

Stamps and the performance of the Services and other obligations under this Agreement and shall, where appropriate, provide re-training of Personnel and employees and staff of each Agent.

5. **Cross Business Criminal Investigations**

5.1 Both Parties acknowledge the importance of preventing fraud, theft and other criminal activity in connection with the Services and Products and Stamps in terms of its impact on revenues and the reputation of its business and each Party agrees that in addition to any requirements in relation to the Mail Integrity Code of Practice it shall (without prejudice to any other remedies available to RMG under this Agreement):

- (A) immediately notify the other if that Party has reasonable grounds for suspecting that any Personnel, Agents or any employees or staff of any Agent used by POL in the provision of Services and Products and Stamps appears to be acting or to have acted fraudulently or to have carried out any theft from Customers or RMG in relation to the Services or Products or Stamps or otherwise to have engaged in any criminal activity in connection with the provision of any of the Services or Products or Stamps;
- (B) immediately notify the other if that Party has reasonable grounds for suspecting that any RMG Personnel that operate out of or have access to PO Branches appears to be acting fraudulently or to have carried out any theft from Customers or POL or any agent or otherwise to have engaged in any criminal activity in connection with Services and Products and Stamps;
- (C) carry out a criminal investigation through a joint partnership approach between RMG and POL whereby both Parties will agree who will lead in specific roles and responsibilities at an initial operational planning meeting in line with a memorandum of understanding to be agreed by the Parties, acting reasonably, prior to 1 April 2012 (the “**Operational Planning Meeting**”) and appropriate to the suspected crime;
- (D) undertake those actions agreed at the Operational Planning Meeting in accordance with timescales agreed at the Operational Planning Meeting, keeping the other Party informed as to the progress, and take the necessary agreed actions to prevent recurrence of such fraud, theft or other criminal activity including any aspects facilitated by negligence; and
- (E) in the event that the Operational Planning Meeting fails to take place prior to 1 April 2012 or fails to design an approach that meets the aims and objectives of both POL and RMG, escalate the matter to the Head of Investigations RMG and Senior Security Manager (Operations) POL and, if resolution fails at this level, onward to the Director of Security RMG and the Head of Security POL for resolution. If the Director of Security RMG and the Head of Security POL cannot resolve the matter within 10 Banking Days of the matter being referred to it, the matter shall be escalated through the Dispute Resolution Process, starting at the Distribution Agreement Management Board.

5.2 Both Parties acknowledge the importance of dealing with fraud, theft and other criminal activity in connection with Services and Products and Stamps seriously and consistently in terms of criminal prosecution, where appropriate, in order to penalise, deter and to recover assets through appropriate legal action (including the Proceeds of Crime Act) and both Parties agree that:

- (A) they shall pursue any cases of fraud, theft and other criminal offences that involve both RMG or POL or their respective Personnel (or, the case of POL, employees or staff of Agents) robustly, subject to legal advice on evidence and suitability for prosecution; and
- (B) any decision not to prosecute in any case lead by one Party but involving Personnel of the other Party (including, in the case of POL, employees and staff of Agents) shall be subject to the other Party deciding itself whether to take on the prosecution, subject to their own legal advice.

6. **Share of Voice, Publicity and Advertising**

6.1

[REDACTED]

6.2 The Parties shall, no later than three months after the date of signature of this Agreement, agree a plan relating to Share of Voice in the first Financial Year. Thereafter, during the last quarter of each Financial Year (other than the last Financial Year of the Term), the Parties shall, acting reasonably, agree through the Planning Workshop a plan in relation to Share of Voice for the coming Financial Year (each annual plan being the “**Share of Voice Annual Plan**”). The Share of Voice Annual Plan shall as a minimum set out:

- (A) the form, content and make up of the Share of Voice to be allocated to Services and Products and Stamps in order to comply with Clause 6.1; and
- (B) [REDACTED]

in each case for each Financial Year. In complying with the Share of Voice Annual Plan RMG acknowledges that POL will have satisfied its obligation in Clause 6.1 in the relevant Financial Year. If the Parties are unable to agree to (i) the first Share of Voice Annual Plan within three months of the signature of this Agreement or (ii) any subsequent Share of Voice Annual Plan at least one month prior to the start of the Financial Year to which it relates, the matter shall in each case be escalated through the Dispute Resolution Process, starting at the Distribution Agreement Management Board.

