
- f. that Merchant shall comply at all times with the Payment Card Industry Data Security Standard (PCI DSS) requirements, as amended from time to time, and any successor standards, including all requirements applicable to merchants of its size and transaction volume;
- g. that Merchant shall comply with all applicable federal, state, local, and international laws, rules, and regulations related to the acceptance, use, storage, transmission, and processing of credit cards, debit cards, and other non-cash forms of payment, including, without limitation, all rules, requirements, and operating regulations imposed by the Card Brands and any applicable payment networks;
- h. that Merchant shall comply with all federal, state and local laws, Card Brand Rules related to the use and acceptance of credit and debit cards, including complying with all preauthorization requirements and dual pricing requirement, and all PCI DSS compliance standards; and
- i. that Merchant shall implement and maintain commercially reasonable policies and procedures to ensure its compliance with the foregoing representations, warranties, and covenants.

12. BBS'S Obligations. BBS shall:

- a. provide at least one training session for the POS System to the Merchant and its staff at an agreed-upon time at the Merchant's location (unless otherwise agreed to by the parties in writing). If the Merchant cancels the scheduled training date within forty-eight (48) hours thereof, BBS may charge a rescheduling fee in the amount of one hundred fifty dollars (\$150.00);
  - b. install the POS System at an agreed-upon time at the Merchant's location. If the Merchant cancels the scheduled installation date within forty-eight (48) hours thereof, BBS may charge a rescheduling fee in the amount of one hundred fifty dollars (\$150.00);
  - c. provide Merchant with technical phone and remote support between the hours of 8:00 a.m. and 10:00 p.m. Eastern Time, seven (7) days per week, including holidays. Although BBS shall use commercially reasonable efforts to resolve all reported issues in a timely manner, it does not guarantee the resolution of any particular problem. BBS shall repair or replace any defective parts of the POS System under warranty at no additional cost to Merchant, and repair or replace any defective parts of the POS System at the then prevailing market price. If BBS determines, in its reasonable judgment, that the POS System (or any constituent part thereof) was damaged due to Merchant's misuse, abuse, negligence, failure to maintain, unauthorized modification, or lack of due care, and that no warranty covers such damage, BBS may charge Merchant a repair or replacement fee in an amount equal to BBS's then-prevailing rates or the prevailing market price, whichever is greater;
  - d. consider providing customization services that it deems, in its sole discretion, to be reasonable. BBS may charge a reasonable fee for any request made to customize the Platform, whenever made, including rebuilding any Merchant menus for online ordering or otherwise. BBS does not guarantee, however, that it will provide any customization or menu rebuild requests at any time. Any customization services, including menu rebuilds are provided "AS IS" without warranty of any kind. BBS does not warrant that any customization will be error-free, uninterrupted, or free from defects or mistakes and expressly disclaims all warranties, whether express, implied, statutory, or otherwise, including but not limited to the implied warranties of merchantability, fitness for a particular purpose, title, and non-infringement; and
  - e. provide updates to the Platform to Merchant as soon as practicable after any such update is ready. BBS shall have no obligation to provide any specific enhancements or features, and all updates shall be deemed part of the Platform and subject to the terms of this Agreement.
13. Confidentiality. From time to time during the Term of this Agreement, BBS may disclose or make available to Merchant information about its business affairs, products, services, confidential intellectual property, trade secrets, third-party confidential information and other sensitive or proprietary information, whether orally or in visual, written, electronic, or other form or media, and whether or not marked, designated, or otherwise identified as "confidential" (collectively, "Confidential Information"). Merchant shall: (A) protect and safeguard the confidentiality of BBS's Confidential Information with at least the same degree of care as Merchant would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care; (B) not use BBS's Confidential Information, or permit it to be accessed or used, for any purpose other than to perform its obligations under this Agreement; and (C) not disclose any such Confidential Information to any person or entity, except to Merchant's Representatives who need to know the Confidential Information to assist Merchant, or act on its behalf, to exercise its rights or perform its obligations under the Agreement. Merchant shall be responsible for any breach of this Section 13 caused by any of its representatives. At any time during or after the term of this Agreement, at BBS's written request, Merchant and its representatives shall promptly return to BBS all copies, whether in written, electronic or other form or media, of BBS's Confidential Information, or destroy all such copies and certify in writing to BBS that such Confidential Information has been

destroyed. In addition to all other remedies available at law, BBS shall be entitled to specific performance and injunctive and other equitable relief as a remedy for any breach or threatened breach of this Section 13.

