**Multilateral Data Sharing Agreement**

**March 2021**

**Preamble**

**Considering** the binding character of the Universal Postal Convention and its Final Protocol (hereinafter col­lectively the “Convention”) as well as of the Regulations to the Convention (hereinafter the “Regulations”) for all member countries of the Universal Postal Union (the “UPU”);

**Aware** of the need to lay down the operational arrangements for exchanges of electronic data arising out of international postal services, in accordance with the relevant provisions of the Acts of the Union referred to above;

**Whereas** electronic data interchange constitutes one of the most effective ways to exchange data between postal sector entities and is therefore widely used for the purposes of UPU-related activities;

**Whereas** the aforementioned Acts of the Union recognize the importance of data and privacy protection in the operation of international postal services and the processing of postal items by UPU member countries, their designated operators and other postal sector stakeholders;

The postal sector entities of UPU member countries listed hereunder hereby adopt, through their duly author­ized representatives, the present Multilateral Data Sharing Agreement and its annexes (hereinafter collectively the “Agreement”) and agree as follows.

For the purposes of this Agreement, the parties to this Agreement as listed in Annex 1 may be individually referred to as “Party”, or collectively as “Parties”.

**Article 1**

**Definitions**

1 Within the framework of this Agreement, the abbreviations and terms listed below shall be defined as follows:

* Data – data needed for the routeing and tracking of international postal items, as well as for statistical and/or centralized clearing purposes, or which is required by national legislation to be collected for the aforementioned purposes;
* Data Subject – any identified or identifiable natural person to whom Personal Data (as further defined below) may be related;
* Electronic data interchange (EDI) – computer-to-computer exchange of data concerning operations, by means of networks, rules and standard formats defined by the UPU or referred to in the Convention and its Regulations;
* IB – the International Bureau, one of the permanent bodies of the UPU and its secretariat;
* Personal Data – information relating to an identified or identifiable natural person (who may be identified by means reasonably likely to be used, including the name and address of the person) which is needed to identify a postal service user (as provided for in article 1.1.8 of the Universal Postal Convention) and processed in accordance with article 10 of the Universal Postal Convention.
* POC – the Postal Operations Council, one of the permanent bodies of the UPU;
* Postal Sector Entity – a postal sector entity deemed eligible under article 4 and which has adopted this Agreement by means of a notification of acceptance in the form provided in Annex 2;
* Receiving Party – a Party that has received Data through EDI from any other Party;
* Sending Party *–* a Party that transmits Data through EDI to another Party;
* Software – the software applications or systems used by Parties to exchange Data as referred to in article 3;
* UPU Network – the UPU-managed backbone supporting the interchange of Data between the Parties.

2 Except as otherwise defined in this Agreement, other abbreviations and terms shall be as defined in the relevant Acts of the Union and associated decisions, rules and technical standards.

**Article 2**

**Annexes and amendments**

1The following annexes shall form an integral part of this Agreement:

* Annex 1 – List of Parties and associated Party-specific information;
* Annex 2 – Multilateral Data Sharing Agreement – Notification of acceptance (template);
* Annex 3 – Region-specific annex (template).

2 References to this Agreement shall comprise any amendments thereto as adopted by the POC. In the event of any conflict or inconsistency between the provisions of this Agreement and its annexes, the provisions of the Agreement, including any amendments thereto, shall prevail. In the event of any conflict or inconsistency between the provisions of the Agreement’s annexes, the priority of interpretation shall follow the order defined above (for example, in the event of a contradiction between Annex 1 and Annex 2, Annex 1 shall prevail).

**Article 3**

**Purpose of the Multilateral Data Sharing Agreement**

1 The purpose of this Agreement is to establish the terms and conditions that shall facilitate the exchange of Data necessary for the operation of international postal services and enable the implementation of such exchanges in accordance with the relevant provisions contained in the Convention and its Regulations.

