

ACCESSIBILITY INITIATIVE AGREEMENT

THIS AGREEMENT made as of the Effective Date by and between the National Federation of the Blind of Massachusetts Inc., a Massachusetts non-profit corporation, (the “NFBMA”), Lindsay Yazzolino (“Yazzolino”), and Mika Pyyhkala (“Pyyhkala”), on the one hand, and Square, Inc., a Delaware Corporation (“Square”) (collectively, the “Parties”).

BACKGROUND:

1. Square is the developer and owner of two mobile applications (“apps”), Square Wallet and Square Register.
2. Square is committed to taking reasonable steps to make Square Wallet and Square Register as accessible as possible to individuals with disabilities, including individuals who are blind.
3. The NFBMA offers a variety of services to businesses to improve the accessibility of their products and services to blind users.
4. Yazzolino and Pyyhkala are members of the NFBMA, and Pyyhkala is an Executive Board Member of the NFBMA.
5. The NFBMA and Square desire to work collaboratively to take reasonable steps to ensure that Square Wallet and Square Register are as accessible as possible to persons who are blind.

IT IS AGREED:

- I. Term. This Agreement and Confidential Addendum will commence on the Effective Date and will continue for a term of two (2) years.
- II. Definitions. The following terms used in this Agreement and Confidential Addendum will have the meanings set forth below.
 - A. “Accessibility Coordinator” means an internal Square employee with responsibility for monitoring the progress of the accessibility of Square’s apps and other services, including progress towards the deadlines set forth below.
 - B. “Agreement” means this agreement.
 - C. “Apple iOS Accessibility Guidelines” means a set of technical standards that Apple has published to aid its developers in making apps that are usable by blind persons. The technical guidelines can be found at <https://developer.apple.com/library/ios/#documentation/UserExperience/Conceptual/iPhoneAccessibility/Introduction/Introduction.html>.
 - D. “Confidential Addendum” means the Confidential Addendum attached hereto.

- E. “Effective Date” means the date on which this Agreement and Confidential Addendum are fully executed and transmitted to the respective legal counsel for the Parties.
- F. “Screen Access Software” means software that renders textual and graphical information into Braille or audible speech or that magnifies content so that blind persons can independently interact with the Internet and software programs, access information, and engage in transactions using nonvisual means.
- G. “Square Wallet” means a Square mobile application that allows customers to make credit and debit card purchases from certain merchants that use Square’s payment processing services. It is a fast, easy way for customers to pay at their favorite local businesses, discover new businesses nearby, explore menu listings, and maintain records of their purchases.
- H. “Square Register” means a Square mobile application that serves as a point-of-sale system and allows businesses to accept credit and debit card payments, understand and grow their operations, and build more personal relationships with their customers.
- I. “Square Apps” means Square Wallet and Square Register, collectively.
- J. “VoiceOver” means the Screen Access Software provided on Apple iPads and iPhones.

III. Accessibility Enhancements to Square Apps.

- A. It is Square’s longstanding practice to comply with the Americans with Disabilities Act (“ADA”) and to comply with the Massachusetts public accommodations civil rights law and with other accessibility laws. Square’s commitment to take the actions set forth in this Agreement and Confidential Addendum to further improve the usability of the Square Apps by blind users is not and shall not be construed as an admission that Square has in any way failed to comply with any laws or regulations or that such laws or regulations apply to the Square Apps.
- B. By September 30, 2013, Square will take the actions set forth in Section I of the Confidential Addendum to improve the accessibility of the Square Apps to blind users using VoiceOver.
- C. By December 31, 2013, Square will take the actions set forth in Section II of the Confidential Addendum to improve the accessibility of the Square Apps to blind users using VoiceOver.
- D. After December 31, 2013 and during the Term of this Agreement and Confidential Addendum, Square will consider the Apple iOS Accessibility Guidelines in the development of any future versions of the Square Apps or new mobile applications and ensure that a blind user of VoiceOver Screen Access

Software in connection with these applications may enjoy the same products and services Square offers its sighted users with substantially equivalent ease of use, unless doing so is not technically feasible or would constitute an undue burden or fundamental alteration of its products and/or services.

