

LEGAL CONTRACT BETWEEN ROYAL MAIL & CWU

JANUARY **2014**

Strictly Confidential
Without Prejudice and Subject to Contract

Date: [January 2014]

Parties:

- (1) **ROYAL MAIL GROUP LIMITED** (company number 04138203) whose registered office is at 100 Victoria Embankment, London EC4Y 0HQ (the “**Company**”); and
- (2) **COMMUNICATION WORKERS UNION**, a trade union within the meaning of section 1 of the Trade Union and Labour Relations (Consolidation) Act 1992, whose head office is at 150 The Broadway London SW19 1RX (the “**CWU**”).

1. INTERPRETATION

- 1.1 Terms used in this Agreement that have a defined meaning are printed with an initial capital letter. The definitions are set out in Schedule 1 (Definitions).
- 1.2 The singular shall include the plural and vice versa.
- 1.3 The headings to clauses and Schedules in this Agreement are for ease of reference only and do not affect its interpretation.
- 1.4 References in this Agreement to any statute or statutory provision will include any subordinate legislation made under it and will be construed as references to such statute, statutory provision and/or subordinate legislation as modified, amended, extended, consolidated, re-enacted and/or replaced and in force from time to time. References to legislation applicable in one part of the United Kingdom will include references to parallel legislation applicable in any other part.

2. SCOPE AND EFFECT

- 2.1 The Company and the CWU intend to enter this Agreement on the basis that it is a legally enforceable contract between the Company and the CWU. Accordingly the statutory presumption referred to in section 179(1) of the Trade Union and Labour Relations (Consolidation) Act 1992 will not apply.
- 2.2 For the avoidance of doubt, no Current Agreement shall constitute a legally binding agreement. In the event of any conflict between the provisions of this Agreement and the wording of any Current Agreement, the terms of this Agreement shall prevail.
- 2.3 The Protection set out in clause 3.1.7 of this Agreement shall be read in the context of the provisions of the Job Security, Resourcing and Managing Change Agreement.

- 2.4 Nothing in this Agreement shall prevent either party from seeking injunctive relief, specific performance or any other equitable relief for any breach of the provisions of this Agreement.
- 2.5 The rights and obligations of the parties under this Agreement are at all times subject to compliance with any Legal or Regulatory Requirements.

3. PROTECTIONS

- 3.1 The Company gives the following undertakings as an ongoing commitment to the CWU subject to clauses 4 (Exceptions) to 7 (Review Outcomes) and 10 (Duration):
 - 3.1.1 The Company will remain a provider of the end to end service namely the collection, transportation, sorting and delivery of letters and parcels.
 - 3.1.2 The Company will not outsource, sell or transfer to a company outside of the Royal Mail Group any part of its business if to do so would result in any Employee being subject to the automatic transfer provisions of TUPE. This means that business functions, including but not limited to, Parcelforce Worldwide, Royal Mail: Delivery, Processing, Network, Collections, Engineering, Fleet & Maintenance Services, Royal Mail Specialist Services, Manual Data Entry Centres, Mail Screeners, Human Resources, Finance and Information Technology functions and Customer Experience continue to operate as part of the Royal Mail Group.
 - 3.1.3 The Company will not franchise out any part of its business, where to do so involves entering into any contractual arrangement with another person or company to carry out the collection, transportation, sorting and delivery of letters and parcels on behalf of the Company and that results in an Employee becoming self-employed or employed by such a third party. The exception to this is the use in Parcelforce Worldwide of owner drivers in the proportions provided for by the Mixed Resourcing Agreement and Depot Blueprint Agreements.
 - 3.1.4 The Company will not engage any new Employee after the date of this Agreement on terms and conditions which are in any material respect inferior to the terms and conditions of employment of existing equivalent Employees of the same grade who are working to the same job description immediately before the engagement. This clause 3.1.4 does not apply to Employees who transfer to the Company under TUPE. In the event of such a transfer, normal consultation and

negotiation procedures will commence with consideration to applying the principles set out in this clause 3.1.4.