* 1. In particular, this Agreement, as well as any processing and storage of Data related thereto (including the processing and storage of Personal Data), shall be aimed at ensuring observance by UPU member countries of the relevant international legal obligations set forth in the Convention and its Regulations, with particular emphasis on processes relating to the operation of all international postal services defined in the Acts of the Union and the associated exchange of international postal items (including customs and security formalities) between the Parties. Accordingly, Data may not be used by Parties for any other purpose not specified herein, except for other operational purposes intrinsically associated with the exchange of international postal items, such as law enforcement, national security, routeing, or as required by a Party’s national legislation.

1.2 In the light of the above, the Parties further acknowledge and agree that this Agreement constitutes a means to fulfil important missions of public interest as well as the performance of contractual obligations with customers of international postal services defined and regulated by the UPU.

2 This Agreement may equally serve as a guideline for the implementation of Data exchanges on a bilateral basis between Postal Sector Entities.

3 Without prejudice to § 1 above, the region-specific annexes referred to in Annex 3 shall: i) be binding only on the Parties which have expressly accepted them; and ii) comprise any supplementary information required for the exchange of Data under this Agreement within those regions.

**Article 4**

**Eligibility**

Subject to observance of the conditions referred to in this article and submission of a duly completed acceptance form to the IB, any Postal Sector Entity of a UPU member country which is directly or indirectly authorized to exchange Data arising out of international postal services in accordance with the relevant provi­sions of the Convention and its Regulations shall be eligible to join this Agreement. Eligible postal sector entities shall *inter alia* comprise:

* UPU member countries (through their respective governmental authorities, including without limitation ministries, regulators and customs authorities);
* designated operators of UPU member countries;
* other postal supply chain stakeholders involved with the operation of international postal services as referred to in the Convention and its Regulations, subject as appropriate to formal confirmation of the UPU member country concerned and the UPU. For the purposes of this Agreement, such stakeholders may include without limitation airlines, extraterritorial offices of exchange (or entities operating them), international mail processing centres and other transport companies engaged in the operation of international postal services.

**Article 5**

**Opening of Data exchanges and country-specific considerations**

1 A Party shall become eligible for exchanging Data with other Parties under the conditions defined herein upon joining this Agreement as per the standardized notification of acceptance specified in Annex 2, which shall be completed, signed and transmitted to the IB by a duly authorized representative of the Party. In this regard, a Party wishing to open Data exchanges with other Parties may, as necessary, inform the latter in order to:

* schedule any testing activities; and
* set the exact date for the opening of such Data exchanges.

2 Without prejudice to this Agreement or the relevant obligations contained in the Acts of the Union, each Party may also, as part of its relevant specific information in Annex 1, inform the other Parties about comple­mentary operational aspects such as:

* the types of Data (mandatory and optional) associated with each international postal service to be cov­ered by this Agreement;
* additional optional Data for items subject to UPU forms CN 22 and CN 23;
* the technical specifications and standards to be used in the transmission and processing of Data;
* the logical or physical channels and locations in which Data shall be collected;
* operational procedures regarding the timing of the creation of electronic messages on the EDI network (e.g. creation of the message, A scan, B scan, C scan);
* the maximum time between the event causing the creation of the electronic message, and transmission of the message to the EDI network

3 The Parties may also establish supplementary bilateral or multilateral agreements with a view to incor­porating additional conditions, in so far as they are not inconsistent with the provisions of this Agreement, and do not defeat the object and purpose of the latter.

**Article 6**

**Data collection, processing and transmission**

1 Data exchanged under this Agreement shall be collected, processed and transmitted by each Party in accordance with the relevant provisions of the Convention and its Regulations.

2 More specifically, Data shall be collected, processed and transmitted by Parties in conformity with the applicable UPU EDI messaging and technical standards referred to in the Convention and its Regulations, unless otherwise agreed upon between the Parties.

3 Subject to §§ 1 and 2 above, any adjustments to the manner in which Data is exchanged by a Party shall take effect upon written notification to other Parties through the intermediary of the IB.

4 No Party shall be obligated to collect, process, transmit or receive Data (including Personal Data) to or from (as the case may be) any other Party until the legal and operational requirements referred to herein are satisfied and any applicable arrangements for protection and storage of Data are complied with by the Party concerned (as well as any authorized subcontracted entity which may be engaged in the transmission and/or storage of Data on behalf of a Party).

