



Agreement for the provision of Royal Mail Services

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BETWEEN:

- (1) **JEFFREY JACOBS** of City Hall, The Queen's Walk London SW1a 2AA in his capacity as Greater London Returning Officer (the "**GLRO**"); and
- (2) **ROYAL MAIL GROUP LIMITED** whose registered office is at 100 Victoria Embankment London, EC4Y 0HQ and whose registered number is 04138203 ("**Royal Mail**").

RECITALS:

- (A) Royal Mail has agreed to provide certain sweep services to in respect of the votes cast in the elections of the Mayor of London and the London Assembly to be held on 5 May 2016 under the Greater London Authority Act 1999 and other relevant legislation (together referred to as the "**Act**").
- (B) The GLRO recognises that Royal Mail is entitled to be reimbursed for the costs of delivering the Services.

IT IS AGREED:

1. DEFINITIONS AND INTERPRETATIONS

1.1 In this Agreement:

"Act"	means the Greater London Authority Act 1999 and other relevant legislation (as amended);
"Agreement"	means the provisions of this agreement, including its Schedules;
"Agreement Manager"	means those individuals designated as such in Clauses 12.1 and 12.2;
"Charges"	means those charges set out in Schedule 2;
"Confidential Information"	means any information which is designated by either Party as confidential or which, by its nature is or ought to be considered as confidential (whether or not it is so marked) and includes all Personal Data, all Intellectual Property Rights and any information that relates to the business, affairs, developments, trade secrets, know-how, personnel, and suppliers of either Party;
"Counting Officer"	means an (acting) counting officer with oversight of the conduct of the Elections in the Voting Areas for which he is responsible in accordance with the Act;
"Delivery Point"	means a point for the delivery of Relevant Mail as agreed between Royal Mail and each Counting Officer in respect of that Counting Officer's Voting Area;
"Elections"	the elections to take place on 5 May 2016 for each of 14 Constituency London Assembly Members, 11 London-wide Assembly Members and the Mayor of London, each one an Election ;
"FOIA"	means the Freedom of Information Act 2000;
"Force Majeure"	means any event or occurrence which is outside the reasonable control of the Party concerned and, for these purposes, each of the following, without

limitation, will constitute an event of Force Majeure: fire; flood; violent storm; pestilence; explosion; malicious damage; armed conflict; acts of terrorism; acts of civil commotion or riots; nuclear, biological or chemical warfare; any labour or trade dispute, strikes, industrial action or lock outs; interruption or failure of utility service; or any other disaster, natural or man-made, but excluding the failure by any sub-contractor to perform its obligations under any sub-contract, unless that itself would constitute Force Majeure;

"Intellectual Rights"	Property	means patents, inventions, trade marks, service marks, logos, design rights (whether registrable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, trade or business names, moral rights and other similar rights or obligations whether registrable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off;
"Invoice"		means any of the invoices described at Clause 6;
"Mail Centre"		means a Royal Mail sorting office where mail from post boxes is collected;
"Month"		means a calendar month;
"Party"		means either Royal Mail or the GLRO and "Parties" shall be construed accordingly;
"Personal Data"		shall have the same meaning as set out in the Data Protection Act 1998;
"Personnel"		means all employees, agents, consultants and contractors of the GLRO, Royal Mail and/or sub-contractor;
"Polling Day"		the date of which polling takes place for the Elections, being 5 May 2016;
"Postal Vote Licence"		means a Licence ordered by or for Counting Officers to access postal vote services (to be provided to each Counting Officer separately and invoiced to each Counting Officer after Polling Day);
"Primary Sweep"		means a Sweep conducted by Royal Mail in accordance with Schedule 1 to extract all Relevant Mail addressed to a Counting Officer in a Voting Area from the Mail Centre that collects the highest volume of mail from that Voting Area;
"Relevant Mail"		means posted mail items clearly marked as postal votes for the Elections;
"Secondary Sweep"		means a Sweep conducted by Royal Mail in accordance with Schedule 1 (and where Royal Mail identifies at its discretion that such a Sweep is appropriate) to extract all Relevant Mail addressed to a Counting Officer in a Voting Area from a Mail Centre other than that from which a Primary Sweep has been conducted for that Voting Area;

"Services"	means the Sweep services set out at Schedule 1 (Services);
"Sweep"	means the particular arrangements under this Agreement for the collection of Relevant Mail from Mail Centres and its delivery to Delivery Points for the purpose of including as many postal votes as possible in the counts for the Elections;
"VAT"	means value added tax as provided for in the Value Added Tax Act 1994 and supplemental legislation (whether delegated or otherwise);
"Voting Area"	means the areas set out in the Act for the Elections;
"Working Day"	means a day (other than a Saturday or Sunday) on which banks are open for general business in the City of London.

