

Form to obtain an individual Licence and Authorisation to Provide Postal Services both *Within* and *Outside* the Scope of the Universal Service

EXPLANATORY STATEMENT

Definition of which postal services fall within or outside the scope of the universal services

With the exception of express mail services, which are considered as services falling outside the scope of the universal service, all other types of postal services are generally considered as falling within the scope of the universal service.

In order to be considered as an express mail service the following characteristics are required:

- It is clearly identified as an express mail service from acceptance to delivery, and also included in the Terms & Conditions of service;
- It includes a guaranteed pre-set delivery time;
- It includes priority handling, tracking and managerial control;
- It allows end-to-end tracking;
- A written acknowledgement of delivery is provided;
- It contains additional value-added features over those falling within the scope of the universal services, including the possibility of a premium price for a better quality of service.

If a postal service provider is of the opinion that although the service it wishes to offer is not of an express mail service nature, but it should still be considered as falling outside the scope of the universal services, it may communicate its reasons in detail to the Malta Communication Authority (MCA) for consideration. Only justifications based on the parameters as set out in the MCA's Decision Notice entitled '*Regulatory Direction on Specific Aspects of the Universal Postal Service*' dated 25th March 2011 would be considered.

Postal Services requiring an individual licence

In accordance with the Postal Services (General) Regulations (S.L.254.01), any postal operator wishing to provide postal services which fall within the scope of the universal services, shall require an individual licence to provide such services. A postal operator wishing to provide postal services which all fall outside the scope of the universal service requires a General Authorisation.

- A postal operator wishing to provide postal services which fall within the scope of the universal service is required to fill in the form below.
- A postal operator wishing to provide postal services which fall within the scope of the universal service, in conjunction with other postal services falling outside the scope of the universal service is also required to fill in the form below.
- A postal operator wishing to provide solely postal services which fall outside the scope of the universal service is required to fill in a different form entitled

*'Notification Form for General Authorisation'*¹ available on the MCA website, since a licence is not required.

Postal operators providing services falling within the scope of the universal service are required to provide the following procedures to the MCA within two months of operation:

- Procedures for the protection of the integrity of mail,
- Procedures for complaint handling and
- Procedures for Quality of Service.

They are also required to comply with relevant separate accounting obligations and all other licence conditions as specified in the specimen Licence found in Annex A of this document.

GUIDANCE NOTE

This application form contains two parts:

Part I should be completed in its entirety either in print or in block letters if in writing.

Part II is a declaration which requires the signature/s of:

- In the case of an individual, the person in whose name the application is made.
- In the case of a partnership, any two partners duly authorised.
- In the case of a company or other body corporate (legal entity), any two directors or any director together with the company secretary, who must be duly authorised.
- In the case of a co-operative or other body, the president and secretary of the co-operative, or other body who must be duly authorised.
- In the case where the applicant is located overseas, the application must include a contact address in Malta. The applicant must as a minimum be registered as an overseas company in Malta in accordance with Maltese law.

This form may be completed electronically or in block letters and may be sent by e-mail to facilitate processing; however the final application form must contain a wet signature².

Two copies of the completed form should be submitted in an envelope clearly marked "Application for a Postal Services Licence and Authorisation" addressed to:

The Chairman
Malta Communications Authority
Valletta Waterfront
Pinto Wharf
Floriana FRN1913
Malta

¹<http://www.mca.org.mt/sites/default/files/pageattachments/general%20authorisation%20postal%20052012.pdf#overlay-context=authorisations-licensing/postal-authorisation-and-licensing>

² an original written signature

PART 1 - INFORMATION REQUIRED FROM APPLICANT

1. DETAILS OF UNDERTAKING

Name of undertaking providing postal services within (and outside) the scope of the universal service:

Website: _____
Company registration number*: _____ VAT No.: _____

To be filled in only in case providers are incorporated outside Malta:

Country of domicile: _____ MFSC OC certificate No.: _____

Registered Address of undertaking including post code.

E-mail: _____ Tel: _____ Fax: _____

2. CONTACT PERSONS' DETAILS

Primary contact person.

