



**CLASS I POSTAL OPERATOR'S LICENCE
FOR
TNT POST (UK) LIMITED**

JERSEY COMPETITION REGULATORY AUTHORITY
CLASS I POSTAL OPERATOR'S LICENCE ISSUED TO
TNT POST (UK) LIMITED
("THE LICENSEE")

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 "Postal Law") grants to the Licensee a Class 1 Postal Operator's Licence to convey Large Letters and/or Packets, to European destinations only, subject to the Minimum Volume Requirement.

This Licence is 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.

This Licence shall commence on 24 March 2012.

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 “Postal 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 Postal 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;

“Business”: includes any persons, or any trade, profession, employment 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 2.9;

“Crown Dependencies” means the Isle of Man, the Bailiwick of Jersey and the Bailiwick of Guernsey;

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

“Documents”: include 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;

“Europe” means the Member States of the European Union, Norway, Switzerland and Iceland, but does not include the United Kingdom or the Crown Dependencies;

“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;

“Indicia”: means a mark or other identifier unique to the Licensee;

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

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

“Large Letter”: means a communication which is of maximum dimensions of 381mm x 305mm x 20mm or a weight of up to 500g, but is not a Letter;

“Letter”: means a communication with dimensions of less than 245mm x 165mm x 5mm and weighing less than 100g;

“Licence”: means the Licence granted to the Licensee under Part 4 of the Postal 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 Postal Law;

“Licensee”: means TNT Post UK Limited and its permitted assignees;

“Minimum Volume Requirement”: means the following:

- a) at least 50 items per mailing for Large Letters; and/or
- b) at least 25 items per mailing for 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 Postal Law;

“Packet”: means a communication having dimensions greater than 381mm x 305mm x 20mm or a weight exceeding 500g;

“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 Postal Services;

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

“Postal Services”: means the services for which the Licensee is licensed;

“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;

“Universal Service Provider”: means the public or private entity providing a universal postal service or parts thereof, the identity of which has been nominated by the JCRA or notified to the European Commission; and

“User”: means a person, organisation 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 The Licence permits the Licensee to convey Large Letters and/or Packets from Jersey for delivery to addresses in Europe, subject to the Minimum Volume Requirement. For the avoidance of doubt, the Licence does not permit the conveyance and/or delivery of any mail items to addresses in the United Kingdom or the Crown Dependencies or addresses outside Europe, although the Licensee is permitted to convey mail in bulk through the territory of the United Kingdom or the Crown Dependencies.
- 2.2 For the avoidance of doubt, this Licence does not permit the conveyance of Letter format items. This Licence is non-exclusive.
- 2.3 The Licence is personal to the Licensee and the Licensee shall not sub-license, assign or grant any right, interest or entitlement in the Licence nor transfer the Licence to any other person without the prior written consent of the JCRA. This Condition does not prevent the Licensee from providing Postal Services through its Subsidiaries, Employees, agents or sub-contractors. For the avoidance of doubt, any such delegation shall not release the Licensee from its obligations under Condition 5.
- 2.4 The Licensee or a Subsidiary of the Licensee shall not sell, mortgage, pledge or otherwise transfer or encumber any assets (including, but not limited to the assets of a Subsidiary or Associated Company of the Licensee) which are necessary either to provide the Postal Services or otherwise to comply with the Licensee's obligations under this Licence without the prior written consent of the JCRA.
- 2.5 Condition 2.4 shall not apply to:
- (a) a transfer, assignment or other disposal of an interest in assets under an arrangement whereby the Licensee, or a Subsidiary of 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
 - (b) a transfer, assignment or other disposal of assets made in the ordinary course of Business.
- 2.6 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 Postal Services which may detrimentally affect the permanence, availability or quality of the Postal Services;
 - (b) any insolvency-related event in respect of the Licensee or an Associated Company, or any preparatory steps being taken that might lead to an insolvency-related event, immediately upon the Licensee becoming aware of the event.
- 2.7 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.