1.2 In this Agreement, unless the context otherwise requires:

- 1.2.1 paragraph headings do not affect the interpretation of this Agreement;
- 1.2.2 any reference to an Act of Parliament, Order, Regulation or Statutory Instrument shall include a reference to any amendment or re-enactment thereof; and
- 1.2.3 references to Clauses, Paragraphs, Schedules and/or Annexes are, unless otherwise provided, references to clauses, paragraphs, schedules to and/or annexes to this Agreement.

2. DURATION

This Agreement shall commence from the date of the last signature and shall continue in force under the terms of this Agreement until Polling Day (or until such later date on which the GLRO has fulfilled his obligations under Clause 4 below).

3. SERVICES

Royal Mail agrees to provide these Services to all Counting Officers in the Greater London Area save for any who have explicitly refused to accept the Services prior to Polling Day. Royal Mail shall fulfil its obligations under the Agreement with all reasonable skill, care and diligence.

4. RETURNING OFFICER OBLIGATIONS

- 4.1 The GLRO shall pay the costs of a Postal Vote Licence for any given Counting Officer who does not order a Postal Vote Licence in advance of Polling Day.
- 4.2 The GLRO acknowledges that Royal Mail shall not be obliged to provide the Services to any Counting Officer if that Counting Officer refuses to accept the provision of the Services for Polling Day.
- 4.3 The GLRO further acknowledges that Royal Mail will invoice Counting Officers for all fees associated with a Postal Vote Licence as soon as reasonably practicable following Polling Day.
- 4.4 In the event that any Counting Officer fails to pay fees associated with a Postal Vote Licence in accordance with Royal Mail's standard payment terms, provided that Royal Mail has provided the Services in respect of the Elections on the Polling Day, the GLRO agrees that he shall ensure that such payment is made to Royal Mail within 30 Working Days of receipt of a valid request for such fees to the GLRO from Royal Mail.

5. CHARGES

- 5.1 The GLRO will pay the charges for the Services in accordance with the payment provisions set out in Clause 6.
- 5.2 Save as otherwise stated in this Agreement, all references to payments in this Agreement are references to such payments exclusive of any VAT chargeable and where such payments fall to be made under this Agreement, such VAT shall be added to the amount at the rate applicable, if any, and paid in addition thereto.
- 6. INVOICING AND PAYMENT**
- 6.1 Royal Mail will invoice the GLRO for the Services within thirty (30) Working Days of Polling Day.
- 6.2 Payment for the Services will be made within thirty (30) Working Days of the date of receipt of the Invoice.
- 6.3 Any clerical error in the Invoice shall be rectified by Royal Mail immediately following notice by the GLRO to Royal Mail or upon Royal Mail realising the error. In the event of any other dispute as to the amount of the Invoice, the GLRO shall pay the undisputed amount of the Invoice pending a resolution of any dispute. The GLRO and / or Royal Mail shall make any adjustment due immediately upon such resolution.
- 6.4 Wherever any sum of money is recoverable from or payable by Royal Mail, the GLRO may deduct that sum from any sum due, or which at any later time may become due to Royal Mail under this Agreement.
- 7. FORCE MAJEURE**
- 7.1 Neither Party shall be liable to the other Party for any delay in performing, or failure to perform, its obligations under the Agreement (other than a payment of money) to the extent that such delay or failure is a result of Force Majeure. Notwithstanding the foregoing, each Party shall use all reasonable endeavours to continue to perform its obligations under the Agreement for the duration of such Force Majeure.
- 7.2 Any failure or delay by Royal Mail in performing its obligations under the Agreement which results from any failure or delay by an agent, sub-contractor or supplier of Royal Mail shall be regarded as due to Force Majeure only if that agent, sub-contractor or supplier is itself impeded by Force Majeure from complying with an obligation to Royal Mail.
- 7.3 If either Party becomes aware of Force Majeure which gives rise to, or is likely to give rise to, any failure or delay on its part as described in Clause 7.1, it shall immediately notify the other by the most expeditious method then available and shall inform the other of the period for which it is estimated that such failure or delay shall continue and of the measures taken to continue to perform its obligations under the Agreement during that period.
- 8. LIABILITY**
- 8.1 Subject to Clause 8.2, the liability of Royal Mail for losses suffered by the GLRO arising out of or in connection with this Agreement (including any liability for the acts or omissions of its employees, agents or subcontractors), whether arising in contract, tort (including negligence), misrepresentation or otherwise, shall be limited as follows:
- 8.1.1 Royal Mail shall not be liable to the extent that any injury, loss or damage is caused by the negligence, wilful misconduct or breach of the Agreement by GLRO Personnel or by the acts or omissions of third parties (not being Royal Mail's agents or subcontractors); and
- 8.1.2 the maximum aggregate liability of Royal Mail for all loss suffered by the GLRO is limited to 200% of the aggregate amount of Charges received or due to Royal Mail under this Agreement;
- 8.2 Nothing in Clause 8.2 shall exclude or limit any liability for:

- 8.2.1 any liability to the extent it cannot be lawfully excluded or limited;
- 8.2.2 fraud or fraudulent misrepresentation by Royal Mail or its employees, agents or subcontractors; or
- 8.2.3 death or personal injury caused by Royal Mail's negligence or that of its employees, agents or subcontractors.

9. CONFIDENTIALITY

- 9.1 The terms and conditions of this Agreement and any exchanges of Confidential Information sent between the Parties for the purpose of the Elections shall be treated as confidential by Royal Mail and the GLRO and none of the contents of this Agreement shall at any time be disclosed to any third party without the written consent of the other Party, save as required by law or at the direction of any relevant regulatory GLRO.
- 9.2 Nothing in this Clause shall prevent the GLRO from disclosing such information as is necessary to comply with his obligations under the FOIA PROVIDED THAT the GLRO shall (wherever practicable before any disclosure is made) consult with Royal Mail on matters relating to this Agreement and the Services contemplated by the Agreement as the views of Royal Mail may assist the GLRO to determine:
 - 9.2.1 whether an exemption under the FOIA applies to the information requested; and
 - 9.2.2 where the public interest lies under section 2 of the FOIA.
- 9.3 To the extent possible, the disclosing Party shall give the other Party five (5) days' written notice of its intention to make any disclosure and give due consideration to any reasonable representations made by the other Party.

10. TRANSFER AND SUB CONTRACTING

- 10.1 Neither Party may assign, novate, sub-contract or otherwise dispose of this Agreement or any part of it without obtaining consent in writing from the other Party.
- 10.2 Notwithstanding any sub-contracting permitted hereunder, each Party shall remain responsible for the acts and omissions of its sub-contractors as though they were its own acts and omissions.

11. AGREEMENT CHANGE PROCEDURES

- 11.1 The GLRO and Royal Mail may at any time separately propose for the other's consideration changes to this Agreement, but no change will have effect without the prior written agreement of both Parties.
- 11.2 Either Party shall provide written notice to the other Party of any proposed amendment or variation to this Agreement, and of the date on which it is desired that the amendment or variation should come into effect.
- 11.3 Nothing in this Agreement shall require either Party to observe any provision of this Agreement that conflicts with any amendments to the GLRO's or Royal Mail's responsibilities under the Act or the Postal Services Act 2000 or any other relevant legislation.

12. AGREEMENT MANAGEMENT

- 12.1 For the purposes of this Agreement the GLRO's Agreement Manager shall be Bharti Keshur at City Hall, The Queen's Walk, London SW1A 2AA or a person designated by him.
- 12.2 For the purposes of this Agreement Royal Mail's Agreement Manager shall be Rachel Winham, Head of Elections at c/o Janice Chambers, Royal Mail Media Centre, Stukely Street, London WC1V 7AB or a person designated by her.

- 12.3 The Parties will meet to review this Agreement and the Services set out within it as necessary, or as reasonably requested by either Party.