Name: _____ Designation: _____
E-mail: _____ Tel: _____ Mobile: _____

Mail Integrity contact person (if different from primary contact person):

Name: _____ Designation: _____
E-mail: _____ Tel: _____ Mobile: _____

Finance contact person (if different from primary contact person):

Name: _____ Designation: _____
E-mail: _____ Tel: _____ Mobile: _____

Legal contact person (if different from primary contact person):

Name: _____ Designation: _____
E-mail: _____ Tel: _____ Mobile: _____

3. COMPLAINTS AND REDRESS CONTACT DETAILS

To be address to: _____ Tel: _____
Address: _____

E-mail: _____ Fax: _____

4. MAIL INTEGRITY/COMPLAINT HANDLING/QUALITY OF SERVICE PROCEDURES

If either, or all of the Mail Integrity, Complaint Handling, and Quality of Service procedures are established, they should to be attached to this form.

Mail Integrity procedures should be in line with the MCA Decision entitled "Postal Sector - Minimum Standards for protecting the integrity of mail of the 8th June 2006" which include procedures for the purpose of minimising the risk of loss theft damage and interference to mail, and procedures that ensure directors, officials, employees, agents and sub-contractors are selected, trained and assessed.

If Mail Integrity, Complaint Handling and Quality of Service procedures are yet to be developed, they are required to be drawn up and provided to the MCA within two months of the date of this licence.

PART 1 INFORMATION REQUIRED FROM APPLICANT ...continued

5. DETAILS OF SERVICES TO BE PROVIDED

List all postal services to be provided by the undertaking.

Note: Service Detail is required to include, amongst others, the postal article characteristics: e.g. Access points, maximum size/weight, delivery timeframes, etc.

Service Type*: _____	within the US Scope	<input type="checkbox"/>	Yes	or	<input type="checkbox"/>	No
Service Detail: _____						

Local outbound service	<input type="checkbox"/>	Cross-border outbound service	<input type="checkbox"/>			
Local inbound service	<input type="checkbox"/>	Cross-border inbound service	<input type="checkbox"/>			

Service Type*: _____	within the US Scope	<input type="checkbox"/>	Yes	or	<input type="checkbox"/>	No
Service Detail: _____						

Local outbound service	<input type="checkbox"/>	Cross-border outbound service	<input type="checkbox"/>			
Local inbound service	<input type="checkbox"/>	Cross-border inbound service	<input type="checkbox"/>			

Service Type*: _____	within the US Scope	<input type="checkbox"/>	Yes	or	<input type="checkbox"/>	No
Service Detail: _____						

Local outbound service	<input type="checkbox"/>	Cross-border outbound service	<input type="checkbox"/>			
Local inbound service	<input type="checkbox"/>	Cross-border inbound service	<input type="checkbox"/>			

Service Type*: _____	within the US Scope	<input type="checkbox"/>	Yes	or	<input type="checkbox"/>	No
Service Detail: _____						

Local outbound service	<input type="checkbox"/>	Cross-border outbound service	<input type="checkbox"/>			
Local inbound service	<input type="checkbox"/>	Cross-border inbound service	<input type="checkbox"/>			

Service Type*: _____	within the US Scope	<input type="checkbox"/>	Yes	or	<input type="checkbox"/>	No
Service Detail: _____						

Local outbound service	<input type="checkbox"/>	Cross-border outbound service	<input type="checkbox"/>			
Local inbound service	<input type="checkbox"/>	Cross-border inbound service	<input type="checkbox"/>			

*Service Type should include information on the postal article... E.g. Items of correspondence, parcels etc.

PART 2 DECLARATION

On behalf of the applicant, I/we hereby declare that:

- if not submitted with this form, the applicant shall within two months from the award of the authorisation develop and thereafter maintain and operate adequate mail integrity, complaint handling and quality of service procedures;
- the applicant shall at all times comply in every respect with the conditions attached to the licence and, or general authorisation that may be awarded to the applicant as the same may be modified from time to time;
- the applicant shall at all times comply with lawful directions of the MCA and with the obligations at law;
- the applicant shall inform the MCA on any changes to the postal services provided or the provision of new postal services;
- the information provided by me/us on behalf of the applicant is accurate and complete in all respects.
- in accordance with the Schedule to the Postal Services (General) Regulations (S.L.254.01) the fees to be paid by postal operators in respect of services which are both within and outside the scope of the universal services is of **€ 930** together with **one percent of the total gross revenue from postal services** falling within the scope of the universal services. These fees are to be paid on an annual basis.

