



Postal Services Licence Conditions

Class 1 – Postal Operator’s Licence Template

JERSEY COMPETITION REGULATORY AUTHORITY

CLASS I LICENCE issued to

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under

THE POSTAL SERVICES (JERSEY) LAW 2004

Article 15

The JCRA, in exercise of the powers conferred on it by the Postal Services (Jersey) Law, 2004, (the “Law”) grants to the Licensee a Licence to convey Letters, as defined in the Law, within, to and from the Bailiwick of Jersey and subject to the Conditions attached hereto (the “Conditions” or individually “Condition”), all lawful Directions of the JCRA and all applicable laws, rules, Regulations, ordinances and orders of the States of Jersey.

DATED

SIGNED

EXECUTIVE DIRECTOR

JERSEY COMPETITION REGULATORY AUTHORITY

CONDITIONS

1. DEFINITIONS AND INTERPRETATION

- 1.1 A word or expression that is used in the Licence or the Conditions and is also used in the Postal Services (Jersey) Law 2004 (the “Law”), has, except where otherwise stated in the Licence or Conditions, the same meaning in the Licence and the Conditions that it has in the Law. In addition, the expressions set out below have the meanings given to them below:

“Associated Company”: means a company that controls or is controlled by the Licensee or which is under the control of the same person or persons as control the Licensee;

“Authority”: means the Jersey Competition Regulatory Authority established by Article 2 of the Competition Regulatory Authority (Jersey) Law 2001;

“Business”: includes any trade, profession, or employment, in the course of which goods are supplied or services are provided, and any activity, or undertaking of a body of persons (whether or not incorporated), in the course of which goods are supplied or services are provided;

“Change of Control”: has the meaning given in Condition 2.6;

“Direction”: means a written statement issued by the JCRA with which a Licensee must comply;

“Documents”: includes accounts, deeds, writings and Information recorded in any form, whether or not legible to the naked eye;

“Employee”: includes an employee, temporarily contracted staff, secondee, officer and servant;

“Force Majeure”: means any cause affecting the performance by the Licensee of any obligation hereunder arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control including (but without limiting the generality thereof) governmental or States' acts or Regulations, fire, flood, inclement weather, terrorism or any disaster or an industrial dispute affecting the provision of Postal Service. Any act, event, omission, happening or non-happening will only be considered Force Majeure if it is not attributable to the wilful act, neglect or failure to take reasonable precautions of the affected party, its officers, contractors, sub-contractors, agents, servants or employees;

“Information”: includes – (a) information recorded in any form; and
(b) forecasts and estimates;

“JCRA”: means the Authority;

“Letter”: means a communication in handwriting or in print (or in both) that is to be conveyed and delivered to a person, or to an address, indicated on the communication itself or its envelope or cover, and includes a packet containing such a communication, but excludes –

- (a) a book, catalogue, newspaper or periodical; and

(b) anything that weighs more than 20 kilograms.

“Licence”: means the licence granted to the Licensee under Part 4 of the Law of which these are the Conditions;

“Licence Commencement Date”: means the date on which this Licence is signed by the JCRA;

“Licence Fee”: means the fee or fees prescribed by the JCRA under Article 18 of the Law;

“Licensee”: means [];

“Licensed Services”: means the conveyance of Letters authorised by this Licence;

“Mail”: means Postal Packets;

“Modify”: includes add to, amend, alter, replace, revoke and delete;

“Other Licensed Operator”: means any person who, other than the Licensee, for the time being, has the benefit of a licence granted under Article 15 of the Law;

“Postal Facilities”: means the physical and human resources and systems deployed by the Licensee and by its contractors and agents for the purpose of meeting the Licensee’s obligations under this Licence to provide Licensed Services;

“Postal Law”: means Postal Services (Jersey) Law 2004;

“Postal Packet”: means anything that weighs no more than 20 kilograms, and is for the Transmission by post or is transmitted by post and includes Letters;

“Regulations”: means Regulations made by the States;

“Subsidiary”: has the same meaning as in the Companies (Jersey) Law 1991;

“Term”: means subject to Condition 10 of this Licence, a period of ten (10) years from the Licence Commencement Date;

“Transmission”: is referred to in Article 2(1) of the Law;

“User”: means a person, organization or other entity that is a consumer of postal services;