13. EXPIRY OF AGREEMENT

Expiry of the Agreement shall not affect the continuing rights, remedies or obligations of the GLRO or Royal Mail under Clauses 4 (GLRO Obligations), 7 (Payment), 9 (Liability), 10 (Confidentiality), and 18.1 (Governing Law).

14. DISPUTE RESOLUTION

- 14.1 The Agreement Managers shall attempt in good faith to negotiate a settlement to any dispute between the Parties arising out of or in connection with the Agreement

- 14.2 If the dispute cannot be resolved by the Agreement Managers pursuant to Clause 14.1, the dispute shall be escalated to senior managers:

14.2.1 on the part of the GLRO, to the Head of the Chief Executive and then to the Chair of the Electoral Commission; and

14.2.2 on the part of Royal Mail to the Chief Customer Officer and then to the Chief Executive.

- 14.3 If the dispute cannot be resolved by the Parties pursuant to Clauses 14.1 or 14.2 the dispute shall be referred to mediation as agreed by the parties unless either Party considers that the dispute is not suitable for resolution by mediation.

- 14.4 If there is no reference to mediation or the mediation is unsuccessful, then any dispute or difference between the Parties may be referred to the courts.

- 14.5 If the Parties reach agreement on the resolution of their dispute the agreement shall be reduced to writing and shall be binding.

15. NOTICES

- 15.1 All notices and other communications to be served on or given to either Party under this Agreement shall be sent either:

15.1.1 By first class post to the address as set out in Clause 12, or such other address as has been notified in writing from time to time by one Party to the other; or

15.1.2 by email in accordance with the requirements of this Clause.

- 15.2 All notices to be emailed shall be sent:

15.2.1 to the GLRO at email address bharti.keshur@london.gov.uk or

15.2.2 to Royal Mail at email address Rachel.Winham@royalmail.com;

or such other addresses as have been notified in writing from time to time by one Party to the other.

- 15.3 In proving the service of any notice it will be sufficient to prove:

15.3.1 in the case of a letter, that the letter was properly stamped, addressed and placed in the post, or

15.3.2 in the case of personal delivery of a letter, that the letter was delivered or left at the proper address, or

15.3.3 in the case of email, that the email was duly made to the proper email address and that no email or automatic reply was received by the sender notifying of any kind of failure to send or to deliver.

- 15.4 Any notice sent by post shall be deemed to have been served two (2) Working Days after the letter was posted.
- 15.5 Any notice sent by email shall be deemed to have been served at the time when received except that any notice despatched by email after 17:00 hours on a Working Day or at any time on a day which is not a Working Day shall be deemed to have been given at 08:00 the next Working Day.

16. **ANTI BRIBERY AND CORRUPTION**

In this Clause 16, the following defined terms have meanings set out below:

"ABC Policy" means Royal Mail's anti-bribery and corruption policy document and procedures as amended, varied or supplemented from time to time

"Applicable Law" means English law and/or any other laws or regulations applicable to Royal Mail or the GLRO;

"Compliance Records" means records demonstrating compliance with the ABC Policy limited to the subject matter of the agreement;

"Bribe" means: (i) any payment, gift, benefit or advantage of any kind, which is offered, promised, given, authorised, requested, accepted or agreed, whether directly or indirectly (through one or more intermediaries) and whether as an inducement or reward, for any form of improper conduct by any person in connection with their official, public, fiduciary, employment or business role, duties or functions; and/or (ii) anything that would amount to an offence of bribery or corruption under Applicable Law; and **"Bribes", "Bribed", "Bribery", "Bribing"** and other variants of "Bribe" shall be construed accordingly; and

"Records Period" means the term of this Agreement.