Signature # 1: _____

Full name of Signatory: _____

Position held**: _____

Signature # 2: _____

Full name of Signatory: _____

Position held**: _____

Date: _____

*** applicable where applicant is a company, co-operative or other body corporate*

DATA PROTECTION CLAUSE

In terms of the Data Protection Act (Chapter 440 of the Laws of Malta), the Malta Communications Authority (hereafter 'the Authority') will process any personal data supplied on this application/notification form or subsequently supplied by yourself, whether orally or in writing, for all or any of the following:

- the proper processing of your application/notification form as submitted;
- preventing, detecting and/or prosecuting fraud, any administrative non-compliance, and any other criminal activity which the Authority is bound to report and/or act upon whilst meeting any other specific legal or regulatory obligations;
- establishing, exercising or defending any legal action;
- internal management, research and statistics, systems administration, the development and improvement of the Authority's services;
- the proper conduct of our obligations arising under any law or statutory instrument and the protection and promotion of our legitimate interests; *and*
- to make public the necessary information as specified in the relevant law and/or instrument.

Relevant data will be disclosed or shared as appropriate with all our employees and with other third parties if pertinent to any of the purposes listed above.

By signing this form, you confirm that you are giving your explicit consent, in terms of the Data Protection Act, on behalf of yourself and all the other persons specified in this form, for the Authority to process your respective personal information as outlined above and you confirm that you have brought this Data Protection notice to the attention of these other persons and obtained their respective consents.

The Authority undertakes to implement appropriate measures and safeguards for the purpose of protecting the confidentiality, integrity and availability of all data processed.

Annex A:

LICENCE TO *{name of licensee}* FOR THE PROVISION OF
POSTAL SERVICES WITHIN THE SCOPE OF THE
UNIVERSAL SERVICES

This Licence is being granted by the Malta Communications Authority in exercise of the powers conferred on it by the Postal Services Act (Cap 254 of the Laws of Malta).

Date of Issue:	
Name of Licensee:	
Registered Address:	
Company Registration Number:	

SECTION A: DEFINED TERMS

1. Defined Terms

1.1 Any reference to the "Act" in this Licence is a reference to the Postal Services Act (Cap. 254 of the Laws of Malta) and to any regulations made there under.

1.2 The provisions of article 2 of the Act shall apply to this Licence.

1.3 In this Licence, unless the context otherwise requires:

"the Authority" means the Malta Communications Authority established under the Malta Communications Authority Act (Cap. 418 of the Laws of Malta); and

"the Licensee" means (*Name of Licensee*) (company registration number).

1.4 In this Licence the word "decision" shall have the meaning that it has under article 2 of the Malta Communications Authority Act (Cap. 418 of the Laws of Malta).

SECTION B: GRANT AND GENERAL CONDITIONS OF LICENCE

2. Grant

2.1 By virtue of this Licence, the Licensee is hereby authorised to provide postal services within the scope of the universal services as specified in the Act, for an indefinite term and subject to the terms and conditions stated in this Licence. The grant of this Licence shall also authorise the Licensee to provide postal services outside the scope of the universal services.

3. Suspension and Termination

3.1 The Authority may suspend or withdraw this Licence at any time for serious and, or repeated breaches by the Licensee of any laws and, or decisions.

3.2 The Licensee may hand back this Licence at any time by communicating its intention to do so in writing to the Authority giving the reasons for handing back the Licence, in which case the Licence shall be considered as terminated only if the Authority consents to such handing back in writing:

Provided that where the Licensee is designated as a universal service provider, the Licensee shall communicate in writing its intention at least twelve (12) months prior to the date when the Licensee intends to hand this Licence back to the Authority:

Provided further that the Licensee may not hand back this Licence within eighteen (18) months from the date of grant of this Licence.

3.3 The termination of this Licence shall occur upon the earlier of:

- (a) a decision of the Authority to withdraw the Licence in accordance with the applicable legislation; or
- (b) the handing back of the Licence by the Licensee to the Authority provided the Authority in writing consents to such handing back as provided for in this Licence; or
- (c) the insolvency, liquidation or bankruptcy of the Licensee; or
- (d) the winding up or dissolution of the Licensee.

3.4 This Licence shall cease to have effect upon its suspension or termination:

Provided that where the Licensee wishes to provide, or continue to provide, postal services which are outside the scope of the universal services, the Licensee shall notify its intention to the Authority to provide such services in accordance with the Act:

Provided further that where the Licence has been suspended by the Authority, this Licence shall recommence to have effect from the date when the Authority revokes the suspension.

3.5 The suspension or termination of this Licence shall not operate as a waiver or release of any obligation of the Licensee, as applicable, arising prior to such termination or suspension.

