

S Q U A R E

GLOBAL MARKETS

SQUARE GLOBAL LIMITED

**TERMS OF BUSINESS
for
ELIGIBLE COUNTERPARTIES
and
PROFESSIONAL CLIENTS**

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Square Global Limited is incorporated in England and Wales
Company Number: 09170961

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1 APPLICATION AND SCOPE

- 1.1 Square Global Limited (**Square, we, us, our**) is a limited company incorporated and registered in England and Wales (company number 09170961) whose registered office is at 843 Finchley Road, London, NW11 8NA. Square is authorised and regulated by the Financial Conduct Authority (**FCA**) (reference number 653770). Our Legal Entity Identifier (LEI) number is 213800MR2027473V4D51.
- 1.2 These Terms of Business apply to any services that Square provides to a person accepted by Square as a Client from time to time.

2 SERVICES

- 2.1 Square commits that it may provide the following services (**Services**) to the Client:
- 2.1.1 advising on investments;
 - 2.1.2 arranging deals in investments;
 - 2.1.3 making arrangements with a view to transactions in investments;
 - 2.1.4 executing deals in investments; and
 - 2.1.5 allowing the Client to access the Square organised trading facility ("**Square OTF**") subject to the additional terms and conditions set out in Schedule 2.
- 2.2 The Client acknowledges that, in providing the Services, we are acting solely as a contracting party and not in any fiduciary or other capacity.
- 2.3 The Client acknowledges that it is the Client's responsibility, not ours, to obtain advice in respect of applicable regulations and any other specialist areas including law, accounting, tax, stockbroking and public relations.
- 2.4 We are authorised by the Client to do anything that we in good faith determine to be reasonably necessary or desirable either to carry out the Services (including acting as the Client's agent or through agents, which may include our Associates) or to comply with applicable law. The Client agrees to ratify and confirm everything lawfully done in the exercise of such authority.
- 2.5 The Services that are to be provided subject to these Terms of Business are provided to the Client s for its own use and to no other person. Square deals with the Client as a principal and does not have, nor does it intend or wish to have, any relationship with any affiliate of the Client or any client of any of them.

- 2.6 Square is entitled to assume that any instructions, notices, authorisations, commitments or requests (whether in writing or not and however communicated to us, including by any means of electronic communication) have been properly authorised by the Client if they are given or purport to be given by an individual or person who is or purports to be and is reasonably believed by us to be authorised by the Client to do so.
- 2.7 The Client is solely responsible for providing and maintaining all necessary electronic communications with Square, including (without limitation) wiring, computer hardware, software, communication line access and networking devices.
- 2.8 The Client recognises that electronic communications may be subject to risks such as failure to arrive within a reasonable time, interception by or mistaken delivery to third parties, corruption or loss of contents or other adverse consequences. While we shall take all reasonable precautions in using electronic communications, the Client agrees that neither we nor any of our Associates shall be liable to the Client for any direct or indirect loss or damage (including any loss of profit or loss of opportunity) incurred or suffered by the Client in respect of any such risk or any virus communicated inadvertently by us to the Client.
- 2.9 The Client must be a professional client or an eligible counterparty for the purposes of the FCA Handbook of Rules and Guidance (**FCA Rules**) in order to make use of all Services save in relation to the Square OTF (in which case the Client must be an eligible counterparty).

3 **PROVISION OF INFORMATION**

- 3.1 The Client will provide Square with such information as Square may reasonably require in connection with the provision of the Services.
- 3.2 The Client confirms that it has the right to supply such information to Square and that the supply of such information by the Client, and its receipt and use by Square for the purposes of the Services, will not infringe any rights held by any third party, involve the unauthorised use of confidential information belonging to a third party or result in a breach by the Client or Square of any law, agreement, regulatory obligation or intellectual property rights, or of any fiduciary duty owed to any third party.
- 3.3 The Client acknowledges that Square shall rely on, and shall not be responsible for verifying, any information or confirmation given to Square. The Client undertakes that, where any such information or confirmation is in connection with Square's obligations under applicable law or regulations or is for publication to third parties (including in any financial promotion), or for use by Square in verifying any matter in connection with Square's obligations under applicable

law or regulations or for publication to third parties, or is or may be material in the context of any transaction or matter connected with the Services, it is, when taken as a whole, and each statement of fact in it is, true, fair and accurate in all material respects and not misleading, that every statement of opinion, intention or expectation in it will be honestly held and fairly based and that there will be no facts not disclosed in it which, by their omission, make any statement in it misleading. The Client undertakes that, if for any reason any part of any information or confirmation given to Square is or becomes untrue, unfair or misleading, the Client will promptly notify Square and take the steps that Square may require to correct any statement rendered incorrect as a result. Should the Client not promptly take such steps, we shall be entitled, where Square or the Client would or might otherwise infringe any applicable law or regulation or incur any liability or penalty, to take such action as we consider necessary or appropriate, including the publication of any correcting statement.