**Article 7**

**Security of Data exchanges and operating environment**

1 Each Party shall ensure the physical and electronic security of the infrastructure and operating environ­ment used by that Party for the exchange of Data, with a view to preventing unauthorized access, collection, use, disclosure, copying, modification, disposal or similar risks, and to ensure the authenticity and integrity of the Data.

2 For the purposes of this Agreement, the Parties acknowledge and agree that the electronic exchange of Data between the Parties’ networks shall be confidential. Industry-standard security technology and interna­tional security standards shall be used by each Party to prevent the unauthorized transmission of or access to such Data, in accordance with the relevant provisions contained herein. The obligations referred to in this clause shall equally apply to the storage of Data in a Party’s systems and/or databases, if a Party stores such Data in its systems and/or databases.

3 The Parties shall have an emergency plan and a backup system to enable the continuity of the service and the resumption of activities in case of an unplanned interruption or other emergencies.

4 Each Party shall monitor and immediately report any security incident related to any Data exchanged from another Party and provide a resolution plan within 72 hours to those Parties whose Data has been compromised.

5 Any Data exchanged between the Parties’ networks shall be used only for the purposes defined in this Agreement.

**Article 8**

**Data retention and access rights**

1 The Receiving Party shall have the right to retain the Data received from the Sending Party for the period authorized by the Receiving Party’s applicable laws. In the event that no retention period has been designated in its applicable laws, the Receiving Party shall cease to retain the Data received from the Sending Party for a period for which the Receiving Party reasonably assumes that retention is required in order to ensure due fulfilment of the purposes defined in article 3 of this Agreement, but in any case for a period no longer than
10 years from the date of receipt of the Data from the Sending Party.

**Article 9**

**Commitments of the Parties**

1 Within the framework of this Agreement, the Parties hereby agree to:

* Adopt the legal, technical and organizational measures necessary to guarantee a level of security appropriate to the risk;
* Assist reciprocally and actively collaborate in compliance with the data protection commitments stipu­lated herein;
* Assist in the process of notification of security breaches and in obtaining the information required during the entire process of dealing with such breaches. In this regard, the Parties agree to notify each other of any security breach that could affect Data Subjects at the latest within 72 hours from the time a Party knows about it;
* Assist, as necessary, in the timely granting of access rights to a Party’s staff with a need to know in order to be able to give an adequate response to the request for information made by the other Party. Likewise, if a Party receives a request for information from another Party, such information (or access thereto) shall, on reasonable commercial terms, be transferred to the Party issuing the request within a maximum period of seven calendar days from receipt of the aforementioned request, subject as the case may be to any third party terms and conditions or approval by the third party which owns the information;
* Keep an updated record of all Data processing activities carried out by each Party with at least the identification of authorized Data processing categories and a general description of the technical and organizational security measures adopted for such Data;
* In due observance of the purposes set forth in article 3, keep the strictest confidentiality with respect to Personal Data processed by a Party.

2 The notification obligation referred to in § 1 may, if so requested by the Party concerned, also be ensured through the intermediary of the IB.

**Article 10**

**Data protection and confidentiality**

1 Unless otherwise indicated by the Party concerned, the term “Confidential Information” shall comprise Personal Data as defined in this Agreement and transmitted by any Party to this Agreement (hereinafter the “Disclosing Party”) to another Party (hereinafter the “Recipient”) for the purposes of this Agreement, including any Data exchanged by the Parties through the UPU or other compatible networks. Industry-standard security technology shall be used by the Parties to protect such Data from unauthorized or accidental transmission, access or loss. For the avoidance of doubt, the Parties acknowledge and agree that postal tracking events not containing Personal Data shall be expressly excluded from such confidentiality requirements and may be made available in accordance with the relevant procedures defined in the Acts of the Union.

2 The Parties acknowledge and agree that, in case of interconnection of the UPU network with other authorized networks used by Parties, Data shall be exchanged between such networks and may be used by the owner of other authorized networks solely for the purposes of this Agreement and particularly in accordance with article 6 above. For this purpose, the Parties shall ensure that the aforementioned networks formally acknowledge and agree to apply the relevant requirements set forth in this Agreement.