4. Rights of the Authority

4.1 The Authority may add to, or amend any of the terms and conditions of 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:

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 inform the Licensee in advance of any additions or amendments to the terms and conditions of this Licence. In doing so the Authority shall give the Licensee the opportunity to submit its views within such timeframe as the Authority may consider appropriate in the circumstances. The Authority, in such circumstances, may grant a reasonable timeframe for the implementation of the relevant additions and, or amendments to the terms or conditions by the Licensee.

5. Cessation of Business as a Postal Operator

- 5.1 The Licensee shall establish, and at all times during the term of this Licence maintain all necessary arrangements ensuring that if it ceases to carry on business as a postal operator, postal articles in its care at the time of such cessation shall be delivered to their intended addressees.
- 5.2 The Licensee shall immediately notify the Authority in writing if for whatever cause it ceases to provide postal services, including without prejudice to the generality of the foregoing:
- (a) prior to the filing of an answer admitting the allegations of a demand by any creditor for declaration of bankruptcy;
 - (b) prior to the institution of dissolution or liquidation proceedings with respect to its business;
 - (c) prior to the approval of a demand for the dissolution or the liquidation of the Licensee or effecting a plan or other arrangement with the creditors of the Licensee which may affect the operation of postal services under this Licence;
 - (d) on being subject to an executive warrant of seizure or of garnishee order or other similar process that may materially affect the provision of postal services; or
 - (e) upon the occurrence of any event which is reasonably likely to lead to foreclosure or to the judicial sale of a substantial part of the assets of the Licensee.

6. Applicability of Laws, Decisions of the Authority, etc

- 6.1 The Act, all national laws, all decisions of the Authority, and applicable European Union Law, shall apply to the Licensee for all purposes and shall form an integral part of this Licence except in those cases where the Licensee is specifically exempted by the Authority.
- 6.2 The Licensee shall comply with the terms and conditions of this Licence, as well as any applicable obligations or requirements, however described, emanating from the laws and decisions mentioned in sub-article 6.1 of this Licence:

Provided that nothing in this Licence shall exempt the Licensee from the obligation to diligently obtain at its own expense any permit, licence or other approval or authorisation however so described, that may be necessary for it to conduct, operate and maintain the postal services or any part thereof, or from the obligation of the Licensee to comply with any condition of any such permit, license or other approval or authorisation however so described:

Provided further that the Licensee shall be solely responsible for all expenses and other commitments, however so described, whether financial or otherwise, in

- respect of the Licence and the implementation thereof, and the Authority shall not be responsible for any such expenses or commitments whatever they may be.
- 6.3 Nothing in this Licence shall be construed as absolving or releasing the Licensee from any obligations, or limiting the power of the Authority to amend this Licence or to impose further conditions on the Licensee.

7. Severability

- 7.1 If any term or condition of this Licence is determined to be illegal or invalid by any court or tribunal, however so described, such determination shall have no effect on the validity of any other parts of this Licence, which parts shall remain in full force and effect for the term of the Licence or any amendment thereof.

8. Transfer of License

- 8.1 This Licence may not be transferred or assigned by the Licensee to another person without the prior consent in writing of the Authority and in accordance with the provisions of the Act. The decision of the Authority in this regard shall be communicated in writing and the Authority shall give reasons for its decision. Such decision shall not be unreasonably withheld or delayed.
- 8.2 A change in the control of the ownership or management of the Licensee shall be equivalent to the transfer of the Licence, and shall be subject to the prior consent in writing of the Authority as aforesaid, which shall not be unreasonably withheld or delayed.

9. Licence Fees

- 9.1 The Licensee shall pay any license fees however so described in accordance with the provisions of the Act.

10. Non-Compliance

- 10.1 If the Authority has reason to believe that the Licensee is not complying with the terms or conditions of this Licence, the Authority may take any required action as authorised at law.

SECTION C: SERVICES PROVIDED AND RELATED CONDITIONS

11. Service Provision and Complaint Handling

- 11.1 The Licensee shall collect, convey, and deliver postal articles according to the prices and terms and conditions, including quality of service standards, as defined by the Licensee or as agreed upon with individual customers.

11.2 Within two (2) months of the grant of this Licence, the Licensee shall establish and operate adequate systems for:

- (a) measuring and recording its performance in achieving the quality of service standards as defined by the Licensee or as agreed upon with its individual customers; and
- (b) recording, analysing and responding to complaints in respect of the postal services provided by the Licensee generally.

