

**GRANT OF RIGHTS OF USE OF RADIO FREQUENCY SPECTRUM FOR
THE ESTABLISHMENT AND OPERATION OF A TERRESTRIAL MOBILE SYSTEM CAPABLE OF PROVIDING
ELECTRONIC COMMUNICATION SERVICES**

Licence Reference No. MCA/L/18-3171

This licence is being granted by the Malta Communications Authority in exercise of the powers conferred by the Electronic Communications (Regulation) Act, (Cap. 399 of the Laws of Malta)

Name of Licensee:	Melita Limited
Registered Address:	Gasan Centre Imriehel By-Pass Imriehel BKR 3000 Malta
Company Registration Number:	C 12715

Article 1. Definitions

1.1 Any reference in this Licence to the “Act” is a reference to the Electronic Communications (Regulation) Act (Cap. 399 of the Laws of Malta), and subject to Article 1.2 of this Licence, the provisions of the said Law shall apply to this Licence.

1.2 In this Licence, unless the context otherwise requires:

“800 MHz band” means the frequency range between 790 MHz and 862 MHz;

“Authority” means the Malta Communications Authority;

“Block-Edge Mask” or “BEM” means an emission mask that is defined as a function of frequency, relative to the edge of a block the Radio Frequency Spectrum, where it consists of in-block and out-of-block components which specify the permitted emission levels over frequencies inside and outside the Radio Frequency Spectrum, respectively;

“the Commencement Date” means **9 April 2018**;

“Commission Decision” means Commission Decision No. 2010/267/EU of 6 May 2010 on harmonised technical conditions of use in the 790-862 MHz band for terrestrial systems capable of providing electronic communications services in the European Union;

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“coverage territory” means all the islands of the Maltese Archipelago, excluding the territorial waters and airspace thereof, within which access by users to the technologies being provided over the relevant network is possible;

“ECC/REC/(11)04” means the recommendation on *Cross-border Coordination for Mobile/Fixed Communications Networks (MFCN) in the frequency band 790-862 MHz*, as adopted and published by the Electronic Communications Committee;

“the Expiry Date” means **8 April 2033**;

“Interference Mitigation Fund” consists of the management plan as per MCA Decision established to handle consumer complaints and to cover costs related to the implementation of mitigation measures that may be required to solve harmful interference issues to the reception of local digital terrestrial television signals, resulting from the deployment of outdoor base stations capable of providing mobile electronic communications services operating in the 800 MHz band;

“the Licensee” means Melita Limited, a company registered in Malta with number C 12715;

“MCA Decision” means Decision No. MCA/D/17-2971 published by the Authority on the 9th October 2017 concerning the *Assignment Process for Additional Spectrum for Wireless Broadband*;

“Programme Making or Special Events equipment” or “PMSE equipment” means radiocommunications equipment used for transmission of analogue or digital audio signals between a limited number of transmitters and receivers, such as radio microphones, in-ear systems or audio links, used mainly for the production of broadcast programmes or private or public social or cultural events;

“the Radio Frequency Spectrum” means the radio frequency spectrum defined in Annex I to this Licence;

“terrestrial mobile system” means a terrestrial system compliant with the technical parameters laid down in Annex I to this Licence, which is capable of providing mobile electronic communications services.

Article 2. Grant of Licence

- 2.1 By virtue of this Licence, the Authority hereby assigns to the Licensee the right of use of the Radio Frequency Spectrum for the purpose of establishing and operating a terrestrial mobile system capable of providing electronic communication services according to the conditions listed hereunder.

Article 3. Licence Duration

- 3.1 This Licence shall commence on the Commencement Date and shall remain in force until the Expiry Date, unless otherwise lawfully terminated in accordance with the Act and/or this Licence.
- 3.2 This Licence shall cease to have effect immediately on the Expiry Date.
- 3.3 Irrespective of whether the Licensee is still using the Radio Frequency Spectrum, the right of use of which is granted to it by virtue of this Licence, the Authority shall, at any time prior to the expiry of this Licence, have the right to commence any procedures necessary for the re-assignment of all or part of the rights of use of the Radio Frequency Spectrum:

Provided that such re-assignment will become effective either upon expiry of this Licence in accordance with Article 3.1 of this Licence; or upon termination of the Licence in accordance with Article 11 of this Licence; or upon approval by the Authority of a request submitted by the Licensee to hand back the Radio Frequency Spectrum in accordance with Article 12 of this Licence.

Article 4. Use of Radio Frequency Spectrum

- 4.1 The Radio Frequency Spectrum shall be used by the Licensee only to establish and operate a terrestrial mobile system and subject to the terms, conditions and limitations stated in this Licence and at Law:

Provided that the Authority or the Government of Malta may impose any conditions as it may consider appropriate to satisfy the exigencies of defence, public security or civil protection requirements.