- 3.1.5 No Employee will be engaged on a zero-hours contract. This means that every Employee will be employed under a contract of employment providing for mutuality of obligation, and every contract of employment will specify a minimum number of hours for which the Employee will be available for work and for which the Employee will be paid whether or not work is provided.
- 3.1.6 Nationally collectively agreed terms and conditions of employment as they apply to existing Employees shall not be worsened in any respect or changed, save where amended by agreement between the Company and the CWU.
- 3.1.7 The terms of the Job Security, Resourcing and Managing Change Agreement shall remain in force with relevant provisions amended as follows:
 - (A) The overarching objective will be for the Company to deliver all future change without recourse to compulsory redundancy. To maintain this commitment, employees will need to be flexible and adaptable when considering reasonable and suitable alternative jobs and work locations.
 - (B) Full time Employees will remain full time unless they volunteer to move to part time hours. Part time Employees will be entitled to retain their existing contractual hours if they wish.
 - (C) Employees will be employed on permanent contracts, except where there is a genuine short term need identified by the Company after consultation with the CWU.
 - (D) Agency workers are intended to cover short term or unforeseen resourcing needs, expected to last for periods of no more than 12 weeks, which cannot be covered by offering additional hours to existing employees whilst maintaining quality of service. In the rare circumstances that employment exceeds 12 weeks the provisions of the Agency Workers Regulations 2010 (as amended) will apply.

In respect of Employees in Royal Mail Core Business Operations, Logistics and Network, Fleet & Maintenance Services, Royal Mail Specialist Services and Royal Mail International (Royal Mail) only, the following detailed resourcing principles will apply:

- (E) The overall resourcing model for the Company's ongoing business strategy and its operations will continue to be based predominantly on full time employment supported by part time employment. The agreed resourcing mix will be reviewed annually and the Company will provide the CWU with quarterly data establishing the actual resourcing mix at a national and regional level.
- (F) Employees will not be employed on a temporary contract exceeding two years unless it has been agreed by the Company and the CWU that there are very exceptional circumstances. The position of temporary contract Employees will be kept under regular review, with a view to converting to permanent contracts where and when possible.
- (G) The level of part time Employees' contracted hours will be reviewed by the Company and the CWU locally on a six monthly basis. Where appropriate, increased contracted hours will be offered to reflect the hours actually worked and planned.
- (H) The review due in October 2013 of the changes to the Managing the Surplus Framework terms referred to in paragraph 2.3 of the Job Security, Resourcing and Managing Change Agreement has been undertaken, the current terms have now been further extended and the next review will be in January 2015. In undertaking this review, the terms of the Managing the Surplus Framework shall not be subject to the Protection in clause 3.1.6.

3.1.8 The CWU will continue to be the recognised trade union for the purposes of collective bargaining and individual representation in respect of the Employees for whom it currently holds bargaining rights. The terms of the IR Framework regarding CWU representational structures, release, conferences and national briefings will remain in place unless renegotiated.

4. EXCEPTIONS

4.1 The Protection in clause 3.1.2 shall not apply to situations where:

- 4.1.1 before the date of this Agreement, the Company has made proposals to the CWU, in writing, regarding the possibility of outsourcing, selling or transferring a part of its business to another company, or the parties have agreed, in writing, that it may do so; or
- 4.1.2 Employees have transferred or transfer to the Company under TUPE and are engaged in the provision of services to a third party, and the contract for the provision of those services by the Company is subsequently terminated or comes to an end.

5. SCHEDULED REVIEWS

- 5.1 The commitments made by the Company under clause 3 (Protections) will be jointly reviewed by the Company and the CWU in accordance with clauses 6 (Review Criteria) and 7 (Review Outcomes) as follows:
 - 5.1.1 The first scheduled review will commence in January 2019 and will conclude by no later than 31 March 2019. As part of the review in 2019 the Company and the CWU will agree the schedule of reviews thereafter.
 - 5.1.2 The Company confirms there are no plans to outsource the Human Resources, Finance and Information Technology functions, but reserves the right, in the course of normal business planning, to consider options for these functions and may initiate a review at any time after January 2017.
- 5.2 Reviews will last for a period of no longer than three months from the receipt of a review notification by either party.
- 5.3 Before any review commences, the Company and the CWU may take steps to obtain and evaluate relevant data to inform the review (without pre-determining the outcome).

6. REVIEW CRITERIA

- 6.1 During any scheduled review period referred to in clause 5 (Scheduled Reviews), the parties shall in good faith consider the ongoing Protections having regard to the following:
 - 6.1.1 the overall financial situation of the Company;
 - 6.1.2 Legal or Regulatory Requirements;
 - 6.1.3 postal sector and general market conditions;

- 6.1.4 current and projected business performance; and
- 6.1.5 the conduct of industrial and employee relations.