14. Data Ownership and License. Merchant retains all rights, title, and interest in and to Merchant Data. Merchant hereby grants BBS and its affiliates a worldwide, non-exclusive, royalty-free license to access, use, process, copy, distribute, perform, export, and display Merchant Data: (a) to provide, maintain, improve, and secure the POS System and related services; (b) to develop new features, products, and services; and (c) as otherwise permitted by this Agreement. BBS may also use aggregated and anonymized Merchant Data for analytics, benchmarking, and industry insights. BBS and its licensors retain
15. Feedback. If Merchant or any of its employees or contractors submits, orally or in writing, suggestions or recommended changes to the POS System or any related services, including without limitation, new features or functionality relating thereto, or any comments, questions, suggestions, or the like ("Feedback"), BBS is free to use such Feedback irrespective of any other obligation or limitation between the Parties governing such Feedback. Merchant hereby assigns to BBS on Merchant's behalf, and on behalf of its employees, contractors, and/or agents, all right, title, and interest in, and BBS is free to use, without any attribution or compensation to any party, any ideas, know-how, concepts, techniques, or other intellectual property rights contained in the Feedback, for any purpose whatsoever.
16. Acceptable Use. Merchant shall not, and shall not permit any third party to, use the POS System or any related services: (a) in violation of any applicable law, regulation, Card Brand Rules or third-party right; (b) to transmit any viruses, malware, or harmful code; (c) to engage in any fraudulent, deceptive, or misleading activities; or (d) for any purpose that infringes, misappropriates, or otherwise violates the intellectual property or other rights of any person.
17. Audit Rights. Merchant shall, upon at least ten (10) business days' prior written notice, permit BBS or its designated representatives (including third-party auditors bound by confidentiality obligations) to audit and inspect Merchant's facilities, systems, operations, and relevant records during normal business hours, in a manner that does not unreasonably interfere with Merchant's operations, to verify compliance with license restrictions, security obligations (including PCI DSS and other security requirements), and payment obligations under this Agreement.
18. Return of the POS System. The POS System shall be returned to BBS upon termination or expiration of this Agreement in good working order, condition, and repair, reasonable wear and tear excepted. In the event Merchant fails to return the POS System as required under this Agreement, Merchant shall be liable for, and shall promptly reimburse BBS for, any and all costs and expenses incurred by BBS to recover or reacquire the POS System, including, without limitation, collection costs, attorneys' fees, court costs, and other related expenses. In addition, BBS reserves the right to pursue any other remedies available to it at law or in equity for Merchant's failure to comply with its return obligations under this Agreement.
19. Indemnity. Merchant shall indemnify, hold harmless, and defend BBS and its licensors, affiliates, officers, directors, employees, contractors, representatives, agents, processors, successors, permitted assigns, and banks ("BBS Indemnified Parties") from and against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including actual attorneys' fees, and the costs of enforcing any right to indemnification under this Agreement and of pursuing any insurance

providers, incurred by BBS Indemnified Parties, (collectively, "Claims" ), arising out of, relating to, or occurring in connection with: (i) Merchant's breach of this Agreement or non-fulfillment of any provision of this Agreement; (ii) Merchant's unauthorized modification of the POS System (including any intellectual property infringement Claims); (iii) Merchant's misuse of the POS System; (iv) Merchant's negligence, more culpable act or omission, or willful misconduct; (v) any failure by Merchant to comply with any applicable federal, state or local laws, regulations, or codes; (vi) any failure by Merchant to comply with PCI DSS data security requirements, privacy laws, or Card Brand Rules; (vii) any breach by Merchant of the MPA; or (viii) the Merchant's business operations, products and services. BBS Indemnified Parties shall promptly provide notice of any such Claims to Merchant. BBS Indemnified Parties' failure to promptly provide any such notice to Merchant under this Section does not relieve Merchant of any liability that Merchant may have to BBS Indemnified Parties. Merchant's duty to defend applies immediately, regardless of whether BBS Indemnified Parties have paid any sums or incurred any detriment arising out of or relating, directly or indirectly, to any Claim. BBS Indemnified Parties may select its own legal counsel to represent its interests, and Merchant shall reimburse BBS Indemnified Parties for its costs and attorneys' fees immediately upon request as they are incurred; and remain responsible to BBS Indemnified Parties for any Losses indemnified hereunder. Merchant shall give prompt written notice to BBS Indemnified Parties of any proposed settlement of Claims that is indemnifiable hereunder. Merchant may not, without BBS Indemnified Parties prior written consent, settle or compromise any claim or consent to the entry of any judgment regarding which indemnification is being sought hereunder.