6.3 For the purposes of calculating the Share of Voice required to be allocated by POL to Services and Products and Stamps in each Financial Year pursuant to Clause 6.1 above, the Share of Voice allocated to Services and Products and Stamps by POL will be measured or calculated by POL annually in a manner agreed by the Parties through

PART VII: LIABILITY AND LIMITATIONS AND SERVICE LEVEL BREACHES

34. Liability

34.1 Notwithstanding any other provision of this Agreement, neither Party limits or excludes its liability for (i) fraud of a Party; (ii) death or personal injury caused by that Party's negligence or by the negligence of its Personnel; or (iii) the payment of any amounts due in accordance with Part V or [REDACTED] of this Agreement; or (iv) the indemnities in Clauses [REDACTED] and [REDACTED] except to the extent of any limitations of, or exclusions from, liability set out in those Clauses.

34.2 Subject to Clause 34.1, neither Party shall be liable to the other Party (or a member of that other Party's Group) (including under any indemnity) or to any third party, whether in contract, in tort (including negligence), under any statute or otherwise under or in connection with this Agreement or the provision of the Services for or in respect of any:

(A) [REDACTED]

(B) [REDACTED]

(C) [REDACTED]
[REDACTED]

(D) [REDACTED]
[REDACTED]
[REDACTED]

34.3 POL's liability as a result of any breach of any of its obligations [REDACTED]
[REDACTED]

34.4 [REDACTED]
[REDACTED]

[REDACTED] [REDACTED]

[REDACTED] [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

34.5 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

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- 34.6 Subject to Clause 34.1 and excluding any liability in relation to payment of ██████████ pursuant to ██████████ which shall fall outside of and not count towards the liability limit set out in this Clause 34.6, POL's aggregate liability to RMG, whether in contract (including under any indemnity), in tort (including negligence), under statute or otherwise, under or in connection with this Agreement or the provision of the Services or the making available of the Products and Stamps under or in connection with this Agreement, in any Financial Year shall in total be limited to ██████████ (or a pro-rata proportion of that sum in respect of any partial Financial Year).
- 34.7 Subject to Clause 34.1, RMG's aggregate liability to POL, whether in contract (including under any indemnity), in tort (including negligence), under statute or otherwise, under or in connection with this Agreement in any Financial Year shall in total be limited to ██████████ (or a pro-rata proportion of that sum in respect of any partial Financial Year).
- 34.8 Each Party (the "**Indemnifying Party**") shall indemnify and hold the other Party (the "**Indemnified Party**") harmless for and from any Cost or liability whatsoever and howsoever incurred by the Indemnified Party arising out of or in connection with a claim by one or more of the Indemnifying Party's Personnel (and, in the case of POL, staff or employees of Agents) for death or personal injury caused by negligence of the Indemnified Party or by the negligence of its Personnel, provided that the indemnity in this Clause 34.8 shall apply to the extent that the Indemnified Party complies with the relevant provisions of ██████████ or Clauses ██████████ (as the case may be) which are applicable to such claim.
- 34.9 Subject to Clauses 34.4 and 34.5 above, each Party (the "**Indemnifying Party**") shall indemnify and hold the other Party (the "**Indemnified Party**") harmless for any loss suffered by the Indemnified Party in connection with any fraud, theft or other criminal activity on the part of any of the Indemnifying Party's Personnel (or, in the case of POL, staff or employees of Agents) in connection with the Services or Products and Stamps or the provision thereof including, for the avoidance of doubt, any payments made by the Indemnified Party to Customers in relation to such fraud, theft or other criminal activity, provided that the indemnity in this Clause 34.9 shall apply to the extent that the Indemnified Party complies with the relevant provisions of Schedule 7 or Clauses 34.11 to 34.14 (as the case may be) which are applicable to any such fraud, theft or criminal activity.
- 34.10 POL shall indemnify and keep indemnified RMG from and against any Costs which are suffered or incurred by, or made or brought against RMG as a result of any ██████████ ██████████ in relation to any of the Services or Products or Stamps to the extent that:
- (A) any such Costs arise as a result of ██████████ or breach of any Applicable Law or requirement of any Regulatory Authority by POL or POL Personnel (or staff or employees of Agents); or

