

CCA regulated terms and conditions

For: 18 month PDQ Hire
November 2008
signature copy

**This is a copy of Your agreement for you to keep.
It includes a notice about your cancellation rights which you should read.**

HIRE AGREEMENT REGULATED BY THE CONSUMER CREDIT ACT 1974

PARTIES:

We/Us/Our: Barclays Bank PLC trading as Barclaycard at Barclaycard House, 1234 Pavilion Drive, Northampton NN4 7SG.

You: [Insert hirer's name(s) (trading as, if applicable) and full business address and company number (if applicable)]

KEY FINANCIAL INFORMATION

EQUIPMENT AND RENTAL FEES

| Description of Terminals | Number of Terminals | Monthly Rental Fee | |
|----------------------------------|---------------------|--------------------|--|
| | | Fee excluding VAT | |
| | | VAT payable @ 20% | |
| | | Total Fee Payable | |
| Cancellation Fees (per terminal) | | | |
| | | Fee excluding VAT | |
| | | VAT payable @ 20% | |
| | | Total Fee | |

Your Monthly Rental Fee is payable for each calendar month during which **you** have the Terminals in accordance with this Agreement. If the date of this Agreement is between the first day and the twenty-second day of a calendar month **you** will pay your first Monthly Rental Fee by Direct Debit on the tenth day of the calendar month after the calendar month in which **you** enter into this Agreement. If the date of this Agreement is later than the twenty-second day of a calendar month **you** will pay your first Monthly Rental Fee by Direct Debit on the tenth day of the second calendar month after the calendar month in which **you** enter into this Agreement. **You** will pay subsequent Monthly Rental Fees by Direct Debit every month on the same day of the month as your first Monthly Rental Fee was due ("**Monthly Direct Debit Date**"). If the payment date falls on a day that is not a Working Day, **you** will pay the Monthly Rental Fee on the next Working Day. Value Added Tax ("VAT") will be paid in addition at the rate applicable when each Monthly Rental Fee is due. The above table illustrates the VAT that is payable at the rate applicable at the time this agreement is entered into.

TERM:

This Agreement will continue until it is terminated by either **you** or **us** on one month's notice, such notice not taking effect before the expiry of 18 months starting on the date the first Terminal is delivered to **you** in accordance with this Agreement (the "**Minimum Term**").

VARIATION OF MONTHLY RENTAL FEES AND CANCELLATION FEE:

We may vary the Monthly Rental Fee and Cancellation Fee in the circumstances described in condition 5.

OTHER PAYMENTS:

If **we** install or relocate any of your Terminals in accordance with condition 3.3, **we** will notify **you** of the fees that are payable when **you** request such a service. **We** will debit your Account with the fees and include **them**

on your Monthly Account Statement in accordance with condition 2. **You** will pay the fees on the Monthly Direct Debit Date set out in the Monthly Account Statement.

If **we** provide training in accordance with condition 4.1, **we** will notify **you** of the fees that are payable when **you** request such a service. **We** will debit your Account with the fees for providing training and include **them** on your Monthly Account Statement in accordance with condition 2. **You** will pay the fees for providing training on the Monthly Direct Debit Date set out in the Monthly Account Statement.

If **you** give **us** notice that **you** want to end this Agreement before the expiry of the Minimum Term in accordance with condition 9.2, **you** must pay the Cancellation Fee set out in the table under the heading "Equipment and rental fees". **We** will debit your Account with the Cancellation Fee and include it on your Monthly Account Statement in accordance with condition 2. **You** will pay the Cancellation Fee on the Monthly Direct Debit Date set out in the Monthly Account Statement.

KEY INFORMATION

You will be liable to **us** for all Losses arising in connection with, or as a result of, any breach of this Agreement by **you** or your Staff and/or arising in the circumstances described in condition 8.1.

If **you** do not immediately deliver up all Terminals to **us** on termination of this Agreement, **you** will pay on demand all **our** costs and expenses in accordance with conditions 9.4(b) and 9.4(c).

If **you** do not insure the Terminals in accordance with this Agreement, **you** will pay on demand any costs **we** incur in insuring **them**.

If the Terminals are lost or damaged and **you** are responsible for the cost of repairing or replacing **them** in accordance with condition 7.4, **you** will be liable for the costs of repairing or replacing **them** in accordance with condition 7.5.