1.2 In the Licence and these Conditions, unless the context indicates a contrary intention:

- (a) references to Conditions, paragraphs and subparagraphs are to Conditions, paragraphs and subparagraphs of the Conditions, as varied from time to time in accordance with the Conditions;
- (b) a document will be incorporated into and form part of the Conditions if it is referred to in the Conditions, and reference to such a document is to that document as varied from time to time;
- (c) headings used for Conditions, paragraphs and subparagraphs are for ease of reference only and will not affect the interpretation of the Conditions;
- (d) references to any law, rule, regulation, ordinance, order or other legal instrument includes any modification, re-enactment or legislative provisions substituted for the same;
- (e) use of the word "includes" or "including" should be construed as being without limitation; and
- (f) the masculine gender shall include the feminine and neuter, and the singular shall include the plural, and vice versa, and words importing persons shall include firms or companies.

PART I: ESTABLISHMENT AND ENFORCEMENT

2. SCOPE OF THE LICENCE

2.1 For the avoidance of doubt, this Licence is non-exclusive.

2.2 The Licence is personal to the Licensee and the Licensee shall not:

- (a) sub-license, assign or grant any right, interest or entitlement in the Licence nor transfer the Licence to any other person; or
- (b) sell or pledge any of its assets which are necessary to provide the Licensed Services, unless such assets are immediately replaced with equivalent assets, without the prior written consent of the JCRA, such consent not to be unreasonably withheld.

Condition 2.2 does not apply to:

- (i) *a mortgage or other transaction entered into for the purpose of securing borrowings of the Licensee or a Subsidiary of the Licensee, being borrowings for the purpose of the Licensed Services or the provision thereof or anything incidental thereto; or*
- (ii) *a transfer, assignment or other disposal of an interest in assets under an arrangement whereby the Licensee retains the use and benefit of such assets for the remainder of the useful life of such assets and for the duration of the Licence; or*
- (iii) *a transfer, assignment or other disposal of assets made in the ordinary course of business.*

2.3 The Licensee shall notify the JCRA of the occurrence of any of the following:

- (a) any fact or event likely to materially affect the Licensee's ability to comply with any Condition including any change to the Licensed Services which may detrimentally affect the permanence, availability or quality of the Licensed Services;
- (b) any insolvency-related event in respect of the Licensee or a Subsidiary, Associated Company, or joint venture of the Licensee, or any preparatory steps being taken that might lead to an insolvency-related event, immediately upon the Licensee becoming aware of the event.

2.4 The Licensee shall notify the JCRA of any proposed Change of Control of the Licensee or an Associated Company forthwith upon the Licensee, or its chairman, chief executive officer, chief operating officer or any director becoming aware of the proposed change, and in any event prior to the acceptance by the Licensee or its shareholder of any such proposal.

2.5 Within 30 days of the JCRA's receipt of a notification from the Licensee of a Change of Control under Condition 2.4, the JCRA may:

- (a) approve, in writing, the change or the proposed change; or

- (b) disapprove, in writing, the change or the proposed change, giving reasons; or
- (c) approve, in writing, the proposed change or the change subject to the Licensee accepting a modification of the Licence under Article 19 of the Law;

and, in addition to any of the above measures, the JCRA may issue such Directions to the Licensee or invoke any of the applicable sanctions, penalties or remedies in the Law or the Licence as the JCRA reasonably considers necessary and appropriate.

In taking action under this Condition, the JCRA may have regard to whether or not the JCRA would have awarded the Licence to the Licensee, had the Change of Control taken effect prior to the award.

2.6 In this Condition 2, “Control” shall mean any direct or indirect possession of any power or right that enables a person or group of persons to direct, or cause the general direction of, the management or policies of the Licensee or an Associated Company by any means and in any event. A person or group of persons shall be deemed to Control the Licensee or an Associated Company if:

- (a) he or they exercise(s) or control(s) the exercise of fifty (50) per cent or more of the votes able to be cast at general meetings of the Licensee or the Associated Company on all, or substantially all, matters; or
- (b) he is or they are able to appoint or remove directors holding a majority of voting rights at board meetings on all, or substantially all, matters, or he is or they are able to appoint or remove a majority of the governing body of the Licensee or the Associated Company; or
- (c) he or they exercise(s) or control(s) the exercise of fifty (50) per cent or more of the partnership or other ownership interests of the Licensee or the Associated Company;

and, in each case, reference to the Licensee or an Associated Company shall include any person or group of persons who Controls the Licensee or the Associated Company in any of such ways, and “Change of Control” shall mean any change as a result of which any other person or group of persons acquires Control.