- 16.1 Each Party warrants and represents that it has not Bribed in connection with obtaining this Agreement.
- 16.2 Each Party warrants and undertakes that it shall not Bribe in connection with the performance of this Agreement.
- 16.3 Subject to Applicable Law, and the confidentiality and other restrictions set out in this Agreement, and upon reasonable prior written notice, each Party shall provide the other party with access to and/or copies of any and all books and records as the relevant party may reasonably request from time to time relating to the Party's compliance with its obligations under this Clause 16. The GLRO shall not request such access rights more than three (3) times in any given calendar year.
- 16.4 Each Party shall as soon as reasonably practicable notify the other Party in writing on becoming aware of any failure to comply with any provision of this Clause 16.
- 16.5 If a Bribe is committed by or with the consent or connivance of any director or senior officer of that Party, then the innocent Party shall be entitled to terminate this Agreement immediately on giving written notice to the other Party. In all other cases the innocent Party may give written notice of termination to the other Party and this Agreement will terminate on the date 30 days after the date of service of such notice unless the other Party removes the relevant person who has Bribed from all involvement in connection with the performance of this Agreement and replaces him or her with another appropriately skilled person.
- 16.6 Any notice of termination in accordance with Clause 16.5 above must be served within ninety (90) days of the innocent party becoming aware of the Bribe.
- 16.7 Any notice of termination under this Clause shall be signed by an authorised representative of the relevant Party and shall specify: (i) the nature of the Bribe; (ii) the identity of the person whom it is claimed has Bribed; and (iii) the date on which this Agreement will terminate such date not to be later than thirty (30) days after the date of service of the notice.

- 16.8 Any termination in accordance with Clause 16.7 above will be at no cost, liability or penalty and without prejudice to any other rights or remedies that may have accrued to the benefit of the innocent Party under or in connection with this Agreement.

17. SANCTIONS

In this Clause 17, the following defined terms have meanings set out below:

"Restricted Party" means a person that is listed on, or owned or controlled directly or indirectly by a person listed on, a Sanctions List, or a person acting on behalf of such a person.

"Sanctions" means any trade, economic or financial sanctions laws, regulations, embargoes or restrictive measures administered, enacted or enforced by the United Kingdom and any other laws, regulations, embargoes or restrictive measures applicable to Royal Mail and the GLRO.

"Sanctions List" means the Consolidated List of Financial Sanctions Targets, or any similar list maintained by, or public announcement of a Sanctions designation.

- 17.1 The GLRO acknowledges that for the purposes of this Agreement he will comply with all Sanctions even though some of those laws may not directly apply to it.
- 17.2 The GLRO represents and warrants that neither him nor his officers, employees, or anyone acting on his behalf in respect of this Agreement is: (i) a Restricted Party; or (ii) has breached any Sanctions applicable to him or to Royal Mail.
- 17.3 The GLRO warrants on his own behalf and on behalf of his officers and employees (or anyone acting on its behalf in respect of this Agreement), that in respect of this Agreement that they will comply with all Sanctions applicable to him or to Royal Mail.
- 17.4 If the GLRO or any of his officers or employees, or anyone acting on his behalf in respect of this Agreement, fails to comply with Sanctions (which shall include where the GLRO, or his officers or employees, or anyone acting on his behalf in respect of this Agreement, is or becomes a Restricted Party) or breaches any other provision of this Clause 17 (a **Breach of Sanctions**) then, without affecting any other remedies Royal Mail may have, Royal Mail will be entitled to terminate this Agreement immediately.
- 17.5 The GLRO warrants that he has read and understood the guidance provided by Royal Mail at www.royalmail.com/international-sanctions and the links it includes to the UK Government's dedicated sanctions websites.
- 17.6 The GLRO will be responsible for obtaining any licence required under Sanctions for both himself and Royal Mail if required and will provide Royal Mail, upon request, with evidence acceptable to Royal Mail that it has been obtained. Royal Mail will bear no responsibility if any Designated Organisation sends any item without the required licence. Royal Mail will not be under any responsibility to obtain a licence.
- 17.7 If any Designated Organisation sends or attempt to send an item which does not comply with Sanctions Laws, or Royal Mail suspects on reasonable grounds that an item does not comply with Sanctions Laws:
- 17.7.1 Royal Mail may deal with such item in its sole and absolute discretion (without incurring any liability whatsoever to the GLRO, Designated Organisation and/or the intended recipient) including disposing of the item in whole or in part, or returning the item to the Designated Organisation, opening that item or delaying processing or delivery;
- 17.7.2 Royal Mail may suspend (without incurring any liability whatsoever to the GLRO or the Designated Organisation) the provision of the Services until such time as Royal Mail is satisfied that there are no further breaches, or potential breaches of this Clause 17;
- 17.7.3 the Designated Organisation may be liable to prosecution if it or attempts to send an item which does not comply with Sanctions Laws; and

17.7.4 the provisions of Clause 17.8 shall apply.