- (B) [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
- (C) [REDACTED]
[REDACTED]
- (D) [REDACTED]
[REDACTED]

provided that (i) the indemnity in this Clause 34.10 shall apply to the extent that RMG complies with the relevant provisions of [REDACTED] or [REDACTED] (as the case may be) which are applicable to the indemnity in this Clause 34.10 or any action, demand, claim, proceedings or litigation made under it; (ii) Clauses 34.10(A), (B), (C) and (D) shall not increase the liability of POL in relation to any of the matters referred to in Clauses 34.10(A), (B), (C) or (D) where provisions as to the allocation of responsibilities to, or extent of liability of, POL are otherwise included in this Agreement in relation to such matters; and (iii) for the avoidance of doubt, Clauses 34.10(B) and (C) shall not operate so as to reimburse RMG for any Cost or obligation it otherwise has under any provision of this Agreement to pay any Charges or Variable Margin or otherwise to incur, or reimburse POL for, any Cost which RMG has specifically agreed to pay, suffer or incur under the terms of this Agreement.

34.11 Where a Party (the “**Indemnifying Party**”) is, pursuant to this Clause 34, required to indemnify the other Party (the “**Indemnified Party**”) against any Costs incurred by the Indemnified Party arising out of or in connection with any action, demand, claim, proceedings or litigation which is not subject to the procedures set out in Schedule 7 made by a third party against the Indemnified Party (“**Indemnified Claim**”):

- (A) the Indemnified Party shall notify the Indemnifying Party promptly in writing of such Indemnified Claim of which it is aware; and
- (B) the Indemnifying Party shall have 20 Banking Days from the date of such notice to decide whether to take conduct of any action, demand, claim, proceedings or litigation in respect of and/or negotiations for the settlement of the Indemnified Claim. If the Indemnifying Party fails to take a decision within this period, it will be deemed to have decided not to conduct any such claim, proceedings or litigation and/or negotiations.

34.12 If the Indemnifying Party decides to conduct any such action, claim, demand, proceedings or litigation and/or negotiations in relation to the Indemnified Claim, it shall do so at its own Cost. The Indemnified Party shall give the Indemnifying Party all reasonable assistance required by the Indemnifying Party in support of any defence or other conduct of such action, claim, demand, proceedings or litigation and/or negotiations and the Indemnified Party shall not settle or make any admission in relation to such Indemnified Claim without the prior written consent of the Indemnifying Party unless:

- (A) such Indemnified Claim relates to any systemic claim (meaning an Indemnified Claim of a type where there are likely to be a number of other similar claims with the same or a substantially similar underlying causes to the Indemnified Claim and such systemic claim in the reasonable opinion of the Indemnified Party raises an issue which could be materially prejudicial to the business or reputation of the Indemnified Party); or
- (B) such claim, proceedings or litigation and/or negotiations would in the reasonable opinion of the Indemnified Party materially prejudice the Indemnified Party's (or any member of the Indemnified Party's Group's) relations with any Regulatory Authority or any tax authority,

and in the circumstances of (A) and (B) above the Indemnifying Party shall consult with and take account of the Indemnified Party's reasonable comments or requests related to any settlement or admission. The Indemnifying Party shall bear the Indemnified Party's reasonable Costs in providing such assistance and shall consult with Indemnified Party on material aspects of the defence which are relevant to the Indemnified Party.

34.13 The Indemnifying Party shall be entitled at any stage to settle any Indemnified Claim. However, in relation to any such settlement, the Indemnifying Party agrees to:

- (A) consult with the Indemnified Party on aspects of the settlement materially relevant to the Indemnified Party; and
- (B) not make any admission of liability on behalf of the Indemnified Party without its consent if such settlement of such Indemnified Claim (i) relates to any systemic claim (meaning an Indemnified Claim of a type where there are likely to be a number of other similar claims with the same or a substantially similar underlying causes to the Indemnified Claim and such systemic claim in the reasonable opinion of the Indemnified Party raises an issue which could be materially prejudicial to the business or reputation of the Indemnified Party) or (ii) such settlement would in the reasonable opinion of the Indemnified Party materially prejudice the Indemnified Party's (or any member of the Indemnified Party's Group's) relations with any Regulatory Authority or any tax authority and in the case of (i) above the consent of the Indemnified Party shall not be unreasonably withheld or delayed.

34.14 If the Indemnifying Party decides not to conduct any action, claim, demand, proceedings or litigation or negotiations, the Indemnified Party may conduct any action, claim, demand, proceedings or litigation or negotiations itself and the indemnity provided by the Indemnifying Party pursuant to this Agreement shall include recovery of any Costs arising out of or in connection with any subsequent judgment or settlement (provided in the case of a settlement, such settlement has been pre-approved by the Indemnifying Party in writing (such approval not to be unreasonably withheld or delayed)).