2.7 The Licensee shall supply to the JCRA, in relation to itself and any Subsidiary of the Licensee:

- (a) a copy of its annual return, as required by Article 71 Companies (Jersey) Law 1991, on the same date on which it is required to be filed in accordance with that law; and
- (b) a copy of its annual report and accounts on the same date, on which it is circulated to the shareholders of the relevant body corporate; and
- (c) where the relevant body corporate is not incorporated in the Bailiwick of Jersey, any returns, reports, accounts or other Information under the laws of any applicable jurisdiction which are, in the opinion of the JCRA, analogous or equivalent to the above, at such times and in such forms as the JCRA directs from time to time.

2.8 The Licensee shall comply with any other requirement in law to obtain any additional consents, permissions, authorisations or licences as may be necessary for the provision

of the Licensed Services and for the exercise of its rights or the discharge of its obligations under this Licence.

2.9 The Licensee shall ensure that:

- (a) The administration and management of the Business associated with the running (including establishment, maintenance and operation) of the Licensed Services shall be conducted from the Island of Jersey.
- (b) its Business is conducted in a manner which the JCRA is satisfied is on a normal commercial basis and at arm's length from the Business of any of its shareholders, Subsidiaries, Associated Companies or joint ventures.

3. LICENCE FEE

3.1 The Licensee shall pay the Licence Fee as may be determined from time to time by the JCRA.

3.2 Without prejudice to any other remedies of the JCRA under this Licence or the Law, if the Licensee fails to pay any amount due to the JCRA under this Condition 3 by the due date, the unpaid amount will accrue interest daily from the due date to the date of payment at four (4) percentage points above the published base rate of the Bank of England, and is recoverable as a debt under the Law.

4. PROVISION OF INFORMATION

4.1 For the purpose of monitoring the Licensee's compliance with the Conditions and the Law, the Licensee shall provide to the JCRA in the manner and at the times required by the JCRA, any Documents, accounts, returns, estimates, reports or other Information (whether financial, operational, technical or otherwise) including but not limited to the Documents, accounts, returns, estimates, reports and other Information specified in this Licence.

4.2 The JCRA may require an examination, investigation or audit of any aspect of the Licensee's Business relating to the Licensed Services or its compliance with the Conditions and the Law, and the Licensee shall provide any assistance requested by the JCRA in relation to any such examination, investigation or audit. The JCRA may direct with regard to the manner in which such an examination, investigation or audit is carried out, including the creation of financial and/or technical specifications or documentation.

4.3 In particular, the JCRA may authorise a person to carry out an examination, investigation or audit or may require the Licensee to arrange for an examination, investigation or audit of any aspect of the Licensed Services to ensure compliance with the Conditions. The Licensee shall allow the JCRA's authorised representative to attend at, enter and inspect any premises under the control of the Licensee or a subsidiary of the Licensee, and to take copies of any Documents and to acquire any Information in the control of the Licensee or a Subsidiary of the Licensee, as may be required in order to carry out the examination, investigation or audit.

4.4 The Licensee shall bear all reasonable costs associated with any examination, investigation or audit conducted under this Condition 4.

5. COMPLIANCE

In addition to the Conditions, the Licensee shall comply with:

- (a) any obligation imposed on it by the Law or by any law, Regulation, rule, ordinance or order of the States of Jersey; and
- (b) any Direction duly issued by the JCRA under the Law, under any other law, Regulation, rule, ordinance or order of the States of Jersey or under this Licence.

6. MODIFICATION

The JCRA may from time to time Modify any Condition in this Licence. Any modification, deletion or addition to the Conditions shall be made in accordance with Article 19 of the Law and any other requirements under any applicable law.

7. ENFORCEMENT AND REVOCATION

The JCRA may take any action to enforce any Condition of this Licence in accordance with Article 20 of the Law. The JCRA may also at any time revoke this Licence in accordance with the provisions and procedures set out in Article 21 of the Law.