- 4.2 The Licensee shall at all times ensure that the Radio Frequency Spectrum is used efficiently and in accordance with the Authority's directions including but not limited to the implementation of alternative frequency arrangements and operation coordination between licensees with the aim of (a) achieving general interest objectives, (b) ensuring greater efficiency through market-based spectrum management, (c) ensuring greater efficiency when sharing with existing rights of use during a coexistence period, or (d) avoiding harmful interference.
- 4.3 The Licensee shall only commence using the Radio Frequency Spectrum on a commercial basis following establishment of the Interference Mitigation Fund and adherence to the associated obligations as described in the MCA Decision unless otherwise directed by the Authority.
- 4.4 The Radio Frequency Spectrum shall only be used by the Licensee. The right of use of the Radio Frequency Spectrum may not be assigned or transferred to third parties, unless otherwise previously authorised in writing by the Authority:

Provided that a change as provided for in Article 10.3 and Article 10.4 of this Licence shall be considered to constitute an assignment or transfer of the Radio Frequency Spectrum.

Article 5. Fee for Right of Use of Radio Frequency Spectrum

5.1 The Licensee shall immediately prior to the Commencement Date and thereafter annually or as the Authority may from time to time determine, in advance, for the duration of this Licence, pay to the Authority the fees stipulated from time to time in the relevant legislation in respect of the radio frequency spectrum:

Provided that the Licensee shall effect such payments punctually and that any late payments shall be subject to the maximum interest rate applicable at law:

Provided further that any non-payment or late payment of dues under this Article shall also constitute a breach of this Licence and entitle the Authority to terminate the same Licence.

5.2 All payments effected by the Licensee in accordance with Article 5.1 of this Licence are **not** refundable by the Authority and/or the Government of Malta.

Article 6. Non-Interference

6.1 The Licensee shall comply with any decisions, however so described, issued by the Authority in relation to harmful interference.

6.2 The Licensee shall ensure that the terrestrial mobile system at all times complies with the technical and performance standards generally accepted by the industry, or as may be prescribed by the Authority, or accepted by the Authority as being adequate to ensure that such system does not cause harmful interference with, seriously reduce the quality of, or repeatedly disrupt the lawful use or operation of any other electronic communications networks and, or services.

6.3 The Licensee shall ensure that its terrestrial mobile system does not cause harmful interference with, seriously reduce the quality of, or disrupt the lawful use or operation of, any other electronic communications networks and, or services.

6.4 The Licensee, in line with Article 6.3 of this Licence shall, to the greatest extent possible, refrain from establishing indoor base stations operating on the Radio Frequency Spectrum, in buildings where the use of PMSE equipment is essential for the fulfilment of the said buildings function.

6.5 The Licensee, in line with Article 6.3 of this Licence shall set the base station BEM out-of-block EIRP limits over frequencies below 790 MHz to the levels as established in the Annex of the Commission Decision.

- 6.6 As a measure to reduce risks of cross-border harmful interference, the Licensee shall coordinate with other licensees having similar rights of use of radio spectrum in the 800 MHz band in order to use the physical-layer cell identifiers identified for use to Malta, in accordance with ECC/REC/11)04.
- 6.7 The Licensee shall contribute fees towards the establishment of the Interference Mitigation Fund which is capped at €4.5 million in accordance with the MCA Decision. The Licensee, failing to adhere to the conditions and obligations as defined in the Interference Mitigation Fund may be liable to the imposition of penalties including but not limited to fines and or licence withdrawal, as outlined in the Interference Mitigation Fund.
- 6.8 Neither the Authority, nor the Government of Malta, shall be held responsible in any manner whatsoever by the Licensee for any harmful interference that may hinder the use or operation of its terrestrial mobile system.

Article 7. Exposure to Electromagnetic Fields

- 7.1 The Licensee shall comply with any obligations, however so described, as specified by law and in any decisions, however so described, issued by the Authority or any other national competent authority, in relation to electromagnetic radiation.

Article 8. Rollout and Coverage Requirements

- 8.1 In consideration of Article 6 of this Licence, the Licensee shall rollout its terrestrial mobile system in a staggered and managed manner as may be required by the Authority:

Provided that the Licensee shall provide to the Authority detailed rollout plans on how it intends to make its terrestrial mobile system available to users in the Coverage Territory;

Provided further that the detailed rollout plans to be submitted to the Authority may be incorporated in the reporting and notification requirements established under the General Authorisations (Radiocommunications Apparatus) Regulations (S.L.399.40 of the Laws of Malta) prior to installing or using radiocommunications apparatus comprised in the terrestrial mobile system;

Provided further that the rollout plans shall meet any roll-out obligations that maybe specified in the Interference Mitigation Fund.