- 3.4 The Client will ensure that no announcements, statements or documentation containing any reference to Square or any of our Associates will be published or made by the Client or on the Client's behalf (except by us) without our prior written consent. If the Client fails to do so, Square shall be entitled to publish whatever statement (including a corrective statement) we consider necessary or desirable to protect our interests.

4 **FEES**

- 4.1 The Client agrees to pay Square's fees, charges and costs for the Services and other pricing terms at the rates agreed between Square and the Client from time to time (**Fees**). Square shall give not less than 20 Business Days' prior written notice to Clients (by email) of any proposed change in Fees.
- 4.2 The Fees are payable in the currency in which they are incurred without withholding, deduction or set off for any reason whatsoever by the Client and are exclusive of applicable UK Value Added Tax or any other similar applicable taxes (if any) which the Client shall also pay.
- 4.3 In addition to any Fees, and without prejudice to clause 15, Square reserves the right to pass-on (and/or to be reimbursed for) any charges Square suffers or incurs as a result of any failure by the Client to comply with its obligations to settle Transactions in accordance with the terms of the Rules including (without limitation) any interest charges, late settlement fees and expenses charged to Square in this connection.

5 SETTLEMENT

- 5.1 The Client shall settle each relevant Transaction in accordance with the terms of the Confirmation through the settlement arrangements agreed with or specified by Square from time to time.

6 DATA

- 6.1 Square acknowledges that the Client has rights in the data transmitted by the Client to Square (**Client Data**). By using the Services, the Client hereby irrevocably agrees that Square may possess and use Client Data for any and all legitimate business purposes.
- 6.2 Square may publish anonymised data produced by it in real or delayed time, as it sees fit to support or increase market transparency or as required by any applicable regulation or Regulator.
- 6.3 Nothing shall restrict or prevent Square from disclosing Client Data to any clearing house, any Regulator or any other statutory or other body having jurisdiction over Square and being legally entitled to require and requiring such disclosure.

7 CLIENT SECURITY AND ACCESS OBLIGATIONS

- 7.1 The Client is responsible for all uses of the Services by the Client and the officers, employees or staff of the Client (together **employees**) and for any acts or omissions during such use and Square shall be entitled to treat any use of the Services as having been duly authorised by the Client.
- 7.2 The Client will immediately notify Square:
- 7.2.1 if any unauthorised person has accessed any of the Services; and
 - 7.2.2 of any actual or threatened unauthorised use of the Services.

If any of the same has happened, the Client will give Square all the information the Client has regarding any unauthorised use of Services to enable Square to investigate the matter and the Client will co-operate with Square and any Regulator or other competent authority in any investigation.

- 7.3 The Client agrees to comply with any security policy and procedures reasonably specified by Square from time to time.
- 7.4 Square may refuse the Client or any employee access to the Services if Square suspects that an unauthorised person is attempting to use any or all of the Services.
- 7.5 Square shall be entitled to require the Client immediately to suspend or terminate any employee's access to, or use of, the Services where Square

reasonably considers that such employee is in any way in breach of the terms of these Terms of Business or by his/her conduct places the Client in breach of these Terms of Business.

- 7.6 Before using any algorithmic trading technique to access any of the Services, the Client must ensure and validate that it has carried out appropriate testing of such algorithms and other type of trading strategy to ensure that such activity cannot create or contribute to disorderly trading conditions (whether on the Square OTF or more generally).
- 7.7 The Client must follow the protocols set out in the technical specifications published by Square and made available to Clients which Square may update from time to time as required.

