

<<Mr Sample>>
<<Sample Street>>
<<Sample Town>>
<<Sample County>>
<<Sample Country>>
<<Sample Postcode>>

Important: changes to your Merchant Agreement

Dear Customer

We need to make some changes to your Merchant Agreement with us. It's because of some new data protection regulations that come into effect on 25 May 2018. We've set out the changes we're making below.

1) Data protection definitions

We're updating your agreement to add some new definitions, set out below. This is to help you understand the new data protection terms we're adding to your agreement:

"Barclays indemnitees" means each member of the **Barclays group** and their respective officers, directors, employees, contractors, agents, representatives, successors and assigns and **Barclays indemnified party** shall be construed accordingly;

"Data Protection Legislation" means (i) (subject to paragraph (ii)) the Data Protection Act 1998; (ii) with effect from its coming into force and the repeal of the EU Data Protection Directive 95/46/EC, the EU General Data Protection Regulation 2016/679; and (iii) all other laws and regulations that apply to us in the context of the **agreement**, judgements of courts of competent jurisdiction, and regulatory guidance relating to data protection and privacy in any jurisdiction in which **personal data** is being **processed** under this **agreement**, the relevant member of the **Barclays group** is located or the relevant **data subject** is located;

"Data subject" shall have the meaning given to it by the **Data Protection Legislation**;

"Party" means either **Barclaycard** or **you**, and **"parties"** means both **us** and **you**.

"Personal data" means any and all personal data or information (a) protected by and within the scope of any **Data Protection Legislation**; (b) in respect of which either **party** is a Data Controller, owner, operator, or user or holds an analogous role; and (c) that will be held, **processed**, generated or otherwise used by either **party** in connection with this **agreement**;

"Process" has the meaning given to it in the applicable **Data Protection Legislation** and **processing** and **processed** shall be construed accordingly;

"Third party" means any person or entity which is not a party to this **agreement**, including any **affiliates** of either party and any **merchant agents**; and

"Transaction personal data" means **personal data** which it is necessary to hold, **process**, generate or otherwise use in connection with providing the **services**.

2) Data protection terms

We're updating your agreement to add a new clause 8A, which confirms how we process personal data in connection with your agreement:

8A Data Protection

- 8A.1 We and you both acknowledge and agree that:
- 8A.1.1 In this clause 8A, 'Data Controller' and 'Data Processor' will have the meanings ascribed to them in the Data Protection Legislation;
 - 8A.1.2 You are the Data Controller of transaction personal data;
 - 8A.1.3 We are the Data Processor of transaction personal data;
 - 8A.1.4 You acknowledge and agree that we will be a Data Controller in relation to **personal data** where we determine the purposes and manner of the **processing**, including for the purposes of:
 - 8A.1.4.1 conducting anti-money laundering, financial crime and other screening checks;
 - 8A.1.4.2 conducting fraud monitoring, prevention, detection and prosecution;
 - 8A.1.4.3 complying with any legal and regulatory requirements which apply to us in the context of this **agreement**;
 - 8A.1.4.4 assessing and/or mitigating financial, information security, sector, credit and insurance risks arising in connection with this **agreement**;
 - 8A.1.4.5 managing our relationship with you and related obligations under this **agreement**, including the recovery of debt or if you are deemed unable to pay your debts within the meaning of section 123 of the Insolvency Act 1986;
 - 8A.1.4.6 evaluating and improving our products, services, marketing and customer relationships, and developing new products and services.
- 8A.2 In relation to all **transaction personal data** we will **process** in the course of performing our obligations under this **agreement**, Annex 1 shall contain a description of:
- 8A.2.1 the scope, nature, purpose and duration of **processing** we will be carrying out; and
 - 8A.2.2 the types of **transaction personal data** and categories of subjects of the **transaction personal data** that we will be **processing**.
- 8A.3 We will only **process transaction personal data**:
- 8A.3.1 for the purpose of complying with our obligations or exercising our rights under this agreement;
 - 8A.3.2 as otherwise expressly authorised by you; or
 - 8A.3.3 as required by any regulatory body or any legal and regulatory requirements which apply to us.
- 8A.4 You hereby warrant and represent to us that you have collected all necessary consents, provided all necessary notices and done all such other things as are required under the **Data Protection Legislation** in relation to all **personal data** that will be **processed** by us or any **card scheme** on your behalf and/or that will be disclosed to us in the course of performing our obligations under this **agreement**.
- 8A.5 We shall ensure that we do not publish, disclose or divulge **personal data** that we **process** on your behalf to any third party without your consent other than:
- 8A.5.1 to any member of **Barclays group**, subject to clause 8A.6, to any of our suppliers, or to any **card scheme** to whom such disclosure is necessary for the performance of our obligations under this **agreement**, provided that we have used reasonable commercial endeavours to ensure such disclosure is made subject to obligations of data protection and confidentiality no less onerous than those imposed on us under this **agreement**; or
 - 8A.5.2 to the extent required by any regulatory body or any law or regulation that applies to us in the context of this **5**.
- 8A.6 We will maintain a list of our suppliers we may disclose **personal data** we **process** on your behalf to. You can ask to receive a copy of the current list of suppliers we may disclose **personal data** we **process** on your behalf to by emailing us at GDPRsubprocessors@barclaycard.co.uk. By signing this **agreement** you agree that you have reviewed the current list of suppliers and authorise us to use such suppliers.