7. REVIEW OUTCOMES

- 7.1 Undertaking any review pursuant to clauses 5 (Scheduled Reviews) and 6 (Review Criteria) above will not necessarily lead to any changes in the commitments made by the Company. The outcome of a review will result in one or more of the following:
 - 7.1.1 agreement in writing between the parties that any or all of the Protections will continue;
 - 7.1.2 agreement in writing between the parties confirming amendments to any or all of the Protections; or
 - 7.1.3 if after considering the review criteria in clause 6 and after exhausting the External Mediation procedure (provided that this shall not extend the three month review period), the parties do not reach agreement, the Company may terminate any or all of the Protections by serving one month's notice on the CWU.
- 7.2 In the event that the Company serves notice to the CWU of termination of any or all of the Protections in accordance with clause 7.1.3, the CWU may terminate the Agreement in its entirety on no less than one month's notice in writing specifying its reasons for doing so.
- 7.3 If any of the Protections are terminated in accordance with clause 7.1.3, the parties intend to enter into discussions in respect of alternative arrangements.

8. REMEDY

- 8.1 Where the CWU considers that the Company is in breach of any of the Protections, it will give written notice of the alleged breach to the Company. Following receipt of such notice, the Company shall have a period of grace of four weeks (or longer if the CWU agrees) within which to remedy the notified breach prior to the CWU instituting legal proceedings to seek a remedy.
- 8.2 Clause 8.1 will not apply if the CWU believes on reasonable grounds that following a period of grace might place the alleged breach concerned beyond remedy.

- 8.3 Except where a disagreement may be referred for External Mediation during a scheduled review as provided for in clause 7.1.3, the Procedures will not apply to a disagreement about the termination of a Protection or the application of the Protections in clauses 3.1.1 to 3.1.3, 3.1.5, 3.1.6 and 3.1.8.

9. INDUSTRIAL STABILITY

- 9.1 The Company and the CWU shall at all times co-operate and work together in good faith in accordance with the Current Agreements including the Agenda for Growth, Stability and Long Term Success and any other collective agreements reached between them during the term of this Agreement.
- 9.2 The Company and the CWU shall:
- 9.2.1 subject to clause 8.3, deal with any disputes for resolution in accordance with the Procedures as soon as reasonably practicable;
 - 9.2.2 ensure that any disputes are resolved at the lowest level possible and, where any dispute cannot be resolved at a certain stage of the Procedures, such dispute is escalated to the next stage of the Procedures; and
 - 9.2.3 use reasonable endeavours to procure that their managers and representatives respectively shall comply with the provisions of clauses 9.2.1 and 9.2.2.
- 9.3 If, at any time, either party believes that industrial stability is breaking down or the Procedures are not being adhered to by the other, that party may notify the other to initiate a formal review for a period of three months (unless the parties agree a longer period). During the review period the parties will use their reasonable endeavours to agree any remedial actions to resolve any issues, using External Mediators to assist where necessary.
- 9.4 At the end of the review period referred to in clause 9.3, if either party believes that industrial stability has not been restored or has no reasonable prospect of being restored within a reasonable time period, that party may serve on the other three months' notice to terminate the Agreement.
- 9.5 During the notice period referred to in clause 9.4, the parties will continue to use their reasonable endeavours to agree and implement any remedial actions to restore industrial stability, working with the External Mediator where necessary in order to seek alternatives to termination, provided that nothing shall affect the validity of the termination notice served, unless the parties agree otherwise.

10. DURATION

- 10.1 This Agreement shall take effect from the date it is signed by both parties.
- 10.2 The Company may terminate any or all of the Protections at the end of a review period in accordance with clause 7.1.3.
- 10.3 The CWU may terminate the Agreement in its entirety in accordance with clause 7.2.
- 10.4 The Company shall be entitled to notify the CWU at any time that any or all of the Protections will no longer continue, if any of the following exceptional circumstances apply:
 - 10.4.1 if Royal Mail ceases to be the Designated Universal Service Provider;
 - 10.4.2 in circumstances where, the Company believes on reasonable grounds that continuing the Protection concerned would, or would be likely to, place the Company in breach of, or result in the Company being unable to comply with, any Legal or Regulatory Requirement;
 - 10.4.3 in the event that the Company believes on reasonable grounds that any part of the business to which a Protection applies has ceased to be, or is likely to cease being, financially sustainable;
 - 10.4.4 in the event that the Company believes on reasonable grounds that a significant event or series of events has occurred, or is likely to occur, that has a material adverse effect, or is reasonably likely to have a materially adverse effect on (i) the Company's business or prospects or (ii) the legal or regulatory basis on which the Company operates (including but not limited to the Company's position as the sole Universal Service Provider); or
 - 10.4.5 if there is national-scale industrial action (in the form of a strike or action short of a strike) which has been authorised at national level by the CWU, namely industrial action which either (i) involves Employees in the majority of operational workplaces across the Company; or (ii) involves Employees in an integral part of the operation whereby taking action will have, or is reasonably likely to have, a similarly disruptive effect.
- 10.5 If clauses 10.4.2 and/or 10.4.3 apply to one part of the Company's business but not to another, the Company's right to serve notice under clause 10.4 shall apply only to the part of the business to which clauses 10.4.2 and/or 10.4.3 apply.