3 Without prejudice to the relevant obligations of UPU member countries and their designated operators as defined in the Acts of the Union, each Party shall ensure the confidentiality and security of Personal Data on its territory in accordance with article 10 of the Convention.

4 Each Party agrees and undertakes that it shall, at all times, hold in confidence the Confidential Information of the Disclosing Party and shall not disclose, or permit the disclosure of, any Confidential Information of the Disclosing Party without the Disclosing Party’s express prior written consent, except as may be necessary for the proper performance of this Agreement.

5 Each Party undertakes to use the Confidential Information on its own behalf and solely for the purpose of implementing its obligations under this Agreement, unless the other Parties (or Data Subjects in the case of Personal Data) have previously consented to the processing of the Data for further purposes.

6 Each Party shall ensure that its employees, officials, representatives and agents, as well as any persons or entities with which it has a professional relationship, and which, by reason of their capacity or office, have access to the Confidential Information of a Disclosing Party, shall not disclose or reveal such Confidential Information to any third party not directly associated with the authorized purposes outlined in this Agreement.

7 The confidentiality obligations set out herein shall not apply to any parts of the Data which are:

* obtained by the Recipient from a Disclosing Party without restriction;
* already in the public domain on the date of their disclosure otherwise than by breach of this Agreement;
* lawfully become available to a Recipient from a third party without restriction, provided the Recipient has no knowledge of such third party obtaining the information by wrongful means; or
* required to be disclosed under any applicable law or order from any competent authority.

8 If a Recipient is legally required to disclose Confidential Information, the Recipient shall, unless prohib­ited by law, provide the Disclosing Party with prompt written notice of such a requirement (whether on an individual or aggregated basis, depending on the specific requirement), so that the Disclosing Party may seek a protective order or such other appropriate remedy as it deems fit.

9 In what specifically pertains to Personal Data, each Party shall, if relevant for the other Party to comply with its own legal requirements and to the extent legally permitted, promptly notify the other Party as soon as it receives any request or enquiry from a competent authority or Data Subject with regard to Personal Data, and shall keep the other Party regularly updated as to how it handles such a request or inquiry.

10 The obligations and restrictions on confidentiality set out herein shall be effective throughout the term of this Agreement (as adhered to by a Party) and, unless otherwise provided for in this Agreement, remain effec­tive following the expiration or termination of the Agreement.

11 To the extent the Parties intend to share or disclose non-public information other than the Data subject to the provisions of this article, they shall enter into a separate agreement if such an obligation is not already in effect.

**Article 11**

**Suspension and restoration of Data exchanges**

1 Without prejudice to the relevant obligations of UPU member countries as defined in the Convention and its Regulations, Data exchanges under this Agreement may be suspended by one Party against a defaulting Party, with written notice given to the other Parties (through the intermediary of the IB) no later than 30 days from the effective date of such a suspension, in case of:

* failure to comply with the requirements set forth in this Agreement;
* refusal by one Party to remedy its failure to apply this Agreement as indicated by the other Party.

2 In cases of force majeure as defined in article 12 of this Agreement, the affected Party shall immediately notify the other Parties of any partial or full suspension of Data exchanges and take all necessary action to minimize and overcome the consequences of the force majeure event. The affected Party shall provide the other Parties with evidence of the force majeure event by any means deemed appropriate to substantiate such a claim.

3 In case of suspension as outlined in § 1, Data exchanges may be restored only when the suspended Party has satisfied the requirements of this Agreement as confirmed in writing by the other Party or Parties.

4 The Parties shall inform the IB of:

* the suspension of Data exchanges as quickly as possible, but no later than 30 days from the effective date of such a suspension;
* the restoration of Data exchanges as quickly as possible, but no later than 30 days from the effective date of such a restoration.

5 In the event of suspension or restoration of Data exchanges taking place through the UPU Network or the Software provided by the UPU, the Party or Parties concerned shall immediately notify the IB so that the latter can take the appropriate implementing actions to that effect.