34.15 Each Party has a duty to mitigate (and, to the extent applicable, procure that its Personnel and employees of its Agents mitigate) the damages and losses that would otherwise be recoverable from the other Party (or members of its Group or Personnel, as applicable) pursuant to this Agreement (including under any indemnity) by taking

appropriate and commercially reasonable actions to reduce or limit the amount of such damages or losses.

35. **Force Majeure**

- 35.1 Notwithstanding any other provision of this Agreement, neither Party shall be liable for any breach of its obligations under this Agreement to the extent resulting from any event beyond that Party's reasonable control, including war, act of God, fire, civil disobedience, insurrection, riots, embargoes, requirements or regulations of any civil or military authority or strikes or other industrial action of third parties ("**Force Majeure**").
- 35.2 If an event of Force Majeure occurs, the Party which is affected shall notify the other Party of that event as soon as possible and shall use its reasonable endeavours, including implementing appropriate contingency plans, to mitigate the effects of the Force Majeure on the performance of this Agreement in accordance with its terms.
- 35.3 For the avoidance of doubt, for the purposes of the respective rights and obligations of the Parties under this Agreement and in particular Clause 35.1, acts or omissions of a Party's Personnel (including, for POL, Agents and employees and staff of Agents, save to the extent that Agents are themselves affected by Force Majeure) shall be deemed to be the acts of omissions of that Party and shall be deemed to be within that Party's reasonable control.

36. **Strikes**

- 36.1 If strike action or other industrial action is taken by any Personnel engaged by or for either Party (and in the case of POL, employees and staff of Agents) in carrying out its business, the effect of which is materially to disrupt the provision of the Services and/or the Products and/or the Stamps, or any of them, each Party shall implement its own, and, if available, require the implementation of any relevant third party's, contingency plan for the duration of the disruption so as to make reasonable alternative arrangements for the provision of the relevant Services and/or Products and/or Stamps for the duration of the disruption.
- 36.2 Each Party (for the purpose of this Clause 36, the "**Undertaking Party**") undertakes to the other Party that it has put in place contingency arrangements to enable the Services and/or Products, and each of them, to operate satisfactorily during any strike or industrial dispute involving any person used by the Undertaking Party in carrying out its business.
- 36.3 If the contingency arrangements referred to in Clause 36.2 do not enable the Services and/or Products and/or Stamps, or any of them, to operate to the other Party's satisfaction (acting reasonably), the Undertaking Party shall promptly give all reasonable assistance to the other Party to enable the Services and Products and Stamps to continue to be made known to Customers and available for their benefit through alternative means.
- 36.4 For the avoidance of doubt, any failure by either Party to provide the Services and/or the Products and/or Stamps, or any of them, in accordance with this Agreement, or to

Party, provided that, where permissible under Applicable Law, it gives written notice to the other Party prior to any such disclosure; or

- (d) the extent such Confidential Information is required to enable that Party to fulfil any obligation under this Agreement.

43.4 Each Party shall ensure that its Personnel, agents, contractors and any other person to whom such information is disclosed by it are aware of and comply with the provisions of this Clause 43 as if such person were a party to this Agreement.

43.5 The obligations contained in this Clause 43 shall survive the termination of this Agreement.

44. **Freedom of Information Requests**

44.1 Each Party shall as soon as reasonably practicable notify the other Party (to the extent that the notifying Party is subject to FOIs) in the event that it:

- (A) receives a request for information under section 8 of the Freedom of Information Act 2000, the Freedom of Information (Scotland) Act 2002 or under the Environmental Information Regulations 2004 (together the “**FOIs**”) which covers information relating to the Agreement, to the other Party or the Services or Products or Stamps (a “**Relevant Request**”);
- (B) responds to a Relevant Request;
- (C) receives a complaint in relation to the handling of a Relevant Request;
- (D) becomes aware that an application has been made to the Information Commissioner for a decision in relation to a Relevant Request;
- (E) becomes aware that the Information Commissioner has served any notice on a Party under part IV of the relevant FOI in relation to a Relevant Request; or
- (F) becomes aware that an appeal has been made to the Information Tribunal or a court in relation to a Relevant Request,

and, to the extent allowed by Applicable Law, in each case shall provide the other Party with a copy of the Relevant Request.