MISSING PAYMENTS

Missing payments could have severe consequences and may make obtaining credit more difficult.

IMPORTANT – READ THIS CAREFULLY TO FIND OUT ABOUT YOUR RIGHTS

The Consumer Credit Act 1974 lays down certain requirements for your protection which should have been complied with when this agreement was made. If they were not, **we** cannot enforce this agreement without getting a court order.

The Act also gives **you** a number of rights. **You** can end this agreement by writing to the person **you** make your payments to and giving at least one month's notice. In order to do this the agreement must have been allowed to run for at least 18 months though this may include the period of notice. **You** will have to make all payments and pay any amounts **you** owe until the date the agreement comes to an end.

If **you** would like to know more about your rights under the Act, contact either your local Trading Standards Department or your nearest Citizens' Advice Bureau.

YOUR RIGHT TO CANCEL

Once **you** have signed, **you** will have for a short time a right to cancel this agreement. **You** can do this by sending or taking WRITTEN notice of cancellation to Barclaycard, Dept RT Withdrawals, 1234 Pavilion Drive, Northampton NN4 7SG.

If **you** cancel this agreement, **you** will get back any money **you** have already paid to **us** and **you** will not have to make any further payment.

If **you** already have any goods under the agreement, **you** should not use **them** and should keep **them** safe. (Legal action may be taken against **you** if **you** do not take proper care of **them**.) **You** can wait for **them** to be collected from **you** and **you** need not hand **them** over unless **you** receive a written request.

Terms and Conditions

The Terms and Conditions attached form part of this Agreement. In Condition 1 we list particular meanings we have given to some words in this Agreement.

1. DEFINITIONS:

In this Agreement some words have particular meanings. These are set out below:

- (a) **"Account"** means your merchant services account with us;
- (b) **"Cancellation Fee"** means the cancellation fee set out under the heading "Key Financial Information";
- (c) **"Guides"** means the Barclaycard PDQ Operating Guides;
- (d) **"Monthly Account Statement"** means the statement you receive from us each month in relation to the Account, which contains details of the charges payable by you under this Agreement;
- (e) **"Monthly Direct Debit Date"** means the monthly date on which you will pay the Monthly Rental Fee by Direct Debit, as set out under the heading "Key Financial Information";
- (f) **"Monthly Rental Fee"** means the monthly fee set out in the table under the heading "Key Financial Information";
- (g) **"Losses"** means all losses, claims, costs, expenses (including all legal and administration expenses), liabilities, and/or damages of any nature whatsoever. For the avoidance of doubt, Losses will include all consequential and indirect Losses.
- (h) **"Minimum Term"** means the initial 18 month period referred to under the heading "Key Financial Information";
- (i) **"Poll"** means the collection of data through a telecommunications link from each Terminal in relation to a payment made with a card and the transmission of such data to the relevant card company;
- (j) **"Staff"** means your employees, agents, contractors, sub-contractors or any other person acting on your behalf;
- (k) **"Terminal"** means the equipment described in the table under Key Financial Information, including any ancillary equipment provided with the Terminal unless you have signed a separate agreement for that ancillary equipment, in which case the terms of that other agreement will apply to its use. The Terminals may be new or reconditioned; and
- (l) **"Working Day"** means 9am to 5pm on any day other than a Saturday or Sunday or a bank holiday in England and Wales.

2. YOUR ACCOUNT

All charges payable by you under this Agreement will be debited to your Account. You will be notified of the charges payable by you each month in a Monthly Account Statement. You will pay the charges set out in each Monthly Account Statement on the Monthly Direct Debit Date specified in the Monthly Account Statement.

3. DELIVERY AND INSTALLATION

3.1 We will deliver the Terminals to your premises as detailed in the beginning of this Agreement or to such other delivery address as you notify to us and at such time as is agreed with you.

3.2 You must accept delivery of all Terminals.

3.3 We may agree to install or relocate the Terminals for you in accordance with the requirements set out under the heading "Key Financial Information". For the avoidance of doubt, if we do not install the Terminals for you in accordance with this Agreement, you must install them at a suitable position in your premises.

4. USE OF THE TERMINALS

4.1 We may agree to provide training to you, your employees, agents and contractors in relation to the Terminals in accordance with the requirements set out under the heading "Key Financial Information".