**Article 12**

**Force majeure**

A Party shall not be liable to any other Party for any delays or defects in the performance of its obligations under this Agreement which are attributable to any unforeseen and/or unavoidable reasons beyond such Party’s control, including, without limitation, any act of war (whether declared or not); invasion; revolution; insurrection; terrorism; acts of God; strikes; transportation delays; fires; floods; labour disputes; freight embar­goes; inability to secure fuel or power at reasonable prices or on account of shortages thereof; laws or acts of any federal, provincial or local government affecting the exchange of goods and services or the conduct of the Parties, including export, import or immigration restrictions; and any other such causes beyond such Party’s control. Neither Party shall be deemed to be in default of its obligations under this Agreement whilst perfor­mance thereof is prevented by force majeure. No indemnity shall be claimed by any Party in the event of force majeure.

**Article 13**

**Liability of the Parties**

1 In addition to applying the relevant provisions of the Convention and its Regulations, each Party shall faithfully carry out its obligations under this Agreement.

2 Under no circumstances shall a Party be liable towards another Party for any special, indirect, conse­quential or incidental damages, claims, losses or loss of any anticipated revenue arising from or related to this Agreement.

3 Nothing in this Agreement shall prevent or limit a Party’s liability for any actual damage or loss suffered by the other Party as a result of a breach of this Agreement, as well as claims, demands, costs, losses and expenses whatsoever arising out of or in connection with fraud, intentional fault, wilful misconduct and gross negligence.

4 In the event that a third party asserts a claim against a Party that is attributable to a breach of this Agreement by another Party, the latter Party shall indemnify the defending Party for, and hold the defending Party harmless from, any losses, damages or liabilities suffered by the defending Party as a result. In that instance, the indemnifying Party shall also reimburse the defending Party for all reasonable expenses incurred in connection with investigating, preparing for, or defending any such claim, whether in an administrative, regulatory or judicial proceeding, and whether or not the indemnified Party is named in the proceeding.

5 Nothing in this Agreement shall be construed as an acknowledgment or concession regarding the validity of any claim or the entitlement of any Party to any amount of damages.

**Article 14**

**Relationship**

1 Nothing contained in or relating to this Agreement shall be construed as establishing or creating between any of the Parties the relationship of employer and employee or of principal and agent. The employees, offi­cials, representatives and agent of each of the Parties shall not be considered in any respect as being the employees or agents of any other Party.

2 A Party shall not be authorized to assume any obligation on behalf of any other Party and shall not represent to third parties that it has any such authority. Unless otherwise provided herein, each Party shall be responsible for its own expenses and shall not incur expenses for any other Party’s account unless expressly authorized in writing to do so by such other Party.

**Article 15**

**Entry into force and duration**

1 This Agreement shall enter into force as of the date of its adoption by the POC (with effect to all Parties that have formally joined it) and remain valid for an indefinite duration.

2 Withdrawal by one or some of the Parties shall not constitute termination of the Agreement with respect to all other remaining Parties.

**Article 16**

**Amendments**

1 The POC may, subject to a formal request supported by at least half of the Parties, propose amendments to this Agreement. Once formally adopted by the POC, the revised version shall be notified in writing to all Parties by the IB.

2 The date of entry into force for any amendments to this Agreement shall be set by the POC. Notwith­standing the foregoing, any modifications to the country-specific information contained in Annex 1 as well as any mutually agreed modifications to the region-specific referred to in Annex 2 shall not require POC approval or the preparation of formal amendments to this Agreement.

3 Any Party to this Agreement finding itself unable to comply with the Agreement as amended may with­draw from the Agreement from the date of entry into force of the revised version. Parties wishing to withdraw from the Agreement shall give the IB written notice of their intention to withdraw.

**Article 17**

**Withdrawal**

1 A Party may partly (i.e. vis-à-vis one or several Parties) or fully (i.e. vis-à-vis all other Parties) withdraw from this Agreement at any time and without reason upon providing at least 90 days’ notice in writing by electronic or registered mail (counted from the date of dispatch of the relevant communication through the intermediary of the IB) to the other Parties.