20. Limitations of Liability. NEITHER BBS NOR ITS LICENSORS SHALL BE LIABLE UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY: (A) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (B) FOR LOSS OF USE, INACCURACY, COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY, LOSS OF PROFITS, DATA OR BUSINESS INTERRUPTIONS; OR (C) CHARGEBACKS OR PAYMENT PROCESSOR PENALTIES OR FINES RESULTING FROM MERCHANT'S NON-COMPLIANCE WITH THE MPA OR CARD BRAND RULES AND REGULATIONS; OR (D) FOR ANY MATTER BEYOND BBS OR ITS LICENSORS REASONABLE CONTROL, WHETHER OR NOT FORESEEABLE, EVEN IF BBS OR ITS LICENSORS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE, AND EVEN IF A REMEDY SET FORTH HEREIN HAS FAILED ITS ESSENTIAL PURPOSE.
21. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, RULES, AND REGULATIONS, BBS'S AND / OR ITS LICENSORS' AGGREGATE LIABILITY TO MERCHANT OR ANY THIRD PARTIES (INCLUDING ANY AUTHORIZED USER) IN ANY CIRCUMSTANCE IS LIMITED TO TEN THOUSAND DOLLARS (\$10,000).
22. Insurance. Merchant shall, at its own expense, maintain during the Term of this Agreement the following insurance coverages: (a) Commercial General Liability Insurance in amounts not less than one million dollars (\$1,000,000) per occurrence and in the aggregate, or such higher amounts as are commercially reasonable and customary for businesses of similar size and nature operating under similar circumstances; (b) Workers' Compensation Insurance in accordance with applicable statutory requirements and Employers' Liability Insurance with limits not less than five hundred thousand dollars (\$500,000) each accident, five hundred thousand dollars (\$500,000) each employee for disease, and five hundred thousand dollars (\$500,000) policy limit for disease; and (c) All-Risk Property Insurance covering the full replacement value of the POS System while in Merchant's possession or control, including coverage for loss or damage due to fire, theft,

vandalism, and all other risks of physical loss or damage, with BBS named as loss payee as its interests may appear.

Each policy shall name BBS and its affiliates as additional insureds (except workers' compensation) and shall include a waiver of subrogation in favor of BBS. Additionally, each policy shall require the insurer to provide BBS with at least thirty (30) days' prior written notice of any cancellation, nonrenewal, or material change in coverage. Upon BBS's request, Merchant shall provide BBS with certificates of insurance evidencing the foregoing coverages and endorsements.

23. **Term and Termination.** This Agreement is effective as of the Effective Date and shall continue on a month-to-month basis (the "Term") until either Party terminates it by giving the other Party at least thirty (30) days' prior written notice of its intent to terminate. Such termination shall be effective at the end of the applicable monthly billing cycle following the expiration of such notice period, unless otherwise agreed in writing by the Parties. BBS may immediately terminate this Agreement upon written notice to Merchant if Merchant: (i) shall generally not pay its debts as they become due; (ii) files or has filed against it a petition under any bankruptcy or insolvency law, makes an assignment for the benefit of its creditors, consents to the appointment of a custodian, receiver, trustee, or other officer with similar powers over itself or any substantial part of its property, is adjudicated insolvent, is ordered to be liquidated, or takes any action in furtherance of any of the foregoing; (iii) enters into or participates in a merger, consolidation, or sale of substantially all of its assets, or a sale, transfer, or other disposition of a controlling ownership interest, whether directly or indirectly, by operation of law or otherwise; (iv) relocates, transfers, assigns, encumbers, or otherwise disposes of the POS System or Merchant's interest under this Agreement without the prior written consent of BBS; or (v) the MPA terminates or expires, or Merchant ceases to use the Services, including those set forth in the MPA. Upon termination of this Agreement for any reason, at BBS's request, Merchant shall make the POS System available for pickup by BBS or its designated agents at a time and location reasonably specified by BBS, without interference or obstruction. If the POS System is not immediately and readily available for pickup, Merchant shall pay to BBS an amount equal to the sum of one-thirtieth (1/30th) of the monthly rental for each day after the termination date during which the POS System remains unavailable, plus an administrative fee of three hundred dollars (\$300.00), plus any costs, expenses, and disbursements (including, without limitation, reasonable attorneys' fees and court costs) incurred by BBS as a result of the delay. Termination of this Agreement shall be without prejudice to any other rights or remedies of BBS under this Agreement or at law or in equity, all of which are expressly reserved. Upon termination, BBS and Merchant shall cooperate to export Merchant's data.
24. **Remedies.** If Merchant breaches this Agreement, BBS may, to the extent permitted by applicable law do any or all of the following: (i) remote deactivation of the POS System, (ii) take immediate possession of the POS System by summary proceedings or otherwise without liability to Merchant; (iii) sell, rent, or otherwise dispose of the Hardware; (iv) correct the breach on behalf of and at the expense of Merchant or permit the Merchant to do the same at the Merchant's expense and within the time set by BBS; (v) terminate this Agreement immediately upon written notice, whereupon Merchant shall pay to BBS as damages (and not as a penalty) an amount equal to all accrued and unpaid Fees plus any other amounts owed to BBS hereunder; (vi) seek equitable relief, including temporary restraining orders, injunctions, specific performance, and any other relief that may be available from a court of competent jurisdiction, without any requirement to (a) post a bond or other security, or (b) prove actual damages or that monetary damages will not afford an adequate remedy; and/or (vii) exercise any other right or remedy available at law, in equity, or otherwise. All rights and remedies provided in this Agreement are cumulative and not exclusive, and the exercise by either Party of any right or remedy does not preclude the exercise of any other rights or remedies