8 **USE OF MARKET DATA**

- 8.1 The Client expressly acknowledges and agrees that in relation to any market data received from Square (**Market Data**):
- 8.1.1 Square has asserted that (save to the extent that rights are granted to the Client hereunder) it, or its licensors, have exclusive rights in and to Market Data and that such rights belong to Square (or its licensors);
 - 8.1.2 Market Data constitutes valuable confidential information and proprietary rights of Square (or its licensors); and
 - 8.1.3 but for these Terms of Business, the Client would not have any rights with respect to, or rights to access or receive, any Market Data.
- 8.2 Subject to clause 7.3, Square hereby grants to the Client (without charge) a non-exclusive and non-transferable right to possess or use the Market Data for its own legitimate internal business purposes as follows:
- 8.2.1 making use of any of the Services or for its own internal business purposes;
 - 8.2.2 evaluation of an investment;
 - 8.2.3 analysis for internal use;
 - 8.2.4 reproduction and storing for internal use only; and
 - 8.2.5 notifying the Client's clients (if any) of details of Transactions executed on behalf of such clients.
- 8.3 Subject to clause 7.3, Square hereby grants to the Client the right to use the prices and price streams made available to the Client via the Square OTF in the Client's pricing engines and pricing models and to create derived data generally,

in each case the output of which may be shared with third parties, so long as such prices and price steams are always:

- 8.3.1 aggregated with pricing information from sources other than the Square OTF;
- 8.3.2 used and presented in such a manner that they could not reasonably be reverse engineered such that the prices could be identified as having been derived from the Square OTF and
- 8.3.3 not attributed in any way to the Square OTF.

The Client shall own all intellectual property rights in any derived data created by it pursuant to this clause 8.3

8.4 The Client agrees to procure that all internal use of Market Data:

- 8.4.1 shall clearly and prominently identify the information as originating from Square (to the extent technically practicable);
- 8.4.2 is protected so as to prevent unauthorised access; and
- 8.4.3 is not altered by the Client or user to make it materially incorrect or misleading in any way.

9 USE OF SERVICES AND INTERRUPTION OF SERVICES

- 9.1 Square will take all reasonable steps to provide the Services. However, the Client acknowledges that use of the Services may from time to time be unavailable, delayed, limited or slowed due to, (without limitation) hardware failure, software failure, interruption of power supplies, maintenance, governmental or regulatory restrictions, exchange rulings, court or tribunal orders or other human intervention; or any other cause (whether similar or dissimilar to any of the foregoing) whatsoever beyond Square's control.
- 9.2 Square may perform periodic maintenance on any relevant IT systems required by it in order to provide the Services for the purposes of system upgrades, maintenance, and backup procedures (**Scheduled Maintenance**). All Scheduled Maintenance shall either be performed without any impact on the provision of the Services, so that the Client is unaware of the Scheduled Maintenance, or otherwise shall be performed upon reasonable advance notice to the Client. The Client acknowledges that from time to time Scheduled Maintenance may make the provision of the Services impossible for a limited amount of time, but Square shall use its reasonable endeavours to perform Scheduled Maintenance at times that minimise interruption to the Services, and to remedy any such interruption as quickly as reasonably possible.
- 9.3 The Client agrees and undertakes that while using the Services, the Client will not knowingly or intentionally post, publish, transmit or distribute: (i) text,

images, information, software or other material that infringe or violate any Square and/or third party Intellectual Property Rights, publicity/privacy rights, law or regulation, or that are defamatory, harmful to minors, obscene or pornographic, or that are materially false, misleading or inaccurate; or (ii) documents, images, software or other material that contains any viruses or programming routines intended to damage, surreptitiously intercept or expropriate any system, data or personal information ("**Harmful Component**"). The Client hereby agrees to use up-to-date, industry standard virus detection devices to minimise the risk of transmitting any Harmful Component to Square. Square may immediately and without consent remove from its website, the Square OTF or any other system or database owned and/or operated by Square any data that violates these requirements. However, Square is under no obligation to review any data for accuracy or potential liability. For the purposes of these Terms of Business **Intellectual Property Rights** means patents, trademarks, service marks, registered designs, design rights, copyright, database rights, moral rights, know-how, trade or business names, topography rights (whether registered or otherwise and including all applications for registration of any of the foregoing) and all other similar rights or obligations anywhere in the world.