4.2 You must:

- (a) comply with, and ensure that your employees, agents and contractors comply with:
 - (i) the Guides, including using only the imprinter and sales vouchers as prescribed in the Guides; and
 - (ii) any arrangements you have agreed with card issuers, for example American Express;
- (b) ensure that you and your Staff only use, or permit the use of, the types of card that the Terminals accept (we will tell you which types of card the Terminals accept);
- (c) keep the Terminals clean and protect them from damage or loss;
- (d) make sure that your Staff are given suitable training before they use the Terminals; and
- (e) provide and maintain all power and telephone connections and transmission links for the Terminals in line with our instructions and the Guides.

4.3 If there is a conflict between the Guides and this Agreement, this Agreement will apply. We may change the Guides from time to time. Unless there are exceptional circumstances we will normally give you at least thirty days' prior notice of any changes we make to the Guides.

4.4 Where applicable, we will poll the Terminals (not all Terminals need to be polled). These services are included in the Monthly Rental Fee.

4.5 We will tell you which names or trademarks to use for the Terminals. You must use these names or marks in the form and in the way we tell you. You agree that these names or marks and all goodwill associated with them belong to us.

4.6 If you want to use cards in the Terminals other than under a merchant agreement with us, you must get our written permission beforehand.

5. VARIATION

We may vary any fee or charge under this Agreement, or introduce new fees or charges for any service we provide you under or in connection with this Agreement, by giving you not less than 30 days' prior written notice.

6. INSURANCE

6.1 You must keep the Terminals insured for their full replacement value against loss and damage of every kind. We will tell you what the full replacement value is if you contact us and ask us to do so.

6.2 You must tell us the details of the insurance policy if we ask you to do so.

7. FAULTS, LOSS, DAMAGE

7.1 You must not, and must ensure that your Staff do not, move, alter, try to repair or do maintenance work on the Terminals without getting our written permission beforehand.

7.2 You must tell us immediately about any faults with the Terminals or if the Terminals are lost or damaged. You must allow anybody acting on our behalf to come onto your premises at reasonable times for any reason to do with the Terminals.

7.3 We will assess the condition of any Terminals notified to us by you in accordance with condition 7.2 and repair or replace them, depending on what we think is necessary. If we cease maintaining the relevant type of Terminal, or if we consider that it no longer meets our current functional or technological standards, the replacement Terminal will be of at least equivalent standard and will be let at the same Monthly Rental Fee as the replaced Terminal.

7.4 If we decide that the replacement or repair of any Terminal in accordance with condition 7.3 is necessary because of a fault with the Terminal or because of wear and tear, we will be responsible for the cost of the repair or replacement. If we decide that the repair or replacement is necessary for any other reason, you will be responsible for the cost of the repair or replacement.

7.5 Where you are responsible for the cost of repair or replacement of the Terminals in accordance with condition 7.4, we will debit your Account with the cost of repair or replacement, including for the avoidance of doubt, our costs in coming to your premises to assess the condition of the Terminals. You will be notified of these costs and you will pay these costs in accordance with condition 2.

8. LIABILITY

8.1 You must indemnify us on demand for all Losses we incur in connection with, or as a result of, you or any of your Staff:

- (a) making a mistake or deliberately misusing any Terminal;
- (b) being negligent or failing to do something which is your responsibility to do under this Agreement; or
- (c) committing a fraud.

8.2 We will not be liable to you if we cannot carry out our responsibilities under this Agreement because of anything that we cannot reasonably control. This includes:

- (a) any machine, data processing system or transmission link failing to work; and
- (b) industrial disputes.

8.3 We will not be liable to you in any circumstances for:

- (a) loss of business, loss of reputation, loss of opportunity, loss of profit; and
- (b) any time special, consequential or indirect Loss whatsoever.

This limitation does not apply to any liability resulting from fraud or death or personal injury of any person.