8. EXCEPTIONS AND LIMITATIONS ON THE LICENSEE'S OBLIGATIONS

If the Licensee is prevented from performing any of its obligations under this Licence because of Force Majeure:

- (a) the Licensee shall notify the JCRA of those obligations it is prevented from performing and the reason why as soon as reasonably practicable; and
- (b) the JCRA may suspend those obligations, upon which the Licensee will not be liable to perform those obligations, for so long as the Force Majeure continues, only if and to the extent that the inability to perform could not have been prevented by taking steps specifically required under this Licence, or other reasonable precautions, save where such steps or precautions are prevented by Force Majeure, and the inability cannot reasonably be circumvented by the Licensee, at its expense through the use of alternate sources, work-around plans or other means.

9. MATTERS OF INTEREST TO JERSEY

The Licensee shall, in connection with its establishment, operation and maintenance of the Postal Facilities and provision of the Licensed Services take reasonable steps to prevent any from being used in, or in relation to, the commission of offences against the laws of the Bailiwick of Jersey.

10. COMMENCEMENT AND TERM

The Licence commences on the Licence Commencement Date and continues, subject to the Licensee's compliance with the Conditions and the Law, and subject to any revocation or suspension by the JCRA, for the Term.

11. MISUSE OF DATA

The Licensee shall not make use of data of any nature which become available to it directly or indirectly as a result of providing the Licensed Services, in any way which, in the reasonable opinion of the JCRA, would unduly prefer the interests of any Business carried on by the Licensee or a Subsidiary, fellow Subsidiary, Associated Company or joint venture of the Licensee, or place Other Licensed Postal Operators at an unfair disadvantage.

12. PROTECTING THE INTEGRITY OF THE MAIL

12.1 Within three (3) months of the Licence Commencement Date, the Licensee shall submit to the JCRA in writing Mail protection procedures which shall include:

- (a) measures for minimising the exposure of Mail conveyed by the Licensee to the risk of theft, loss, damage or interference; and
- (b) ways of improving the performance of the Licensee in relation to the matters referred to at paragraph (a) above.

12.2 The Licensee shall comply with Directions issued by the JCRA in respect of Mail protection and procedures in Condition 12.1.

PART II: PUBLIC SERVICE CONDITIONS

13. CONSUMER PROTECTION

- 13.1 The Licensee shall, in the manner and at the times specified by the JCRA, publish the standard terms and conditions, including tariffs under which it provides each category of Licensed Services to Users. In the absence of any other direction from the JCRA, the Licensee shall ensure that a current statement of all applicable terms and conditions is:
- (a) filed with the JCRA; and
 - (b) promptly made available for inspection at the request of any member of the public or promptly sent to them by post on request.
- 13.2 The JCRA may direct the Licensee to change the Licensee's standard conditions from time to time where any condition thereof is contrary to the Licence, the Law or any other law, Regulation, rule, ordinance or order of the States of Jersey.
- 13.3 The Licensee shall safeguard the privacy and confidentiality of all Mail and shall comply with all applicable laws from time to time regarding the protection of personal data and shall comply with any Directions issued by the JCRA for the purposes of protecting the interests of its Users, having regard to relevant laws in force from time to time, and subject to Articles 47 and 48 of the Law.
- 13.4 The Licensee shall participate in good faith in any procedure established by the JCRA, following consultation with the Licensee, for the resolution of disputes.

**PART III: GENERAL CONDITIONS RELATING TO THE PROVISION OF
POSTAL SERVICES**

14. INTERNATIONAL OBLIGATIONS

The Licensee shall comply with international obligations of the Bailiwick of Jersey in accordance with States' directions, including the rules and regulations of the Universal Postal Union.

15. CESSATION OF THE PROVISION OF THE LICENSED SERVICES

15.1 If the Licensee proposes to cease to provide all or a material part of the Licensed Services, it shall give not less than four (4) months notice in writing to the JCRA of the proposal and its plans in relation to the cessation.

15.2 At any time within four (4) months before the expiry of the Licence, or if the JCRA receives a notice under Condition 15.1, or if the JCRA has made a decision pursuant to Article 21 of the Law to revoke the Licence, the JCRA may, after consultation with the Licensee, direct it in writing to take such steps as the JCRA considers necessary or expedient to ensure the continuity of the Licensed Services, any constituent parts thereof, and the Licensee shall comply with any such Directions.

16. UNIVERSAL POSTAL SERVICE

The Licensee shall comply with any mechanism that the JCRA may introduce to contribute to the net cost of the universal postal service.