- 9.4 Should the Client breach any provision of these Terms of Business or the Rules, or act in any way, which materially impacts on Square, Square may exercise all or any of its rights and powers whether under the terms of these Terms of Business or the Rules and either (i) suspend or restrict the Client's use of the Services until the Client has remedied such breach to Square's reasonable satisfaction or (ii) terminate the Client's use of the Services.

10 **INVESTMENT RESEARCH AND SIMILAR MATERIAL**

- 10.1 We may provide you with information or material relating to financial investments or markets in general which we have determined: is not investment research; or, is otherwise of a nature and scale that constitutes a minor non-monetary benefit for you. However, where we agree to provide you with information or material which we have determined is investment research (for the purposes of the FCA Rules), we may only be able to provide such investment research to you if you accept separate terms and conditions relating to the provision of that investment research. For the avoidance of doubt, it will remain your responsibility to determine whether you receive investment research from us and to comply with any related regulatory obligations which affect you.

11 **WARRANTIES**

- 11.1 Except as expressly stated herein the Services are provided 'as is', without warranties, express or implied, including, but not limited to, any implied

conditions or warranties of merchantability or fitness for a particular use or purpose, any implied warranty arising from trade usage, course of dealing or course of performance, and of any other warranty or obligation with respect to the Services or any data (including, without limitation, Market Data), software or other materials made available to the Client and all such other warranties are hereby disclaimed.

11.2 Square represents and warrants to the Client on a continuing basis that:

11.2.1 it has full authority to agree to these Terms of Business;

11.2.2 it will comply with all applicable laws, rules and regulations; and

11.2.3 it has all rights and licences required to enter into these Terms of Business and to perform its obligations under these Terms of Business.

11.3 The Client represents and warrants to Square on a continuing basis that its:

11.3.1 has full authority to enter into these Terms of Business;

11.3.2 will comply with all applicable laws, rules and regulations;

11.3.3 will not engage in any activity that may harm the integrity, reputation, fairness and orderliness of the way in which the Services are provided to the Client or to any other clients of Square;

11.3.4 will not engage in any activity that Square reasonably determines is or is likely to be detrimental to the business and/or reputation of Square; and

11.3.5 have and maintain all rights, licences consents, authorisations and approvals required to agree to these Terms of Business, to use and accept the Services and to engage in Transactions, to carry on the activities in respect of which the Services are provided and to perform their obligations under these Terms of Business.

12 **LIMITATION OF LIABILITY**

12.1 Subject to clauses 12.3 and 16 Square shall not be liable to the Client or to any person claiming through the Client for any loss, liability, damage, cost or expense of any nature whatsoever incurred or suffered by the Client or any person claiming through the Client, arising from any matter that is beyond Square's reasonable control under or in connection with these Terms of Business, or concerning the use of the Services (including without limitation the use of Market Data) or any restriction or non-availability or failure of the Services whether arising in contract, tort, negligence, breach of statutory duty or otherwise.

- 12.2 Subject to clause 12.3 but without prejudice to clauses 12.1 and 16, Square shall not be liable to the Client or to any person claiming through the Client for any loss, liability, damage, cost or expense of any nature whatsoever incurred or suffered by the Client, or any person claiming through the Client arising from any matter that is beyond Square's reasonable control under or in connection with these Terms of Business, or concerning the use of the Services (including without limitation the use of Market Data or any other data) or any restriction or non-availability or failure of the Services whether arising in contract, tort, negligence, breach of statutory duty or otherwise of an indirect or consequential nature nor for any economic loss or loss of turnover, profits, business or goodwill, loss of trade, loss of bargain, loss of data or loss of opportunity, in each case regardless of whether such damage was foreseen or whether Square was advised that it was likely to occur.
- 12.3 Nothing in these Terms of Business excludes or restricts Square's liability in respect of:
- 12.3.1 a breach by Square of any duty or liability it may have under the regulatory system (as defined in FCA Rules); or
 - 12.3.2 a breach by Square of any duty of confidentiality it may have under clause 13.1; or
 - 12.3.3 fraud or wilful misconduct; or
 - 12.3.4 death or personal injury caused by its negligence; or
 - 12.3.5 any other liability that cannot lawfully be excluded.
- 12.4 The Client acknowledges and agrees on its own behalf and on behalf of any and any person claiming through the Client that in all the circumstances the exclusions of liability set out in clauses 13.1, 13.2 and 13.3 are reasonable.