2 A Party may also partly or fully withdraw from this Agreement with immediate effect at any time by giving written notice to the other Parties to that effect in the event that:

* the other Party or Parties have materially breached its/their obligations hereunder or its/their obligations pursuant to the relevant provisions of the Convention and its Regulations in force at the time of signature of the Agreement by the Parties and, if such breach is capable of remedy, where such Party or Parties fail(s) to remedy any such breach within 30 calendar days following a request by the non-breaching Party or Parties to do so;
* another Party assigns or transfers, or purports to assign or transfer, any of its rights or obligations under this Agreement or any interest therein without the withdrawing Party’s prior written consent; or
* any representation, warranty or statement made in or in connection with this Agreement is incorrect in any material respect when made, and, if such misrepresentation or breach of warranty is capable of remedy, such a Party fails to carry out such remedy 30 calendar days following a request by the non-breaching Party to do so.

3 Any partial or full withdrawal from this Agreement shall be without prejudice to any other rights and liabilities of the Parties which have accrued pursuant to the provisions of this Agreement.

4 Termination of a supplementary bilateral or multilateral agreement as referred to in article 5.3 shall not automatically entail the withdrawal of a Party from this Agreement.

5 For the purposes of this article, “withdrawal” shall, vis-à-vis any concerned Party, be deemed as equiv­alent to termination of the Agreement for that Party.

**Article 18**

**Language**

Except as otherwise bilaterally or multilaterally agreed between any Parties to this Agreement, the French or English languages shall be used by the Parties in all administrative and operational communications with respect to this Agreement as well as with respect to all documents prepared or submitted by the Parties under this Agreement.

**Article 19**

**Applicable law**

This Agreement shall be governed by the relevant provisions of the Acts of the Union as well as the relevant decisions of Union governing bodies, to the exclusion of any national laws.

**Article 20**

**Interpretation and dispute settlement**

1 The Parties shall use their best efforts to amicably settle any dispute, controversy, or claim arising out of this Agreement or the breach, termination, expiration or invalidity thereof within 45 days from the first written notification by one Party to the other Party.

2 In the event that a dispute is not resolved within such a period and subject to the relevant delegation of power from the UPU member countries concerned, the arbitration procedure outlined in the UPU Constitution and the UPU General Regulations shall be followed, unless otherwise agreed by the concerned Parties.

3 The Parties further agree that, in the event of a dispute involving the security of Data exchanges or data protection aspects (as respectively referred to in articles 7 and 10 of this Agreement) taking place through the UPU Network or the Software provided by the UPU and upon request of the concerned Party, the IB shall be entitled to immediately suspend such Data exchanges between the concerned Parties until the dispute is deemed as fully resolved by both Parties.

**Article 21**

**Final provisions**

1 Except as otherwise informed to the IB by the concerned Parties, this Agreement shall fully supersede any other prior agreements, undertakings, understandings, promises or conditions, whether oral or written, express or implied, between the Parties relating to its subject matter.

2 Should any provision of this Agreement or part thereof be held to be invalid or prohibited under the laws applicable to a Party to this Agreement, such invalidity or prohibition shall not invalidate the remainder of the provision or the remaining provisions of this Agreement between the aforementioned Party and all other Parties.

**Annex 1**

**List of Parties and associated Party-specific information**

**Annex 2**

**Multilateral Data Sharing Agreement – Notification of acceptance (template)**

The eligible Postal Sector Entity specified below hereby undertakes to adopt this Multilateral Data Sharing Agreement for the exchange of electronic data arising out of international postal services, in accordance with the relevant provisions of the Acts of the Union:

Signature of authorized official:

Title:

Date:

**Date of application**

Please indicate below the date of application of the Multilateral Data Sharing Agreement:

Day Month Year

**Please return to:**

Universal Postal Union

International Bureau

(c/o Postal Operations Directorate)

Weltpoststrasse 4

3015 BERNE

SWITZERLAND

Fax: +41 31 350 31 10

E-mail: MDSA@upu.int

**Annex 3**

**Region-specific annex (template)**

The region-specific annex comprises the following parts and sections to be completed by each concerned Party:

**Part 1 – General information**

|  |  |
| --- | --- |
| Name of the Party |  |
| Address of headquarters/main office |  |
| Name of duly authorized representative |  |

**Part 2 – Service-specific information**