

This Data Processing Agreement (“DPA”) is entered into between the following parties:

- 1) **EPOS NOW LIMITED** is a company registered in England (company no. 07666961) with its registered address at 3 Whiting Road, Norwich Business Park, Norwich, NR4 6DJ, England (“**Epos Now**” or “**Processor**”); and
- 2) You are the customer who has engaged Epos Now to purchase Products and/or Services on behalf of the business that you work for (“**Customer**” or “**Controller**”).

1. DEFINITIONS AND INTERPRETATION

1.1 In this DPA, the following definitions apply:

“**Affiliates**” means any company which is under common management control of, and of which more than 50% of the shares (or equivalent) are owned by: a party; a subsidiary of that party; its ultimate holding company; or any direct or indirectly owned subsidiary of such ultimate holding company (where “holding company” and “subsidiary” shall be as defined in section 1159 of the Companies Act 2006).

“**Agreement**” means the General Terms and Conditions of Trading with Epos Now.

“**Data Protection Laws**” means EU Directive 95/46/EC, as transposed into domestic legislation of each Member State and as amended, replaced or superseded from time to time, including by the General Data Protection Regulation 2016/679 (GDPR) from 25 May 2018 and laws implementing or supplementing the GDPR, and to the extent applicable, the data protection or privacy laws of any other country. ‘Personal Data’ shall have the meaning defined by the applicable Data Protection Laws.

“**Services**” means the services provided by Epos Now to the Controller under the Agreement.

- 1.2 Unless the context otherwise requires, words in the singular shall include the plural and in the plural include the singular.
- 1.3 A reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time.
- 1.4 The terms ‘including’, ‘include’, ‘in particular’ or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.
- 1.5 Clause headings are for reference purposes only and shall not affect the interpretation of this DPA.
- 1.6 A reference to ‘writing’ or ‘written’ includes faxes and email unless stated otherwise.

2. SCOPE OF THE DPA

- 2.1 This DPA forms part of the Agreement between the Controller and Epos Now for the provision of Services to reflect the parties’ agreement regarding the Processing of Personal Data.
- 2.2 If you do not contact Epos Now within 30 days of receiving this DPA to object to its terms, this DPA will be deemed to be accepted by you and will have the effect of updating the Agreement pursuant to clause 26.2 of the Agreement.
- 2.3 To the extent that the Agreement conflicts with the terms of this DPA, this DPA will prevail (subject to clause 13.2).

3. GENERAL OBLIGATIONS

Each party will ensure that in the performance of its obligations under this DPA it will at all times comply with all applicable Data Protection Laws and any other applicable privacy laws and regulations.

4. DATA SPECIFICATION

The Customer must provide Epos Now with a document setting out the (a) subject matter and duration of any processing to be undertaken by Epos Now; (b) the nature and purpose of the processing; and (c) the type of Personal Data and the categories of data subject relevant to this DPA.

5. DATA CONTROLLER

The Customer acknowledges and agrees that it will be the Data Controller under this DPA and that it will be responsible for adequately addressing the use of cookies and data protection obligations in its end-customer / Customer Terms & Conditions and policies. As Epos Now does not have any control over the Customer’s data protection notices, policies and Terms & Conditions, the Customer will indemnify and keep Epos Now and its Affiliates indemnified against all losses, costs, and liabilities and all expenses, including reasonable legal or other professional expenses, suffered or incurred by Epos Now arising out of or in connection with any claim in respect of: (a) a breach of clause 3, 4 or 5; (b) any liability arising whatsoever in respect of the cookies on, or the capture of Personal Data through, the Customer’s website(s); and (c) the consent of data subjects for the exportation of any Personal Data outside of the European Economic Area by Epos Now under clause 8. Any liability under this clause will not be subject to any limitation of liability or exclusions of liability under the Agreement.

6. DATA PROCESSOR

- 6.1 Epos Now acknowledges and agrees that it will be the Data Processor under this DPA and that it shall:
 - 6.1.1 keep all Personal Data it receives, stores and collects from the Customer strictly confidential (pursuant to the Confidentiality clause in the Agreement), and not disclose any Personal Data to third parties;
 - 6.1.2 not use the Personal Data for any purpose other than to perform its obligations under this DPA;
 - 6.1.3 ensure that all Personal Data it receives, stores and collects from the Customer is processed in accordance with this DPA or as otherwise instructed in writing from time to time by the Customer and Epos Now shall not process the Personal Data for any other purpose, unless required by law to which Epos Now is subject, in which case Epos Now shall to the extent permitted by law inform the Customer of that legal requirement prior to responding to the request;
 - 6.1.4 promptly carry out any written request requiring Epos Now to amend, transfer or delete the Personal Data or any part of the Personal Data made by the Customer during this DPA; and
 - 6.1.5 notify the Customer without undue delay or in any case within 48 hours upon Epos Now or any sub-processor becoming aware of a breach affecting Personal data and at this time providing the Customer with all sufficient information required to meet any obligation to notify the relevant data protection authority or inform affected individuals under applicable Data Protection Laws.