13 **CONFIDENTIALITY**

- 13.1 For the purposes of these Terms of Business, **Confidential Information** means information that is designated as confidential by the disclosing party or which by its nature is clearly confidential or which the receiving party knows or should reasonably know is confidential. Confidential Information expressly includes (but is not limited to) any information concerning Market Data, the technology, technical processes, data, procedures, business affairs and finance of the relevant party (including in the case of Square any systems manual or technical document). Each party will treat as confidential all Confidential Information obtained pursuant to these Terms of Business. Neither party will, except as is expressly provided in these Terms of Business, without the prior written consent of the other, disclose Confidential Information to any person or use the same

other than for the purposes of these Terms of Business (including without limitation for the purposes of clearing or settling transactions).

13.2 Clause 13.1 does not prohibit disclosure of Confidential Information to:

13.2.1 the receiving party's own employees (including its agents and permitted sub-contractors) who need to know it, provided that these employees are first made aware of the confidential nature of the Confidential Information and the receiving party's obligations in relation to it and themselves agreed to treat the Confidential Information confidentially;

13.2.2 the receiving party's auditors and professional advisors and any person having a statutory or regulatory right to request and receive that information (including any regulator of competent jurisdiction); and

13.2.3 any person pursuant to a court order or a request by the FCA or any other regulatory body having appropriate authority, provided that the disclosing party has first been given a reasonable opportunity to contest such disclosure (unless the court, FCA or other regulatory body having appropriate authority has ordered or instructed the receiving party not to disclose that such order or request has been made).

14 CLIENT INDEMNITY

14.1 Subject to clause 12.3, the Client agrees on its own behalf to indemnify and hold harmless Square, its owners, subsidiaries, affiliates, officers, directors and employees (together, **Indemnified Parties**) from and against all and any direct claim, demand, proceeding, suit, action and any direct liability (each a **Claim**) and all damages and reasonable expenses and costs (including any reasonable legal fees) incurred by the Indemnified Parties which result directly from any breach by the Client of the terms of these Terms of Business and the Rules and any retransmission by the Client of Market Data and Confidential Information in whatever form (including, if applicable any additional liability, expenses and costs arising from or relating to the defence or settlement of any Claim by the Client). The indemnity in this clause is conditional upon:

14.1.1 the Indemnified Party (or Square on behalf of such Indemnified Party) promptly notifying the Client in writing of the receipt of any Claim; and

14.1.2 where such Claim relates solely to the act or omission of the Clients relating to a single third party, Square granting the Client exclusive control of the defence and/or settlement of any such Claim, for the avoidance of doubt in all other circumstances the Client shall grant Square exclusive control of the defence and/or settlement of any such Claim; and

- 14.1.3 provided always that the Client shall not agree to the settlement of any Claim unless or until it has sufficient financial resources to pay in full any amount to be paid in settlement, and neither party shall settle any Claim (a) without the Client's prior written approval if such settlement is controlled by Square and requires the Client to take any action, refrain from taking any action, admit any liability or make any financial contribution as part of such settlement or (b) without Square's prior written approval if such settlement is controlled by the Client and requires Square to take any action, refrain from taking any action, admit any liability or make any financial contribution as part of such settlement.
- 14.2 Each of Square and the Client (as the case may be) shall:
- 14.2.1 subject to applicable law and regulation furnish the other with information in their possession or control for such defence and/or settlement of any Claim as may be reasonably requested by the Client or Square provided that any such information is only used for the purpose of such defence and/or settlement and will be destroyed to the extent possible promptly thereafter; and
- 14.2.2 co-operate with the other and provide such assistance to the other in the defence of such Claim as may be reasonably requested by the other.
- 14.3 Should the Client have exclusive control of the defence and/or settlement of any Claim, the Client shall pay Square's reasonable costs and expenses relating to any such cooperation and assistance given to the Client.
- 14.4 Should Square have exclusive control of the defence and/or settlement of any Claim, Square shall keep the Client informed of the progress of the defence and/or settlement and consult with the Client in relation to the conduct of the defence and/or settlement of any Claim and give due and careful consideration to any representations made by the Client in relation to the conduct of the defence and/or settlement of any Claim.
- 14.5 For the avoidance of doubt, the indemnification in clause 14.1 shall not apply to any Claim to the extent that it arises directly in connection with any breach by Square of any duty or liability it may have under the regulatory system (as defined in FCA Rules).
- 14.6 In the event that the Client provides its client with access to any of the Services, the Client shall procure at all times that such access does not breach any provision of the Rules and/or these Terms of Business and the Client shall at all times remain responsible and liable for any resulting activity including any

breach that might arise resulting from, caused by or contributed to in whole or in part by such client.