- 8.2 The Licensee shall ensure that access to any technology deployed in the Radio Frequency Spectrum is made available to users in the Coverage Territory in accordance with the coverage requirements and timeframes set out in the MCA Decision such that users can adequately access the electronic communications services provided over the terrestrial mobile system:

Provided that the Licensee's obligations under this article shall not apply if subsequent to a request in writing by the Licensee, the Authority agrees in writing that it is not practicable for the Licensee to carry out its obligations under this article.

Article 9. Information

- 9.1 The Licensee shall facilitate and ensure access to any information that the Authority may, in accordance with its functions at law, require.
- 9.2 The Licensee shall promptly provide the Authority, in such a manner and at such times as the Authority may reasonably request, any information related to the use of the Radio Frequency Spectrum assigned to the Licensee, the terrestrial mobile system operated by the Licensee or any other information that the Authority considers necessary to ensure compliance with this Licence, the Interference Mitigation Fund and, or with any law, or for statistical purposes.

Article 10. Further Compliance

- 10.1 The Licensee shall comply with:

- a) all Laws;
- b) all the articles of this Licence; and
- c) any decisions, however so described, of the Authority.

- 10.2 Nothing in this Licence shall absolve the Licensee from any legal requirement to obtain any other permissions, authorisations or licences, however so described, as may be necessary for the provision of the service and for the exercise of its rights and the discharge of its obligations under this Licence:

Provided that failure on the part of the Licensee to comply with any other requirements shall not exempt the Licensee from any failure to discharge its obligations under this Licence:

Provided further that the Licensee shall be solely responsible for all costs, expenses and other commitments, however so described, whether financial or otherwise, in respect of the Licence and the provision of the service, and the Authority shall bear no responsibility for any such costs, expenses or commitments.

- 10.3 When a change in relation to the shareholding or ownership of a Licensee takes place, the Licensee is obliged to inform the Authority immediately. This shall only apply in the case when there is either: a 30% or higher change in the shareholding of the ownership; or any change that results in a change of effective control of the undertaking.
- 10.4 Upon amalgamation either by acquisition, or by the formation of a new company of two or more undertakings with different Malta Financial Services Authority (MFSA) registration numbers, the Licensee is obliged to inform the Authority immediately.

Article 11. Termination

- 11.1 Without prejudice to any other measures, including the imposition of penalties however so described that may be taken at law for the non-observance of the conditions of this Licence, this Licence may be withdrawn at any time by the Authority if any of the conditions laid down at law or in any part of this Licence are not observed.
- 11.2 The Authority shall be entitled to automatically terminate this Licence giving no less than two (2) weeks prior written notice, and request the Licensee to return the Licence to the Authority, in any of the following cases:
- a. upon the expiration of the term of the Licence;
 - b. upon the Licensee handing back all of the Radio Frequency Spectrum to the Authority, in accordance with Article 12 of this Licence;
 - c. upon renunciation to the Licence by the Licensee;
 - d. upon revocation of this Licence in accordance with the articles of this Licence and, or of law;
 - e. upon a change in relation to the shareholding or ownership of a Licensee in accordance with Article 10.3 of this Licence;
 - f. upon amalgamation either by acquisition, or by the formation of a new company of two or more undertakings in accordance with Article 10.4 of this Licence;
 - g. upon insolvency, liquidation or bankruptcy of the Licensee; or
 - h. upon the winding up or dissolution of the Licensee.
- 11.3 Termination of the Licence in terms of Article 11.2 of this Licence shall take place with immediate effect from the date specified in the written notification and the Licensee shall have no claim against the Authority in respect of such termination.
- 11.4 In addition to the above, if the Authority is of the view that the spectrum, the rights of use of which are awarded by virtue of this Licence, is not being used, or is not being utilised efficiently, it will notify its view in writing to the Licensee. The Licensee will have to rectify the situation within such periods as the Authority may consider appropriate in the circumstances, which period shall in no case exceed three (3) months from the written notification. If the Licensee fails to rectify matters

to the satisfaction of the Authority, then without any further warning the Authority will be entitled to terminate the rights of use being granted herein.