that may now or subsequently be available at law, in equity, by statute, in any other agreement between the parties, or otherwise.

25. Survival. Any provision of this Agreement that, by its nature or to give full effect to its meaning and intent, is intended to survive expiration or termination shall remain in full force and effect following the expiration or earlier termination of this Agreement, including without limitation any provisions relating to confidentiality, intellectual property ownership, indemnification, limitations of liability, payment obligations, and dispute resolution.
26. Export Compliance. Merchant shall not export, re-export, transfer, or use the POS System, or any related services in violation of any applicable export control laws or regulations, including the U.S. Export Administration Regulations and economic sanctions laws administered by the U.S. Department of Treasury's Office of Foreign Assets Control. Merchant represents it is not located in, organized under the laws of, or controlled by any country or territory subject to U.S. trade sanctions.
27. Third-Party Services. The Platform may contain links to or integrations with third-party services that are not under the control of BBS. BBS is not responsible for the content, functionality, or availability of such third-party services. Merchant's use of any third-party services is governed by the terms and conditions of such third parties.
28. Service Levels. BBS does not guarantee uninterrupted, error-free, or secure access to the POS System, or any constituent part, such as the Platform. Merchant acknowledges that the operation of the POS System may be subject to interruptions due to maintenance, updates, or other causes beyond BBS's reasonable control and BBS does not guarantee that the POS System will operate without disruptions.
29. Business Continuity and Disaster Recovery. Merchant shall implement and maintain commercially reasonable business continuity and disaster recovery plans designed to ensure the continued operation of its business and its ability to use the POS System and any related services in the event of any disaster, system failure, or other business interruption and to retain Merchant Data.
30. Electronic Acceptance of Terms. Merchant agrees that its electronic acceptance of any terms, policies, or updates presented through the POS System shall have the same legal effect as physical signatures.
31. Regulated Product Compliance. Merchant is solely responsible for complying with all applicable laws and regulations governing the sale of regulated products, including but not limited to alcohol, tobacco, or age-restricted items, and for implementing appropriate age verification procedures. Merchant is also solely responsible for the quality of its business operations and the quality of the product (food or otherwise) that Merchant sells or otherwise provides.
32. Notices. Each Party shall deliver all notices, requests, consents, claims, demands, waivers, and other communications under this Agreement (each, a "Notice") in writing, using the communications methods set out below, and addressed to the other party at its address set out on the signature page below (or to any other address that the receiving party may designate from time to time in accordance with this section). Each Party shall deliver all Notices by personal delivery, nationally recognized same day or overnight courier (with all fees prepaid), email of a PDF document (with confirmation of transmission), or certified or registered mail (in each case, return receipt requested, postage prepaid). A Notice is deemed to have been validly and effectively given:

(a) if sent by personal delivery or by courier (all fees prepaid) on the date of receipt; (b) if sent by email of a PDF document, upon the sender's receipt of an acknowledgment from the intended recipient (such as by the "read receipt" function, as available, return email or other form of written acknowledgment); or (c) if sent by certified or registered mail, return receipt requested, postage prepaid on the third day after the date mailed.