- 14.7 Client must have in place appropriate pre-trade risk management systems for all orders submitted to Square's trading systems to ensure all orders submitted to these systems are subject to appropriate pre-trade risk controls and procedures. For the avoidance of doubt these pre-trade risk management systems must be controlled by the Client.

15 TERM AND TERMINATION

- 15.1 These Terms of Business shall continue until these Terms of Business are terminated by either party on not less than 30 days' written notice.
- 15.2 In the event that Square is to cease trading, Square will issue a general notice via the Square website and by email to the Client and these Terms of Business will terminate at the time and on the date specified in such notice.

16 CONSEQUENCES OF TERMINATION

- 16.1 Upon termination of these Terms of Business, all rights of the Client to use the Services and/or to benefit from any license given hereunder shall immediately cease.
- 16.2 The provisions in clauses 5, 5, 7, 9, 12, 13, 14, 15, 16, 12, 19 and 18 and any other provision of these Terms of Business which is expressed or intended to survive shall survive the termination of these Terms of Business, provided that in the case of clause 13 (Confidentiality), those provisions shall survive for a maximum period of one year following the termination of these Terms of Business.

17 DATA PROTECTION

- 17.1 Square and the Client shall ensure that their employees and agents observe the requirements of the Data Protection Act 1998, and from 25 May 2018, the General Data Protection Regulation (EU) 2016/679 (together **Data Law**) any amendments or revisions thereto and all subordinate legislation in the performance of their obligations under these Terms of Business and shall comply with any request made or direction given by the other which is directly due to the requirements of such Data Law.

18 NOTICES

- 18.1 Any notice or other document required to be given under these Terms of Business or any communication between Square and the Client (together **Parties**) with respect to any of the provisions of these Terms of Business shall be in writing in English and be deemed duly given if left at or sent by pre-paid registered or recorded delivery post to the address of the party receiving such

notice as set out at the head of these Terms of Business or to such address, fax number or email address as notified between the Parties for the purpose of this clause.

- 18.2 Any such notice or other communication shall be deemed to be given to and received by the addressee:
- 18.2.1 at the time the same is left at the address of or handed to a duly authorised representative of the party to be served;
 - 18.2.2 by post 2 (two) Business Days following the date of posting if the Parties are in the same country or 10 (ten) Business Days following the date of posting if the Parties are in different countries; or
 - 18.2.3 in the case of a fax or email transmission at the time of transmission if the sender has proof of transmission.
- 18.3 In proving the giving of a notice it shall be sufficient to prove that the notice was left, or that the envelope containing the notice was properly addressed and posted, or that the applicable means of transmission was addressed and despatched and despatch of the transmission was confirmed and/or acknowledged as the case may be.
- 18.4 In addition to the other provisions of this clause Square may give general notices regarding the Services (meaning those that are not specific to the Client) by posting such notices on the Square website and sending them in, or attached to, a standard email to all Clients. Any such notice shall be deemed to be given to and received by the Client on the Business Day following the posting on the Square website and electronic transmission of the notice.
- 18.5 It is the Client's responsibility to ensure that Square is at all times in possession of up-to-date contact details for the Client, including the general email address(es) of the Client and those of any relevant employee(s).

19 **GENERAL**

19.1 **Assignment and sub-contracting**

These Terms of Business is personal to the Parties, and neither party may, save as expressly provided herein, without the prior written consent of the other Party, assign, sub-license, sub-contract, transfer or charge these Terms of Business or any part of it.

19.2 **Relationship of parties**

Nothing in these Terms of Business shall be deemed to constitute a partnership between the Parties, nor designate either Party the agent of the other Party.

19.3 Severability

If any provision of these Terms of Business shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, such invalidity or unenforceability shall not affect the other provisions of these Terms of Business which shall remain in full force and effect. If any provision of these Terms of Business is so found to be invalid or unenforceable but would be valid or enforceable if some part of the provision were deleted, the provision in question shall apply with such modification(s) as may be necessary to make it valid and enforceable.