17.8 To the extent permitted by law, the GLRO will hold harmless, indemnify and keep indemnified Royal Mail, his Affiliates and his employees (and any other persons acting on behalf of Royal Mail in respect of this Agreement) against all claims, liabilities, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by Royal Mail, his Affiliates and his employees (and any other persons acting on behalf of Royal Mail in respect of this Agreement) arising out or in connection with a Breach of Sanctions by the GLRO, his officers, employees or anyone acting on its behalf or any Designated Organisation in respect of this Agreement.

17.9 Royal Mail will not be liable to pay any compensation for loss, damage or delay (where otherwise payable) in respect of any item occurring because of such items being sent in breach of Sanctions.

18. GENERAL

18.1 This Agreement shall be governed by and construed in accordance with the laws of England and Wales. The Parties hereby submit to the exclusive jurisdiction of the English courts.

18.2 The failure of either Party to enforce or to exercise, at any time or for any period, any term of, or right arising pursuant to, this Agreement does not constitute, and shall not be construed as, a waiver of such term or right and shall not affect the Party's rights later to enforce or exercise it.

18.3 A person who is not party to this Agreement has no right under the Contracts (Rights of Third Parties Act) 1999 to enforce any term of this Agreement.

18.4 No variation of any of the terms of this Agreement shall be valid unless it is in writing and signed on behalf of both Parties. The expression "variation" shall include any variation, supplement, deletion or replacement to this Agreement.

18.5 This Agreement and the Schedules referred to in this Agreement embody the entire agreement between the Parties relating to the subject matter of the Agreement and supersedes all prior representations, negotiations and undertakings between the Parties, and there are no additional terms or obligations other than those contained herein.

18.6 If any Clause or part of a Clause of this Agreement shall be, or found by any GLRO or court of competent jurisdiction to be, invalid, illegal or unenforceable, such validity, illegality or unenforceability shall not affect the other Clauses or parts of such Clauses of this Agreement, all of which shall remain in full force and effect.

18.7 Where any inconsistency arises between the Schedules and the other terms of this Agreement, the terms of the Agreement shall prevail.

18.8 This Agreement may be signed in counterparts, each of which shall together constitute one and the same instrument.

SCHEDULE 1

The Services

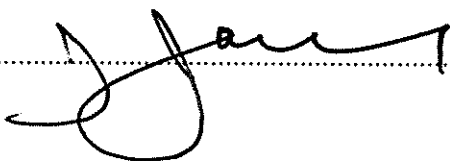
1. Subject to Clause 4.1, Royal Mail shall conduct a Primary Sweep for the Voting Areas where the Counting Officer has not explicitly rejected the Service.
2. Subject to Clause 4.1, Royal Mail shall conduct a Secondary Sweep in respect of the Voting Areas where a significant amount of Relevant Mail addressed to the Counting Officer in that Voting Area is expected to be collected at the Mail Centre concerned (estimated to be approximately 44 Sweeps in respect of all Voting Areas, although the precise number shall be at the discretion of Royal Mail).
3. Each Sweep shall be comprised of the following:
 - 3.1 Royal Mail shall on Polling Day use reasonable endeavours to extract Relevant Mail from the Mail Centre concerned;
 - 3.2 Royal Mail shall on Polling Day use reasonable endeavours to deliver all Relevant Mail retrieved to the Delivery Point for that Voting Area; and
 - 3.3 The timing of the delivery identified in paragraph 3.2 shall be before 22:00 hours on Polling Day but otherwise at the discretion of Royal Mail who will seek to optimise the number of Relevant Mail items retrieved and optimise the use of Royal Mail delivery vehicles.
4. Without prejudice to the reasonable endeavours obligations contained in paragraph 3 of this Schedule, and for the avoidance of doubt, Royal Mail is not obliged to and does not warrant that it will extract every item of Relevant Mail from the relevant Mail Centre or deliver every such extracted item to the Delivery Point.

SCHEDULE 2

Charges

£13,500 exclusive of VAT for 45 sweeps

Signed by Jeffrey Jacobs:



Date

Signed for and on behalf of Royal Mail Group Limited:

By

Name

Title

Date