2.8 Within thirty (30) days of the JCRA's receipt of a notification from the Licensee of a proposed Change of Control under Condition 2.7, the JCRA may:

- (a) approve, in writing, the proposed change; or
- (b) disapprove, in writing, 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 Postal 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 Postal 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.

2.9 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. In any event, a person or group of persons shall be deemed to Control the Licensee or an Associated Company of the Licensee 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 an 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.

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

- (a) 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
- (b) 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 at such times and in such forms as the JCRA directs from time to time.

- 2.11 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 Postal Services and for the exercise of its rights or the discharge of its obligations under this Licence.
- 2.12 The Licensee shall ensure that:
- (a) its dealings with its shareholders, and Associated Companies are conducted on a normal commercial basis and at arm's length, and this may be audited by the JCRA, having given due notice;
 - (b) to the extent that Postal Services are provided by any Subsidiary of the Licensee, such Subsidiary shall not be reorganized, transferred, wound up, liquidated, dissolved, disbanded, or otherwise merged without the prior written consent of the JCRA. For the avoidance of doubt, Condition 2.12(b) applies to reorganizations that do not result in a Change of Control; and
 - (c) all profits earned from Postal Services by any of its Subsidiaries accrue to the benefit of the Licensee.

3. LICENCE FEE

- 3.1 The Licensee shall pay such 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 Postal 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 law.

4. PROVISION OF INFORMATION

- 4.1 For the purpose of monitoring the Licensee's compliance with the Conditions and the Postal 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 Postal Services or its compliance with the Conditions and the Postal Law, and the Licensee shall provide any assistance requested by the JCRA in relation to any such examination, investigation or audit. The JCRA may specify 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 Postal 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 and procure the compliance of its Subsidiaries with:

- (a) any obligation imposed on it by the Postal 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 Postal 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 Postal 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 Postal 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 Postal 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 alternative 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 Postal 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 Postal 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 Postal 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 an Associated Company, or place Other Licensed 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 Large Letters and/or Packets 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 procedures in Condition 12.1.

13. DEVELOPMENT OF POSTAL FACILITIES AND SERVICES

13.1 The Licensee shall develop and operate the Postal Facilities so as progressively to achieve standards in line with international best practice during the Term, and in particular, the Licensee shall achieve and comply with such established international standards and benchmarks as the JCRA may direct from time to time.

13.2 In order to meet the objectives set out in Condition 13.1, within three (3) months of the Licence Commencement Date, the Licensee shall submit to the JCRA a plan setting out the target levels it will achieve for Postal Services, together with specific quality of service Information requested by the JCRA (to be known as the "Postal Development Plan") and a service monitoring plan (to be known as the "Postal Monitoring Plan") which provides for accurate measurement of each of the target levels set out in the Postal Development Plan, (together, the "Plans").

13.3 The Plans shall describe:

- (a) how actual performance will be monitored;
- (b) the process for the collection and analysis of suitable data; and
- (c) the procedures for internal review and performance improvement planning by the Licensee.

- 13.4 The JCRA may direct the Licensee to update and resubmit the Plans from time to time.
- 13.5 The JCRA may direct the Licensee as to matters to be included in the Plans and may amend or replace such Direction from time to time.
- 13.6 Within forty five (45) days of the end of each six (6) month period during the Term, the Licensee shall provide the JCRA with a written report in a form required by the JCRA on its achievements under the Postal Development Plan during the preceding six (6) month period, as set out in Condition 13.2.
- 13.7 The Licensee shall comply with any Directions issued by the JCRA from time to time regarding any other quality of service indicators and measurement methods for Postal Services and shall, as and when required, supply to the JCRA, in a form specified by the JCRA, the results of its measurements of actual performance against any quality of service indicators and measurements so specified, and the JCRA may publish or require publication of such Information as it considers appropriate.

14. MAIL IDENTIFICATION

- 14.1 Within thirty (30) days of the Licence Commencement Date, the Licensee shall submit to the JCRA a copy of its proposed Indicia for approval by the JCRA.
- 14.2 Once approved by the JCRA, the Licensee shall apply the Indicia to the top right hand corner of the envelope of each Large Letter and/or Packet which it delivers under this Licence. The Indicia shall be applied promptly following receipt of the Large Letters and/or Packets by the Licensee.