19.4 Counterparts

These Terms of Business may be executed in any number of counterparts, each of which, when executed and delivered, shall be an original, and all the counterparts together shall constitute one and the same instrument.

19.5 Entire agreement

These Terms of Business and the documents referred to herein constitute the entire agreement and understanding between the parties with respect to the subject matter hereof and supersede any prior agreement, understanding or arrangement between the Parties, whether oral or in writing. No representation, undertaking or promise shall be taken to have been given or to be implied from anything said or written in negotiations between the Parties prior to these Terms of Business except as expressly stated in these Terms of Business.

19.6 Conflict of agreements

In the event of any conflict between the provisions of these Terms of Business and the Rules, the Rules shall take precedence.

19.7 Waivers

Failure of either of the Parties to enforce or exercise, at any time or for any period, any term of these Terms of Business, does not constitute, and shall not be construed as, a waiver of such term and shall not affect the right later to enforce such term or any other term herein contained.

19.8 Third parties

Save as expressly provided in these Terms of Business, the Parties agree that a person who is not a party to these Terms of Business shall not have the right to enforce any term or terms of these Terms of Business pursuant to the Contracts (Rights of Third Parties) Act 1999 or otherwise.

19.9 **Non-disclosure and publicity**

The Parties shall not without the prior written consent (including email) of the other Party, in each instance:

- 19.9.1 use in advertising, publicity or otherwise the name of the other Party or any affiliate, or any director, partner or employee; or
- 19.9.2 use any trade name, trademark, trade device, service mark, symbol or any abbreviation, contraction or simulation thereof owned by the other Party or any affiliate of such other Party; or
- 19.9.3 represent, directly or indirectly, that any product or any service provided by either Party has been approved or endorsed by the other Party.

19.10 **Amendments**

Any amendment to these Terms of Business shall be in writing and executed by or on behalf of the Parties.

19.11 **Force Majeure**

The Parties shall not be liable for their respective obligations under these Terms of Business (other than failure to pay amounts when due) caused by an event that is manifestly beyond such Party's control; provided that such Party shall not have contributed in any way (whether by act or omission) to the occurrence of such an event.

19.12 **Definitions and Interpretation**

Unless the context requires otherwise:

- 19.12.1 terms defined in the Rules shall have the same meaning in these Terms of Business; and
- 19.12.2 references to: words in the singular include the plural and in the plural include the singular; a person include a corporate or unincorporated body; one gender include any other gender; and any law, rule or regulation are to such law, rule or regulation as it is in force for the time being and any amendment, extension, application or re-enactment thereof and includes any subordinate legislation for the time being in force made under it and references to the Rules are to the Rules as each is in force for the time being and any amendment, extension of any of them.

19.13 Governing Law

These Terms of Business shall be governed by and construed in accordance with the law of England.

19.14 Jurisdiction

19.14.1 The Parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to hear and determine any proceedings and to settle any dispute which may arise out of or in connection with these Terms of Business and any non-contractual obligations arising out of or in relation to these Terms of Business (respectively **Proceedings** and a **Dispute**).

19.14.2 Nothing in these Terms of Business shall limit the right of the Parties to bring proceedings for injunctive or other relief in any court of competent jurisdiction to preserve any cause of action or protect property pending the resolution of any Dispute in accordance with clause 19.14.1.

19.14.3 The Parties each irrevocably waive any objection which they may have now or in the future to the courts of England and Wales being nominated as the forum to hear and determine any Proceedings or settle any Dispute and agrees not to claim that the courts of England and Wales are not a convenient or appropriate forum.

19.14.4 The Parties each irrevocably consent to service of process or any other documents in connection with proceedings in any court by personal service, delivery at any address specified in these Terms of Business or any other usual address, mail or in any other manner permitted by the law of England and Wales, permitted by the law of the place of service or permitted by the laws of the jurisdiction where proceedings are instituted.

Acceptance of these Terms of Business

If you give us an order or deal or continue to deal with us, you shall be deemed to accept these Terms of Business.