- 11.5 The termination of this Licence on any of the grounds mentioned in paragraphs (c) to (h) of Article 11.2 and Article 11.4 of this Licence will be without prejudice to the obligation of the Licensee to pay with immediate effect upon termination, the fees due for the right of use of Radio Frequency Spectrum laid down in Article 5.1 of this Licence for the subsequent three (3) years of this Licence and fulfil any obligations arising prior to the said termination.
- 11.6 The termination of this Licence on any of the grounds mentioned in paragraphs (b) to (h) of Article 11.2 and Article 11.4 of this Licence will be without prejudice to any measures that may be taken by the Authority with respect to the Licensee's failure to comply with its rollout and coverage obligations as mentioned in Article 8 of this Licence.
- 11.7 The Authority shall be entitled to automatically terminate this Licence giving no less than one (1) year prior written notice, and request the Licensee to return the Licence to the Authority in line with its powers at law.
- 11.8 The termination of this Licence in relation to the rights of use of the Radio Frequency Spectrum will entitle the Authority to automatically re-assign the spectrum in question to third parties.

Article 12. Hand back

- 12.1 Without prejudice to Article 11.6 of this Licence, in the event that the Authority so authorises, the Licensee may, whilst incurring the applicable hand back fees, choose to hand back to the Authority all or part of the rights of use of the Radio Frequency Spectrum.
- 12.2 The right of the Licensee to hand back all or part of the rights of use of the Radio Frequency Spectrum in accordance with Article 12.1 of this Licence will be without prejudice to the Licensee's obligation to effect any payments due to the Authority at the time of the hand back in accordance with Article 5.1.
- 12.3 Any payments that would have already been duly effected by the Licensee to the Authority in accordance with Article 5.1 will not be reimbursed by the Authority or the Government of Malta upon hand back.
- 12.4 Without prejudice to Article 11.6 of this Licence, in the event that the Authority so authorises the handback, the Licensee will be bound to pay the equivalent of one (1) annual fee in addition to any fees already due.

Article 13. Rights and Remedies of the Authority

13.1 In addition to its power to terminate this Licence in accordance with Article 11 of the Licence above, the Authority shall, in accordance with its powers at law, have the power to impose administrative fines on the Licensee for any non-compliance with the conditions of this Licence or/and any obligations at law, and to call upon any bank guarantees issued by the Licensee in favour of the Authority where the conditions for such an action occur.

13.2 The Authority may add to, or amend or revoke any of the terms and conditions of this Licence, including the Radio Frequency Spectrum, the right of use of which is being granted by this Licence, when such additions or amendments are necessary as a result of: any international obligations entered into by the Authority or by the Government of Malta; or by the need to ensure compliance with the Act or any other law, or to satisfy the exigencies of defence, public security or civil protection requirements; or by the need to ensure efficient frequency planning:

Provided that the Authority shall not be held responsible in any manner whatsoever for any damages suffered or expenses incurred by the Licensee as a result of any amendment of the terms or conditions of this Licence:

Provided further that the Authority shall in writing inform the Licensee in advance and take into account its views if relevant impact is foreseeable on the Licensee's terrestrial mobile system and if circumstances so permit, grant a reasonable timeframe for the implementation of the relevant additions and, or amendments to the conditions of this Licence.

13.3 If any article of this Licence is declared to be unenforceable by any court of law or tribunal however so described, such declaration shall have no effect on the enforceability of the remaining articles of this Licence, all of which will remain in force until the termination of this Licence.

13.4 The Authority and any persons duly authorised by the Authority to act on its behalf, shall have the right to carry out inspections and measurements on any site and on the terrestrial mobile system being operated by the Licensee, at any reasonable time, for the purpose of ensuring that the Licensee is abiding with the articles of this Licence and, or with any legal requirements:

Provided that in cases of urgency the Authority may carry out any such inspections outside normal business hours.

13.5 All the articles under this Licence shall for the purpose of law be considered as decisions imposed by the Authority, and any failure to abide with any such articles may, without prejudice to any other measures that the Authority may in accordance with law take, be sanctioned by the imposition of the appropriate administrative fines in accordance with law.

13.6 The Act, any other national and EU law, directives and decisions, however so described, of the Authority shall apply to the Licensee for all purposes and shall form an integral part of this Licence.

Signed in Duplicate



Ing. Antoine Sciberras
Chief of Spectrum Management & Technology
for and on behalf of the Malta Communications Authority

Annex I - Description of Radio Frequency Spectrum and Technical Parameters

Radio Frequency Spectrum:

800 MHz Band:

Channel 5: 811 - 816 MHz / 852 - 857 MHz

Channel 6: 816 - 821 MHz / 857 - 862 MHz

Technical Parameters:

In line with the principles established in the MCA Decision, the Radio Frequency Spectrum is being assigned on a technology neutral basis. The Licensee shall however, whilst making use of the Radio Frequency Spectrum comply with the technical conditions described in the MCA Decision. In particular:

- (a) the in-block EIRP of the Radio Frequency Spectrum shall not exceed 60 dBm/5MHz; and
- (b) the baseline requirements for base stations BEM out-of-block EIRP limits over frequencies below 790 MHz shall be those established under Case A in Table 4 of the Commission Decision.