- 10.6 In the circumstances referred to in clause 10.4, the Company must give notice to the CWU at least one month before the relevant Protection terminates (unless, in the reasonable opinion of the Company, it is not reasonably practicable to do so) and specify why it is being given and to which of the Protections it applies.
- 10.7 In the event of termination of any of the Protections in accordance with clause 10.4, nothing shall prevent the CWU from exercising any legal rights and remedies it has in respect of such termination, including challenging whether any of the exceptional circumstances apply.
- 10.8 Either party may terminate this Agreement in accordance with clause 9.4.
- 10.9 Termination of this Agreement in whole or in part by either party is without prejudice to either party's rights, liabilities or remedies arising under this Agreement prior to such termination.
- 10.10 In the event that this Agreement is terminated in whole or in part, Current Agreements and any collective agreements reached during the term of this Agreement will remain in place in accordance with their terms.

11. GENERAL

Entire agreement

- 11.1 This Agreement constitutes the whole and only legally binding agreement between the parties relating to the subject matter of this Agreement.

Successors

- 11.2 The rights and obligations of the parties under this Agreement shall not be capable of assignment.

Third party rights

- 11.3 This Agreement does not form part of the contract of any Employee of the Company.
- 11.4 The parties do not intend that any term of this Agreement will be enforceable under the Contracts (Rights of Third Parties) Act 1999 by any person other than the parties.

Forbearance

- 11.5 If the CWU or the Company delays or fails to exercise a right or remedy under or in connection with this Agreement this will not constitute a waiver of, or

prevent or restrict future exercise of, that or any other right or remedy and the single or partial exercise of a right or remedy will not prevent or restrict the further exercise of that or any other right or remedy.

Cumulative

- 11.6 The rights, powers and remedies provided for in this agreement are cumulative and not exclusive of any rights, powers and remedies provided by law.

Variation

- 11.7 Any provision of this Agreement can be altered by agreement between the parties, but any such agreement will not be effective unless it is in writing signed on behalf of both parties.

Notices

- 11.8 Any notice to be given by one party to the other in accordance with this Agreement must be in writing, shall be marked for the attention of the specified representative of the party to be given the notice and:

11.8.1 sent by email to that party's email address; or

11.8.2 delivered to or left at (but not, in either case, by post) that party's address.

The address and representative for each party are set out below and may be changed by that party giving at least 14 days' notice to the other party.

The Company	The CWU
Royal Mail Group Limited	Communication Workers Union
100 Victoria Embankment	150 The Broadway
London	London
EC4Y 0HQ	SW19 1RX
For the attention of	For the attention of
Employee Relations/Industrial Relations Director	Deputy General Secretary (Postal)
cc Company Secretary	cc General Secretary
Email michael.newby@royalmail.com	Email dward@cwu.org
(cc jon.millidge@royalmail.com)	(cc whayes@cwu.org)

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11.9 Any notice given under this agreement shall, in the absence of earlier receipt, be deemed to have been duly given as follows:

11.9.1 if delivered personally, on delivery; and

11.9.2 if sent by email, when sent unless the sender receives an automatic electronic response indicating that the email has not been delivered.

Governing law and jurisdiction

11.10 This Agreement shall be governed by, construed and take effect in accordance with English law.

11.11 Subject to clause 9.2, the courts of England shall have exclusive jurisdiction to settle any claim, counterclaim, dispute or difference which may arise out of or in connection with this Agreement or the legal relationships established by this Agreement.