SCHEDULE 1 – The Square OTF

1 THE SQUARE OTF

- 1.1 Please note that the Terms of Business set out above apply to the use by the Client of the Square OTF.
- 1.2 Subject to the Client at all times complying with the Square OTF Rule Book (**Square OTF Rules**), any Client Notice (all defined terms, unless otherwise defined in these Terms of Business, bear the meanings set out in the Square OTF Rules as amended from time to time) and any guidance published by Square, Square grants to the Client the right to access the Square OTF (without limitation) to:
- 1.2.1 enter Orders on the Square OTF;
 - 1.2.2 receive status updates on Orders;
 - 1.2.3 amend Orders;
 - 1.2.4 cancel Orders;
 - 1.2.5 execute Transactions against Orders;
 - 1.2.6 receive data feeds from Square containing (without limitation) information relating to Instruments admitted to trading, arrangements for trading, price, unexecuted orders, executed transactions and volume of Transactions on the Square OTF; and
 - 1.2.7 access such other services as Square may provide through the Square OTF from time to time
(collectively, **Square OTF Services**).
- 1.3 Client agrees to be bound by and to comply with the Square OTF Rules
- 1.4 Subject to the Square OTF Rules, Square reserves the right to modify or change the Square OTF Services at any time.
- 1.5 The Client will provide Square with such information relating to the Client and its s and the Client's and its s' use of the Square OTF as Square reasonably requires in connection with the provision of the Square OTF Services.
- 1.6 The Square OTF Services that are to be provided subject to these Terms of Business are provided to the Client for its own use and to no other person. Square deals with the Client as a principal and does not have, nor does it intend or wish to have, any relationship with any other affiliate of the Client or any client of any of them.
- 1.7 The Client is solely responsible for providing and maintaining all necessary electronic communications with the Square OTF, including (without limitation)

wiring, computer hardware, software, communication line access and networking devices.

- 1.8 The Client must be an eligible counterparty for the purposes of the FCA Rules and, accordingly, Square will treat the Client as an eligible counterparty.
- 1.9 The Client must have in place appropriate pre-trade risk management controls to calibrate and control the Client's use of the Square OTF Services and trading activity on the Square OTF and to ensure that the integrity of the Square OTF is not compromised.
- 1.10 The Client's obligations under the Square OTF Rules (which for the avoidance of doubt may be amended or extended from time to time) relating to the retention of records relating to Orders submitted by the Client and the settlement of Transactions executed on the Square OTF by the Client and their production shall survive the termination of these Terms of Business.
- 1.11 Square acknowledges that the Client has rights in Client Data. By using the Square OTF Services, the Client hereby irrevocably agrees that Square may possess and use Client Data for any and all legitimate business purposes, including (without limitation) the processing of orders, trade reporting, and transmission to third parties in connection with the settling of transactions executed on the Square OTF by any settlement agent.
- 1.12 Square may publish anonymised data produced by and/or input into the Square OTF, in real or delayed time, as it sees fit to support or increase market transparency or as required by any applicable regulation or Regulator.
- 1.13 Nothing shall restrict or prevent Square from disclosing Client Data to any clearing house, any Regulator or any other statutory or other body having jurisdiction over Square and being legally entitled to require and requiring such disclosure.

2 SQUARE INDEMNITY

- 2.1 Square agrees to indemnify and hold harmless the Client, each and each of their respective owners, officers, directors and employees from and against all and any direct claims, demands, proceedings, suits, actions and liabilities whether arising in contract, tort, negligence, breach of statutory duty or otherwise in connection with or arising out of any third party claim that the use by the Client (in accordance with the terms of these Terms of Business) of the Square OTF infringes any third party Intellectual Property Right (each an **IP Claim**) and all damages and reasonable expenses and costs (including any reasonable legal fees) relating thereto. The indemnity in this clause is conditional upon the Client : (i) notifying Square promptly in writing of any IP Claim; and (ii) granting Square exclusive control of the defence and/or settlement of any such IP Claim provided always that Square shall not agree to

the settlement of any IP Claim unless or until it has sufficient financial resources to pay in full any amount to be paid in settlement. Subject to applicable law and regulation, the Client shall furnish Square with information in the possession or control of the Client for such defence and/or settlement as may be reasonably requested by Square provided that any such information provided by the Client is only used for the purposes of such defence and/or settlement and thereafter to the extent possible will be destroyed promptly by Square and the Client will not compromise or admit any such IP Claim and/or make any payments with respect to such IP Claim without the prior written consent of Square. The Client shall cooperate with, and provide such assistance to Square in the defence of such IP Claim as may be reasonably requested by Square and Square shall pay the Client's reasonable costs and expenses relating to such cooperation and assistance.