9. ENDING THE AGREEMENT

- 9.1** We will give **you** at least one month's notice in writing if **we** want to end this Agreement, such notice not taking effect before the expiry of the Minimum Term. However, in exceptional circumstances, such as where **we** suspect fraud, **we** may end this Agreement by giving **you** immediate written notice.
- 9.2** **You** may end this Agreement:
- (a) without cost by giving at least one month's written notice, such notice not taking effect before the expiry of the Minimum Term;
 - (b) by giving one month's written notice, such notice taking effect before the expiry of the Minimum Term, and by paying a Cancellation Fee in accordance with the requirements set out under the heading "Key Financial Information".
- 9.3** This Agreement will end automatically if:
- (a) any of the following happens: a petition is presented to wind **you** up or to appoint an administrator; a meeting is held by your shareholders at which it is decided to wind **you** up; or a receiver, administrative receiver, administrator or liquidator is appointed over the whole or any part of your property or business;
 - (b) any proposal is made for any arrangements to do with your debts;
 - (c) **you** are an individual and **you** die or a bankruptcy petition is presented against **you** or an application for an interim order is made against **you** under section 253 of the Insolvency Act 1986; or
 - (d) bailiffs seize or try to seize any of your property.
- 9.4** If this Agreement ends in accordance with this condition 9:
- (a) **You** will return all Terminals to **us** within 28 days of the day on which the Agreement ends.

- (b) If **you** do not return all Terminals to **us** in accordance with condition 9.4(a) **you** will consent to **us** and anybody acting for **us** to enter your premises and remove the Terminals. **You** will pay on demand the cost incurred by **us** in recovering the Terminals in accordance with this condition 9.4(b).
- (c) If **you** do not return all the Terminals to **us** in accordance with condition 9.4(a) and if within 40 days of the day on which the Agreement ends **you** do not consent to allowing **us**, or anybody acting for **us**, to recover the Terminals from your premises in accordance with condition 9.4(b), **you** will pay **us** on demand **our** estimate of the value of the Terminals **we** have not recovered.
- (d) Until all Terminals are in **our** possession:
 - (i) **you** will continue to be liable to **us** for all Monthly Rental Fees that are payable under this Agreement;
 - (ii) conditions 4, 6 and 8 will continue; and
 - (iii) if any of the Terminals are lost or damaged, conditions 7.4 and 7.5 will apply to any repair or replacement that is necessary.

10. GENERAL

- 10.1** **You** must authorise your bank to pay Direct Debits for any amounts **you** owe **us** under this Agreement.
- 10.2** **You** must tell **us** immediately in writing if **you** intend to stop trading or sell your business.
- 10.3** The Terminals will stay **our** property. **You** must not hire or sell **them** or use **them** as security or let **them** leave your premises. **You** must not allow anybody else to use **them**. **You** must make sure that bailiffs do not seize **them**. **You** must not assign or transfer this Agreement to anybody else.

- 10.4** This Agreement shall not be enforceable under or by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person other than **you** and **us**.
- 10.5** If any condition of this Agreement is or becomes illegal or unenforceable then it will be deemed to be deleted from this Agreement and will not affect the enforceability of the other provisions of this Agreement.
- 10.6** Except to the extent of any misrepresentation which constitutes fraud, this Agreement contains the entire agreement and understanding between **you** and **us** and supersedes all prior agreements, understandings or arrangements (both oral and written) relating to the subject-matter of this Agreement.
- 10.7** **We** will only waive any of **our** rights under this Agreement specifically and in writing. For the avoidance of doubt, any delay in exercising or failure to exercise any of **our** rights under this Agreement is not a waiver of that right.
- 10.8** This Agreement is governed by the laws of England and Wales. In performing the obligations under this Agreement, **you** and **we** will comply with all the laws of England and Wales. The courts of England and Wales will have exclusive jurisdiction over any complaint arising out of this Agreement.
- 10.9** **We** are committed to providing a high standard of service. However, if **you** wish to complain about any written communication or the service **you** have received, **you** may do so in person, in writing by post or email, or by telephone. Details of **our** complaints handling procedures are available upon request from **our** Customer Services Department (telephone 0800 161 5350*).

This information is also available in large print, Braille and audio by calling your Acquirer on either 0800 1615350 (Barclaycard Payment Solutions) or 1800 812766 (Barclaycard)

Calls to 0800 numbers are free from UK landlines and personal mobiles otherwise call charges may apply.

Calls to 1800 numbers are free from ROI landlines and personal mobiles otherwise call charges may apply. Calls may be monitored or recorded in order to maintain high levels of security and quality of service.

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