15. UNDELIVERABLE LARGE LETTERS AND PACKETS

- 15.1 Within thirty (30) days of the Licence Commencement Date, the Licensee shall submit to the JCRA for approval its procedures for handling undeliverable Large Letters and/or Packets.
- 15.2 Once approved by the JCRA, the Licensee shall comply with these procedures and comply with Directions issued by the JCRA in respect of undeliverable Large Letters/or and Packets.
- 15.3 Notwithstanding the obligations set out in Condition 15.1, in the event that any undelivered Large Letter and/or Packet originally delivered by the Licensee is subsequently collected and returned by an Other Licensed Operator who is operating in the Bailiwick of Jersey, the Licensee shall reimburse the Other Licensed Operator for its reasonable costs incurred in collecting and returning that undelivered Large Letter and/or Packet.

PART II: PUBLIC SERVICE CONDITIONS

16. CONSUMER PROTECTION

- 16.1 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 Postal Services to Business customers. 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 Business customer or promptly sent to them by post on request.
- 16.2 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 Postal Law or any other law, Regulation, rule, ordinance or order of the States of Jersey.
- 16.3 The Licensee shall safeguard the privacy and confidentiality of all Large Letters and/or Packets 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 Business customers, having regard to relevant laws in force from time to time, and subject to Articles 47 and 48 of the Postal Law.
- 16.4 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

17. 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.

18. CESSATION OF THE PROVISION OF THE POSTAL SERVICES

- 18.1 If the Licensee proposes to cease to provide all or a material part of the Postal 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.
- 18.2 At any time within four (4) months before the expiry of the Licence, or if the JCRA receives a notice under Condition 18.1, or if the JCRA has made a decision pursuant to Article 21 of the Postal 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 Postal Services, or any constituent parts thereof, and the Licensee shall comply with any such Directions.

19. UNIVERSAL POSTAL SERVICE

The JCRA may direct the Licensee to contribute to a fund, to cover the net cost of the provision of the net universal postal service by a Universal Service Provider and the Licensee shall comply with any such Directions.

PART IV: SMP CONDITIONS

20. APPLICATION OF THE SMP CONDITIONS

20.1 Where the JCRA has determined that the Licensee possesses Significant Market Power (“SMP”) in a relevant market, it may determine that any provisions of this Part IV apply as appropriate.

21. CROSS-SUBSIDISATION

21.1 The Licensee shall not unfairly cross-subsidise or unfairly subsidise the establishment, operation or maintenance of any Postal Services or receive any unfair cross-subsidy or any unfair subsidy.

21.2 To assist the JCRA in evaluating whether any unfair cross-subsidisation or unfair subsidisation is taking place, the Licensee shall record at full cost in its accounting records any transfer of assets, funds, costs, rights or liabilities between a part and any other part of its Business and between it and any Associated Company or shareholder, and shall comply with any Directions issued by the JCRA for this purpose.

22. FAIR COMPETITION

22.1 The Licensee shall:

- (a) not abuse any position of SMP in any postal market;
- (b) not engage in any practice or enter into any arrangement that has the object or likely effect of preventing, restricting or distorting competition in the establishment, operation and maintenance of postal services; and
- (c) comply with any Direction issued by the JCRA for the purpose of preventing any market abuse or any practice or arrangement that has the object or effect of preventing, restricting or distorting competition in the establishment, operation and maintenance of postal services.

23. UNDUE PREFERENCE AND UNFAIR DISCRIMINATION

23.1 The Licensee shall not show undue preference to, or exercise unfair discrimination against, any User or Other Licensed Operator regarding the provision of the relevant Postal Services provided in that relevant market. The Licensee will be deemed to be in breach of this Condition if it favours any Business carried on by the Licensee or an Associated Company or shareholder or Other Licensed Operator, so as to place Other Licensed Operators competing with that Business, at an unfair disadvantage in relation to any licensed activity.

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