- E. By September 30, 2013, the Parties will meet to discuss the accessibility of the Square Apps when used on the Screen Access Software that is provided on the most recent Android operating system. The NFBMA will provide a demonstration of any accessibility concerns that it has during this meeting, and Square will in good faith consider those concerns when developing future releases of the Square Apps for use with the Android operating system.
- F. By September 30, 2013, Square will do the following:
 - 1. Appoint an internal Accessibility Coordinator who will be responsible for overseeing and coordinating Square's implementation of this Agreement and for handling disability-related concerns.
 - 2. Consider all disability-related concerns from users in good faith when developing future versions of the Square Apps.
 - 3. Advise its support personnel to direct disability-related inquiries to the Accessibility Coordinator, who will coordinate the handling of such inquiries.
 - 4. Provide to Square employees who have a role in programming, coding, adding data to or editing the Square Apps a list of resources concerning techniques and principles utilized to make mobile apps accessible to blind persons using Screen Access Software and advise them to review these resources
- G. Square will provide the NFBMA, Yazzolino, and Pyyhkala the opportunity to test future versions of the Square Apps that implement the enhancements set forth in the Confidential Addendum that have not been made as of the Effective Date prior to their release. NFBMA, Yazzolino, and Pyyhkala will sign non-disclosure agreements prior to being provided access to these new versions. NFBMA, Yazzolino, and Pyyhkala may provide Square with feedback on the accessibility enhancements within three (3) days after being provided with access to the new versions. As to the enhancements that have already been implemented as of the Effective Date, the NFBMA, Yazzolino, and Pyyhkala may provide Square feedback on the accessibility enhancements within fourteen (14) days of the Effective Date. Square will consider such feedback in good faith and will make appropriate changes to the Square Apps if the changes are (1) necessary to ensure that the Square Apps are accessible when used with VoiceOver, and (2) technically feasible, not unduly burdensome, and not a fundamental alteration of the Square Apps.

- H. The Parties agree that any delays in implementing the actions set forth in Confidential Addendum Sections I and II that are caused by Acts of God, war, third parties, or factors outside of Square's control will not be deemed to violate this Agreement as long as Square makes a good faith effort to effect implementation as soon as reasonably possible thereafter and provides written notice of the need for any extensions to the NFBMA prior to the completion dates agreed to herein. If, in the course of performing the work, Square encounters conditions that render an action not technically feasible, unduly burdensome, or likely to fundamentally alter the nature of Square Wallet or Square Register, then Square shall provide written notice to NFBMA, Yazzolino, and Pyyhkala identifying the actions that cannot be taken for some or all of these reasons and shall propose, if available, alternate actions for their consideration.

IV. Confidentiality.

The Parties agree that, other than the Confidential Addendum and the non-disclosure agreements, this Agreement is public and non-confidential. The Parties further agree that all documents and information provided by Square to the NFBMA, Yazzolino, and Pyyhkala in connection with this Agreement and Confidential Addendum (collectively "Confidential Information") are confidential and may not be disclosed by the NFBMA, Yazzolino, or Pyyhkala to any third party, other than to their respective legal advisors and the NFBMA Board of Directors without Square's prior written consent. The NFBMA shall advise all legal advisors and the NFBMA Board of Directors of this confidentiality requirement prior to providing them with Confidential Information. The NFBMA, Yazzolino, and Pyyhkala further agree that, other than to enforce the provisions of this Agreement or Confidential Addendum, the Confidential Information will not be used to form the basis of any claim, lawsuit, complaint, or other legal or enforcement action by the NFBMA, Yazzolino, or Pyyhkala either on their own behalf or, in the case of the NFBMA, on behalf of its members, against Square, nor will any such information be used as evidence in any such lawsuit or action. These confidentiality provisions are in addition to those contained in the non-disclosure agreements and will remain in effect after the term of this Agreement and Confidential Addendum.

V. Compensation for Services.

Square will compensate the NFBMA, Yazzolino, and Pyyhkala and their counsel for their services as set forth in Section IV of the Confidential Addendum.

VI. Dispute Resolution.

- A. If, during the term of this Agreement and Confidential Addendum, any dispute arises regarding compliance with the terms of this Agreement and/or Confidential Addendum, the party alleging non-compliance will provide written notice to the other party of any alleged non-compliance. Such notice will be provided as set forth in Section VII.G.