7. ASSISTANCE



Epos Now agrees to assist the Customer with all subject access requests which may be received from an end-customer in a prompt timeframe (at the Customer's cost) and ensure that appropriate technical and organisational measures are in place to enable the Customer to meet its obligations to those requesting access to Personal Data held by Epos Now. Upon request, Epos Now shall provide you with reasonably requested information within a reasonable timeframe to demonstrate its compliance with this DPA. Epos Now shall assist the Customer in relation to any data impact assessments and/or any prior consultation with the relevant data protection authority, provided that Epos Now shall be entitled to charge a reasonable fee for such assistance.

8. DATA TRANSFERS

Epos Now agrees not to transmit any Personal Data to a country or territory outside the European Economic Area without the Customer's prior written consent, provided that such consent is hereby deemed provided where the Personal Data is subject to an adequate level of protection in accordance with Data Protection Laws.

9. RETURN OF DATA

Upon the termination or expiry of this DPA for any reason, Epos Now shall return all Personal Data to the Customer as requested by the Customer in writing, provided that this shall not prevent Epos Now from retaining a copy to meet its legal or regulatory obligations.

10. SUB-PROCESSORS

The Customer hereby agrees that Epos Now may appoint any of its sub-contractors as sub-processors without requiring further consent. Such sub-contractors are deemed to be approved under this clause and the Customer may request a list of such sub-processors from time to time.

11. SAFEGUARDS

11.1. Taking into account the state of the art, the costs of implementation, and the nature, scope, context and purpose of processing as well as the varying risks to rights and freedoms of natural persons, the parties warrant that for the duration of this DPA they will implement administrative, technical and physical safeguards sufficient to ensure the security and confidentiality, and protect against the unauthorised or accidental destruction, loss, alteration, use, or disclosure, of Personal Data and other records and information of the end-customers or employees and to protect against anticipated threats or hazards to the integrity of such information and records.

11.2. The Customer acknowledges and agrees to the processing by Epos Now of all of the Customer's transactional and sales data, which may include Personal Data for all purposes connected with this DPA.

12. TERM AND TERMINATION

12.1. This DPA will commence on the date of the second party's signature and shall continue for the duration of any Processing activity by Epos Now on the Controller's behalf.

12.2. This DPA will automatically terminate upon:

12.2.1. the Agreement being updated to incorporate materially similar data protection provisions as those contained in this DPA, in which case this DPA will be deemed to be superseded; or

12.2.2. the termination of the Agreement, provided that all obligations in this DPA which expressly, or by their nature, or implied by law, are intended to continue beyond the termination of this DPA will survive the termination of this DPA.

12.3. Upon the termination or expiry of this DPA for any reason, Epos Now shall return all Personal Data to the Controller as requested by the Controller in writing, provided that this shall not prevent Epos Now from retaining a copy to meet its legal or regulatory obligations.

13. MISCELLANEOUS

13.1. This DPA constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to data protection obligations. Each party acknowledges that in entering into this DPA it does not rely on, and shall have no remedies in respect of, any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this DPA. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this DPA.

13.2. It may be necessary for Epos Now to update this DPA and its terms from time to time. If the Customer continues to use Epos Now's services after Epos Now has informed the Customer of any updated version of this DPA, or upon further versions of the Agreement being updated, the Customer will be deemed to have accepted these changes and they will be incorporated into this DPA.

13.3. Subject to clause 13.2, no variation of this DPA will be effective unless it is in writing and signed by both parties.

13.4. No failure or delay by a party to exercise any right or remedy provided under this DPA or by law will constitute a waiver of that or any other right or remedy, nor will it prevent or restrict the further exercise of that or any other right or remedy.

13.5. Neither party shall, without the prior written consent of the other party, assign, transfer, charge or deal in any other manner with all or any of its rights or obligations under this DPA.

13.6. All notices must be in writing and will be deemed given when mailed by registered or certified mail, return receipt requested, to the other party's registered business address. Serving notice by email or fax will not be accepted as an effective method of providing notice of a claim under this DPA.

13.7. No one other than a party to this DPA, their successors and permitted assignees, shall have any right to enforce any of its terms.

13.8. Nothing in this DPA is intended to, or will be deemed to establish any partnership or joint venture between the parties, make a party the agent of the other party or authorise a party to make or enter into any commitments for or on behalf of the other party.

13.9. If any provision or part-provision of this DPA is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this DPA.



13.10. This DPA and any disputes or claims arising out of or in connection with it or its subject matter or formation (including without limitation non-contractual disputes or claims) are governed by English law and the parties irrevocably submit to the exclusive jurisdiction of the English courts.