33. Applicable Law and Forum Choice. This Agreement and all the agreements referenced herein, and all matters arising out of or relating to this Agreement, whether sounding in contract, tort, or statute are governed by, and construed in accordance with the laws of the Commonwealth of Pennsylvania without giving effect to the conflict of laws principles thereof to the extent such principles or rules would require or permit the application of the laws of any jurisdiction other than those of the Commonwealth of Pennsylvania. Each Party irrevocably and unconditionally agrees that it will not commence any action, litigation, or proceeding of any kind whatsoever against any other party in any way arising from or relating to this Agreement and all contemplated transactions, including, but not limited to, contract, equity, tort, fraud, and statutory claims, in any forum other than the United States District Court for the Western District of Pennsylvania or, if such court does not have subject matter jurisdiction, the courts of the Commonwealth of Pennsylvania sitting in Butler County, and any appellate court from any thereof. Each Party agrees that a final judgment in any such action, litigation, or proceeding is conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.
34. Waiver of Jury Trial. EACH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL ACTION, PROCEEDING, CAUSE OF ACTION, OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT, INCLUDING WITHOUT LIMITATION ANY AGREEMENT REFERENCED IN THIS AGREEMENT, OR THE TRANSACTIONS CONTEMPLATED HEREBY.
35. Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon a determination that any term or provision is invalid, illegal, or unenforceable, the court may modify this Agreement to give effect to the original intent of the parties as closely as possible in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.
36. Amendments. Except as may be prohibited by law, and except as set forth in Section 5, BBS may change, amend, revise, or supplement this Agreement, including any provisions, conditions, terms, rates, fees, expenses, or charges upon written notice (the "Notice Period") to Merchant. Any use of the POS System after the Notice Period will be deemed an unconditional acceptance of such change, amendment, revision, or supplement.
37. Force Majeure. No Party shall be liable or responsible to the other Party, or be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement (except for any obligations to make payments to the other Party hereunder), when and to the extent such failure or delay is caused by or results from acts beyond the impacted Party's ("Impacted Party") reasonable control, including, without limitation, the following force majeure events ("Force Majeure Event(s)": (a) acts of God; (b) flood, fire, earthquake, pandemics, epidemics, or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order, law, or actions; (e) embargoes or

blockades in effect on or after the date of this Agreement; (f) national or regional emergency; (g) strikes, labor stoppages or slowdowns, or other industrial disturbances; (h) telecommunication breakdowns, power outages or shortages, lack of warehouse or storage space, inadequate transportation services, or inability or delay in obtaining supplies of adequate or suitable materials; and (i) other similar events beyond the reasonable control of the Impacted Party. The Impacted Party shall give notice within ten (10) days of the Force Majeure Event to the other party, stating the period of time the occurrence is expected to continue. The Impacted Party shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. The Impacted Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause.

38. Assignment. Merchant shall not assign or otherwise transfer any of its rights or obligations or delegate any of its duties under this Agreement without the prior written consent of BBS. Any purported assignment in violation of this Section shall be null and void. This Agreement is binding upon the Parties, and inures to the benefit of the Parties and each Party's respective heirs, executors, administrators, legal representatives, successors and permitted assigns.
39. Independent Contractors. The parties shall be independent contractors under this Agreement. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between the Parties.
40. No Waiver. No waiver under this Agreement is effective unless it is in writing, identified as a waiver to this Agreement, and signed by an authorized representative of the Party waiving its right. Any waiver authorized on one occasion is effective only in that instance and only for the purpose stated and does not operate as a waiver on any future occasion. None of the following constitutes a waiver or estoppel of any right, remedy, power, privilege, or condition arising from this Agreement: (i) any failure or delay in exercising any right, remedy, power, or privilege or in enforcing any condition under this Agreement; or (ii) any act, omission, or course of dealing between the parties.
41. Counterparts. This Agreement may be executed in one or more counterparts, each of which is an original, and all of which together constitute only one agreement between the parties. The signatures of all the parties do not need to be on the same counterpart for it to be effective. Delivery of an executed counterpart's signature page of this Agreement, by facsimile, electronic mail in portable document format (.pdf) or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, has the same effect as delivery of an executed original of this Agreement.
42. Electronic Signatures. This Agreement may be executed by the manual or electronic signature of a Party. Each Party agrees that the electronic signatures of the parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as manual signatures, to the extent and as provided for under applicable law.
43. Further Assurances. Merchant shall, from time to time at the request of BBS, without any additional consideration, furnish BBS such further information or assurances, execute and deliver such additional documents, instruments and conveyances, and take such other actions and do such other things, as may be reasonably necessary or desirable in the opinion of BBS to carry out the provisions of this Agreement and give effect to the transactions contemplated hereby.

44. Headings. The headings in this Agreement are for reference only and do not affect the interpretation of this Agreement.
45. Third-Party Beneficiaries. The Parties intend Round 2 POS, Inc. to be a third-party beneficiary of this Agreement.