11.3 On the grant of this Licence, the Licensee shall submit to the Authority its procedures for handling complaints about all postal services it provides. The Authority shall verify that the procedures reflect and conform to all legal requirements as provided for in the laws and decisions it enforces. The procedures shall:

- (a) be transparent, simple, inexpensive and prompt;
- (b) cover in particular complaints involving loss, theft, damage or non-compliance with quality of service standards;
- (c) identify where responsibility lies if more than one postal operator is involved;
- (d) include appropriate reimbursement and compensation systems; and
- (e) publicise updated information on complaint handling procedures and contact details for lodging complaints with the Licensee in a manner as may be determined by the Authority.

11.4 The Authority may require the Licensee to amend its procedures to ensure that the conditions mentioned in sub-articles 11.2 and 11.3 of this Licence are satisfied.

11.5 Where a user is not satisfied with the way the Licensee has handled his/her complaint, the Licensee shall ensure that the user is informed that s/he may refer the complaint to the Authority for investigation.

11.6 If in the opinion of the Authority, the number or nature of complaints referred to the Authority indicate, or if the Authority otherwise becomes aware, that the complaint handling procedures of the Licensee are not adequate, the Authority may require the procedures to be reviewed and improved.

11.7 The Licensee shall publish its complaints and redress contact details in a manner as may be determined by the Authority.

12. Provision of Information

12.1 The Licensee shall in a timely manner provide any information as the Authority may require in the exercise of its functions:

Provided that the Authority may also specify the form in which it requires such information.

13. Protection of Integrity of Mail

13.1 The Licensee shall establish and apply adequate mail integrity procedures:

Provided that within two (2) months of the grant of this licence the Licensee shall submit to the Authority the proposed mail integrity procedures, which procedures are to be drawn up in accordance with any decisions by the Authority:

Provided further that the Authority shall verify that the procedures reflect and conform with all requirements as provided for in the laws and decisions it enforces.

13.2 The Licensee shall establish and apply adequate mail integrity procedures for the purpose of:

- (a) minimising the exposure of postal articles conveyed by the Licensee to the risk of loss, theft, damage or interference;
- (b) minimising the risk of non-compliance with the Act and, or any decisions in relation to postal articles conveyed by the Licensee; and
- (c) improving the performance of the Licensee in relation to the matters referred to in paragraphs (a) and (b).

13.3 The mail integrity procedures of the Licensee shall include the following:

- (a) the selection, vetting, training, provision of incentives to and disciplining of its staff, agents, sub-contractors, directors and officials however so described;
- (b) the security of its buildings and vehicles;
- (c) the avoiding, identifying and taking action in respect of offences under the Act in relation to postal articles conveyed by the Licensee;
- (d) the collection and analysis of statistics on the achievement of the purposes set out in sub-article 13.2 of this Licence; and
- (e) any other measures that the Authority may deem necessary.

13.4 The Authority may require the Licensee to amend its procedures to ensure that the matters mentioned in sub-article 13.3 of this Licence are provided for.

13.5 The Licensee shall use all reasonable endeavours at all times to apply its mail integrity protection procedures.

13.6 The Licensee shall allow the Authority to inspect all matters relating to the procedures established under sub-articles 13.2 and 13.3 of this Licence and any related physical facilities.

13.7 The Authority may review the mail integrity procedures of the Licensee, and the Licensee shall cooperate in the conduct of any such review.

14. Separate Accounting

14.1 The Licensee shall keep annually independently audited accounting and financial records for each of the service groups specified in sub-article 14.2 in this Licence.

14.2 The Licensee shall keep separate accounts to distinguish between each of the following service groups:

- (a) postal services which are within the scope of the universal services, pursuant to this Licence;
- (b) any other postal service comprising the conveyance of postal articles, including all postal services which are outside the scope of the universal services; and
- (c) any service or activity not comprising the conveyance of postal articles.

14.3 The accounting systems must be sufficient so as to enable the Authority to determine turnover in relation to postal services that are within the scope of the universal services and any postal services outside this scope.

15. Provision of Universal Services

15.1 The Licensee may be designated as a universal service provider with an obligation to provide the universal service or parts thereof, as determined in its designation as a universal service provider and as may be decided by the Authority from time to time in accordance with the Act:

Provided that where the Licensee is so designated, the Licensee shall provide the universal service in accordance with the obligations imposed on it by or under the Act and, or any decision issued by the Authority.