44.2 Each Party shall, in relation to a Relevant Request:

- (A) as soon as reasonably practicable upon receipt of a Relevant Request give notice to the other Party of the nature of the Relevant Request and give the other Party a reasonable opportunity to comment on whether an exemption from the requirement to disclose may be applicable so that the Party receiving the Relevant Request is able to take due regard of any such comments before making its response; and

- (B) not disclose any information in relation to a Relevant Request to the extent that, in the reasonable opinion of the Party receiving the Relevant Request, the information is exempt under the FOIs.

45. Anti-Bribery and Corruption by POL

45.1 POL represents and warrants that:

- (A) no members of the POL Group nor any POL Personnel (including employees and staff of Agents) have made any Bribe in connection with the entry into of this Agreement;
- (B) the POL Group shall not, and shall procure that POL Personnel (including employees and staff of Agents) shall not, make any Bribe in connection with this Agreement or its performance.

45.2 POL shall adopt, implement, maintain, enforce and update (as necessary) adequate policies and procedures consistent with the principles set out in the AB Policy and designed to prevent Bribery from occurring. POL shall provide adequate and regular training to the POL Personnel (including employees and staff of Agents) in order to ensure an understanding of its policy and procedures and their obligations arising from the policy on a continuing basis.

45.3 POL shall certify to RMG on an annual basis its compliance with Clauses 45.1 (B) and 45.2 and shall notify RMG immediately in writing upon becoming aware of, or suspecting, any failure to comply with any provisions of this Clause 45.

45.4 POL shall notify RMG immediately upon becoming aware of any extortive solicitation, demand or other request for anything of value, by or on behalf of any person relating to this Agreement or its subject matter.

45.5 If any POL Personnel (including employees and staff of Agents) make a Bribe in connection with this Agreement, without prejudice to RMG's other rights or remedies under this Agreement or under law, POL shall promptly upon request by RMG remove or procure the removal of the relevant person who has Bribe from all involvement in connection with the performance of this Agreement and take such other action as RMG reasonably requires for the purpose of remedying or preventing the future occurrence of such activity.

45.6 RMG may treat POL's failure to comply with this Clause 45 as a Material Breach of this Agreement.

46. Anti-bribery and corruption by RMG

46.1 RMG represents and warrants that:

- (A) no members of the RMG Group nor any RMG Personnel have made any Bribe in connection with the entry into of this Agreement;

- (B) the RMG Group shall not, and shall procure that RMG Personnel shall not, make any Bribe in connection with this Agreement or its performance.

- 46.2 RMG shall adopt, implement, maintain, enforce and update (as necessary) adequate policies and procedures consistent with the principles set out in the POL anti-bribery and corruption policy in force at the date of this Agreement and designed to prevent Bribery from occurring. RMG shall provide adequate and regular training to the RMG Personnel in order to ensure an understanding of its policy and procedures and their obligations arising from the policy on a continuing basis.
- 46.3 RMG shall certify to POL on an annual basis its compliance with Clauses 46.1 (B) and 46.2 and shall notify POL immediately in writing upon becoming aware of, or suspecting, any failure to comply with any provisions of this Clause 46.
- 46.4 RMG shall notify POL immediately upon becoming aware of any extortive solicitation, demand or other request for anything of value, by or on behalf of any person relating to this Agreement or its subject matter.
- 46.5 If any RMG Personnel make a Bribe in connection with this Agreement, without prejudice to POL's other rights or remedies under this Agreement or under law, RMG shall promptly upon request by POL remove or procure the removal of the relevant person who has Bribe from all involvement in connection with the performance of this Agreement and take such other action as POL reasonably requires for the purpose of remedying or preventing the future occurrence of such activity.
- 46.6 POL may treat RMG's failure to comply with this Clause 46 as a Material Breach of this Agreement.

47. Assignment

- 47.1 Except to the extent permitted by Clause 47.2 below, neither Party shall assign any benefit under this Agreement, in whole or in part, without the prior written consent of the other Party. Such consent shall not be unreasonably withheld or delayed.
- 47.2 RMG shall be entitled to assign the benefit of this Agreement to any member of its Group.

48. Partnership

- 48.1 None of the provisions of this Agreement and no action taken by the Parties under this Agreement shall be treated as constituting a partnership between the Parties.

49. Contracts (Rights of Third Parties) Act 1999

- 49.1 The Parties acknowledge that nothing in this Agreement shall confer on any person who is not a party to this Agreement any benefit or the right to enforce any of its provisions.