SIGNED by the parties on _____:

[insert name / role]

Authorised to sign on behalf of Royal Mail Group Limited

[insert name / role]

Authorised to sign on behalf of the Communication Workers Union

SCHEDULE 1

DEFINITIONS

In this Agreement, the following words and expressions shall have the meanings respectively set opposite them:

“Agenda for Growth, Stability and Long Term Success”	means the collective agreement entered into by the Company and the CWU on or around the date of this Agreement, titled “Agenda for Growth, Stability and Long Term Success”;
“Current Agreements”	means those agreements listed in Schedule 2 (Current Agreements) (but where only part of any such agreement remains applicable, then only that part);
“Depot Blueprint Agreements”	means the collective agreement, titled “Depot Blueprint Agreement “Working Together””, dated 2004 and referred to at item [●] in Schedule 2 (Current Agreements);
Designated Universal Service Provider	means a provider of the universal service under section 35 of the Postal Services Act 2011;
“Employees”	means employees of the Company in CWU-represented grades and in respect of whom the CWU has collective bargaining rights at the date of this Agreement (which for the avoidance of doubt does not include casuals);
“External Mediator”	means an external mediator from a panel of mediators jointly appointed by the parties in accordance with paragraph [5.4] of section [4] (Industrial Stability) of the Agenda for Growth, Stability and Long Term Success and where there is no jointly appointed panel, an external mediator appointed by the Chief Conciliator of ACAS;
“External Mediation”	means the external mediation process referred to in paragraph 4 of Schedule 3 (Dispute Resolution Procedures);
“IR Framework”	means: (a) the Industrial Relations Framework dated 1992 and as amended in 1994 that applies to Employees in the Royal Mail business and (b) equivalent Current Agreements that apply to Employees in other parts of the Company, including, but not limited to (i) the Agreed Procedure for the Conduct of Industrial Relations in Parcellforce, 1993 (ii) the Vehicle Services & CWU Industrial Relations Partnership and Consultation Agreement October 2003 Framework and (iii) the Royal Mail and NCU Industrial Relations Framework, 1993

(Engineers);

“Job Security, Resourcing and Managing Change Agreement” means the collective agreement between the Company and the CWU, titled “Job Security, Resourcing and Managing Change; A National Agreement between Royal Mail and Communication Workers’ Union”, dated 2012;

“Legal or Regulatory Requirement” means any:

- (i) statute, statutory instrument, bye-law, order or regulatory condition of any Regulatory Authority;
- (ii) binding commitment or binding undertaking given to a Regulatory Authority;
- (iii) treaty or law including any common law, judgment, demand, order or decision of any court or tribunal;
- (iv) legally binding requirement of any Regulatory Authority;
- (v) relevant codes of practice or best practice requirements governing the conduct of public listed companies; or
- (vi) decision made by a third party entity which the Company cannot control directly, such as (but not limited to) any decision by the Trustees of any Royal Mail Pension Plan;

“Managing the Surplus Framework” means the collective agreement between the Company and the CWU[, titled “Managing the Surplus Framework”], dated 18 March 2002 and as subsequently amended;

“Mixed Resourcing Agreement” means the collective agreement, titled “Resourcing Through Growth and Change Agreement”, dated August 2011;

“Procedures” means the dispute resolution procedures set out in paragraphs 2 to 8 of Schedule 3 (Dispute Resolution Procedures);

“Protections” means the undertakings given by the Company to the CWU in clause 3 (Protections) of this Agreement;

“Regulatory Authority” means Ofcom, the Office of Fair Trading, the European Commission, the Financial Conduct Authority of the UK, any taxation or revenue authority or any other governmental,

	statutory or regulatory body (whether in the UK or otherwise) which is responsible for the authorisation, regulation, licensing and/or supervision of the Company's business;
"Royal Mail Group"	means Royal Mail Group Limited, each of its holding companies and subsidiaries and each subsidiary of each of such holding companies (as each term is defined in the Companies Act 2006);
"Royal Mail Core Business Operation"	means the work and services currently provided by the Employees to the Company to operate the end to end service;
"Special Mediation"	means the special mediation procedure set out in paragraph 6 of Schedule 3 (Dispute Resolution Procedures); and
"TUPE"	means the Transfer of Undertakings (Protection of Employment) Regulations 2006, as amended.

SCHEDULE 2
CURRENT AGREEMENTS

[Company and CWU agreeing list to be inserted.]