- B. The responding party will have thirty (30) days following the receipt of the notice described in the preceding paragraph above to respond to the notifying party's allegations of non-compliance with this Agreement and/or Confidential Addendum. The responding party will send this response to the persons identified in Section VII.G. using the methods indicated therein.
- C. Following receipt of the response, the Parties will negotiate in good faith for at least thirty (30) days to resolve their differences.
- D. If the Parties are unable to resolve their differences through direct negotiations, the Parties agree to submit to one day of mediation before a mutually agreeable mediator. Square, on the one hand, and the NFBMA, Yazzolino, and Pyyhkala, on the other hand, will share in the cost of the mediator equally.
- E. The Parties agree not to file any lawsuit or action to enforce this Agreement and/or Confidential Addendum until this dispute resolution process has been completed and then only if the allegations of non-compliance have not been corrected within thirty (30) days following the completion of dispute resolution efforts by the Parties.

VII. Miscellaneous.

- A. Independent Contractor Status. The NFBMA, Yazzolino, Pyyhkala, and any of their employees and agents will, in all instances, perform their obligations hereunder as independent contractors, and will, in no event, be deemed to be employees of Square.
- B. Entire Agreement. This Agreement, including the Confidential Addendum and the non-disclosure agreements, represents the sole and entire agreement between the Parties, superseding all prior agreements, negotiations and understandings with respect to the subject matters covered hereby. No other agreements, covenants, representations or warranties, express or implied, oral or written, have been made by any of the Parties concerning the subject matter hereof. This is an integrated agreement.
- C. Construction of the Agreement and Confidential Addendum. This Agreement and Confidential Addendum will be construed as a whole in accordance with its fair meaning in accordance with the laws of the Commonwealth of Massachusetts. The language of this Agreement and Confidential Addendum will not be construed for or against any particular party. Each and every covenant, term, provision, and agreement herein contained will be binding upon and inure to the benefit of the successors and assigns of the Parties except that the NFBMA, Yazzolino, and Pyyhkala may not assign this Agreement or Confidential Addendum without Square's prior written consent. The headings used herein are for reference only and will not affect the construction of this Agreement or Confidential Addendum.

- D. Severability. In the event that any one or more of the provisions contained in this Agreement and/or Confidential Addendum will, for any reason, be held to be invalid, void, illegal, or unenforceable in any respect, such invalidity, voidness, illegality, or unenforceability will not affect any other provision of this Agreement or Confidential Addendum, and the remaining portions will remain in full force.
- E. Deadlines. If, despite the good faith efforts of the Parties, one or more of the deadlines contained in this Agreement and/or Confidential Addendum is not met, it is understood that deadlines following that deadline will be moved accordingly as appropriate to ensure adequate time between deadlines and to maintain the original intent of the Agreement and Confidential Addendum.
- F. Amendment to Agreement or Confidential Addendum. Any amendment to this Agreement or Confidential Addendum must be in writing, must be signed by duly authorized representatives of the NFBMA, Yazzolino, Pyyhkala, and Square, and must explicitly state the intent of the Parties to amend the Agreement or Confidential Addendum. No breach of any provision of this Agreement or Confidential Addendum will be deemed waived unless the waiver is in writing signed by a duly authorized representative of the waiving party. Waiver of any one breach will not be deemed a waiver of any other breach of the same or any other provision of this Agreement or Confidential Addendum.
- G. Notices. Notices and all other documents referenced in this Agreement and Confidential Addendum shall be sent by electronic mail and certified mail as to the following individuals:

For the NFBMA, Yazzolino, and Pyyhkala:

Timothy Elder
TRE Legal Practice, LLC
1126 East 36th Street
Baltimore, MD 21218
telder@trelegal.com
Phone: 410-415-3498 Fax: 888-718-0617

and

William J. Hunt
Jeremy Y. Weltman
Clark, Hunt, Ahern & Embry
150 Cambridgepark Drive
Cambridge, MA 02140
whunt@chelaw.com
Phone: 617-494-1920 Fax: 617-494-1921

For Square:

Ross W. Nadel, Esq.
Square, Inc.
901 Mission Street
San Francisco, CA 94103
ross@squareup.com
(415) 627-7676

and

Minh N. Vu, Esq.
Seyfarth Shaw LLP
975 F Street, NW
Washington, DC 20004
mvu@seyfarth.com
(202) 463-2400

[Signatures begin on the next page]