If you wish to object, on reasonable grounds, to the transfer of your **transaction personal data** to any new supplier that may be added to the list from time to time, you must notify your Barclaycard account manager or, where you don't have an account manager, by contacting Barclaycard on 0800 161 5343, of such objection together with your grounds for such objection and we shall discuss in good faith with you a means to address such objection. You acknowledge and agree that, notwithstanding your objection to any new supplier, we may continue to disclose **personal data** we **process** on your behalf until we have agreed a solution that addresses your objection.

- 8A.7 Each **party** shall, without undue delay, report any complaint, claim, request or suspected breach relating to any **personal data processed** on behalf of the other **party** under this **agreement** to the other **party** in writing.
- 8A.8 In respect of any **personal data** that we **process** on your behalf, we will:
- 8A.8.1 take reasonable steps to ensure the reliability of any staff who may have access to the **personal data** and ensure such staff are subject to appropriate obligations of confidentiality;
 - 8A.8.2 taking into account the nature of the **processing**, implement appropriate technical and organisational measures to ensure security of the **personal data**;
 - 8A.8.3 provide you with reasonable co-operation and assistance in complying with any data subject rights (including access requests) received by, or on behalf of, you;
 - 8A.8.4 only transfer any **personal data** which originates in the European Economic Area (**EEA**) outside the EEA to countries or territories that the European Commission has recognised as providing an adequate level of protection to any relevant **personal data** that is transferred or where such transfer is otherwise permissible under **Data Protection Legislation**;
 - 8A.8.5 notify you as soon as is reasonably practicable in writing if we become aware of any unauthorised or unlawful **processing**, disclosure of, or access to, **personal data** and/or any accidental or unlawful destruction of, loss of, alteration to, or corruption of **personal data** (a '**data breach**') and provide you, as soon as possible, with information relating to the **data breach**; and
 - 8A.8.6 on termination or expiry of this **agreement**, for whatever reason, at your election, and to the extent reasonably technically possible, either destroy all **personal data** or transfer all **personal data** to you. We shall be entitled to retain a copy of any **personal data** to the extent required for our compliance with any legal or regulatory requirements.
- 8A.9 We will, at our own cost, annually submit those of our facilities at which we **process** any **personal data** on your behalf for audit of data processing by an inspection body that we have approved of ('**auditor**'). We will make the report of the auditor, which will be our confidential information, available to you upon request.
- 8A.10 We will notify you as soon as is reasonably practicable if, in our reasonable opinion, an instruction you issue in relation to **transaction personal data** infringes any **Data Protection Legislation** in which case the **parties** shall discuss in good faith any amended instructions required in order to comply with **Data Protection Legislation**.
- 8A.11 You agree to indemnify and keep indemnified each of the **Barclays indemnitees** from and against all **losses** suffered by, incurred by or awarded against any **Barclays indemnified party** arising out of or in connection with any action by any regulatory body or any relevant individual to the extent that such **losses** arise out of or in connection with our compliance with your instructions in accordance with this **agreement**, whether or not such **losses** were foreseeable as of the date of this **agreement**.
- 8A.12 Notwithstanding anything else in this **agreement**, each **party** may:
- 8A.12.1 aggregate, summarise and/or anonymise any **personal data** and any other information provided by the other **party**; and
 - 8A.12.2 use and disclose **personal data** and any other information provided by the other **party** for any purpose and to any person or third party to the extent that such **personal data** or information is aggregated, summarized, anonymised or otherwise presented in a manner that does not directly or indirectly identify an individual or identify such **personal data** as attributable to the other **party**.

3) Details of processing

We're adding the following information as a new annex to your agreement, which describes how we process personal data on your behalf.

Annex 1

This Annex 1 includes certain details of the **processing** of **transaction personal data** as required by Article 28(3) of the EU General Data Protection Regulation 2016/679

Subject matter and duration of the **processing** of **transaction personal data**

- The subject matter and duration of the **processing** of the **transaction personal data** are set out in this **agreement**

The nature and purpose of the processing of transaction personal data	The categories of data subject to whom the transaction personal data relates	The types of transaction personal data to be processed
Customer Relationship Management	BPS Merchants' cardholders' details (Merchants customers) BPS Merchants (large corporates, sole traders, etc) BPS applicants (prospect merchants) BPS Merchants named directors/ beneficial owners	Merchant contact person details; sole traders personal details; Directors and beneficial owners details, transactional details eg card numbers. Special categories of data: Data concerning health.
Transaction Processing, Monitoring, Verification and Analysis	BPS Merchants and their customers	Sole traders' names, addresses and contact emails/numbers. Cardholder details of Merchants customers

Your obligations and rights (and the obligations and rights of your **affiliates**)

- Your obligations and rights and the obligations and rights of your **affiliates** are set out in this **agreement**.

What do you need to do next?

You should email GDPRsubprocessors@barclaycard.co.uk and review the current list of suppliers we may disclose personal data we process on your behalf to.

If you're happy with these changes, you don't need to do anything – the new agreement will apply from **25 May 2018**.

If you have a query about what these changes mean to you, please call us on **0800 161 5343** or contact your account manager.

Kind regards



Colin O'Flaherty,
Managing Director, Small Business
Barclaycard Payments

This information is available in large print, Braille and audio, by calling 0800 161 5350.*

*Calls to 0800 numbers are free from UK 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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