SCHEDULE 3

DISPUTE RESOLUTION PROCEDURES

For the purposes of this Schedule 3, unless otherwise specified, the following words and expression shall have the meanings respectively set opposite them:

“Area Representative”	means [●];
“CWU’s Divisional Representative”	means [●];
“Early Warning/Flashpoints Procedure”	means the early warning/flashpoints procedure set out in paragraphs 7.1 to 7.3 in this Schedule 3;
“First Line Manager”	means the manager at the level at which the disagreement or dispute arose;
“National Parties”	means, in the case of the CWU, the Deputy General Secretary (Postal) and/or the relevant CWU national officer and, in the case of the Company, the relevant director sitting on the Operations Executive or equivalent and/or the Employee Relations/Industrial Relations Director;
“National Representatives”	means, in the case of the CWU, the Deputy General Secretary (Postal) and, in the case of the Company, the Employee Relations/Industrial Relations Director or, in each case, their nominated representative;
“Recommendation”	has the meaning given to it in paragraph 4.2 of this Schedule 3;
“Second Line Manager”	means a manager in the Company who has responsibility for interfacing with the CWU Area Representative;
“Special Mediators”	means the special mediators as described in paragraph [5.3] of section [4] (Industrial Stability) of the Agenda for Growth, Stability and Long Term Success;
“Third Line Manager”	means a manager in the Company at the level of Delivery Director in a “Geography” or equivalent who has responsibility for interfacing with the CWU Divisional Representative or equivalent;
“Unit Representative”	means [●]; and

“Voluntary Mediators” means the voluntary mediators as described in paragraph [5.2] of section [4] (Industrial Stability) of the Agenda for Growth, Stability and Long Term Success.

1. Introduction

- 1.1 The purpose of the Procedures is to facilitate the process of reaching agreement and resolving any differences that arise between the parties in respect of any disputes. It shall always be the objective to reach agreement without undue delay at the appropriate level.

2. Achieving Local Agreement

- 2.1 Any failure to reach agreement between a First Line Manager and a Unit Representative in respect of an issue which is negotiable shall be dealt with in accordance with the procedure set out in paragraphs 2.2 to 2.14 below (the **“Achieving Local Agreement Procedure”**).

Achieving Local Agreement Procedure

Stage 1: Area level

- 2.2 The First Line Manager and the Unit Representative will use reasonable endeavours to agree a joint statement outlining the disagreement and the reasons for it and forward such joint statement to the Second Line Manager and the Area Representative.
- 2.3 If a joint statement is not agreed, the First Line Manager and the Unit Representative shall each forward a separate statement to the Second Line Manager and the Area Representative outlining the reason for the disagreement.
- 2.4 On receipt of a statement or joint statement, the Second Line Manager and the Area Representative shall formally record that a disagreement has arisen and that this procedure has been initiated. Within one week of receipt of a joint statement, the Second Line Manager and the Area Representative will proceed to the step in paragraph 2.6 below. If separate statements are received, the Second Line Manager and the Area Representative shall use reasonable endeavours to agree a joint statement outlining the disagreement and the reasons for it.

- 2.5 If a joint statement is not agreed within one week of the date when the disagreement was recorded, the discussions referred to in paragraph 2.6 below shall proceed within the following week on the basis of separate statements prepared by the Second Line Manager and the Area Representative.
- 2.6 The Second Line Manager and the Area Representative, accompanied and assisted by whichever Company and CWU representatives they believe to be appropriate, shall enter into full, free and frank discussions with a view to reaching an agreement.
- 2.7 These discussions must last no longer than one week unless the parties involved agree that the disagreement is likely to be resolved within a further agreed period. If the disagreement is not resolved within one week (with an extension if agreed in writing) it will be referred for further consideration in accordance with Stage 2 (as set out in paragraphs 2.8 to 2.10 below).

Stage 2: Failure to agree at Area Level

- 2.8 The Second Line Manager and the Area Representative shall use reasonable endeavours to agree a joint statement outlining the disagreement and the reasons for it.
- 2.9 If a joint statement as referred to in paragraph 2.8 above is agreed within one week after the date that the Stage 1 discussions have been completed, the Second Line Manager and the Area Representative shall forward the joint statement to the Third Line Manager and the CWU's Divisional Representative promptly.
- 2.10 If a joint statement is not agreed within that one week period, the Second Line Manager and the Area Representative shall forward separate statements to the Third Line Manager and the CWU's Divisional Representative by the end of that week and discussions referred to in paragraph 2.11 below shall proceed on the basis of the separate statements.

Stage 3: Divisional Level

- 2.11 Within two weeks after receipt of a joint statement or any separate statement referred to in paragraphs 2.9 and 2.10 above respectively, the Third Line Manager and the CWU's Divisional Representative, accompanied and assisted by whichever Company and CWU representatives they believe to be appropriate, shall enter into full, free and frank discussions with a view to reaching an agreement.

- 2.12 These discussions must last no longer than two weeks unless the parties involved agree in writing that the disagreement is likely to be resolved within a further agreed period.
- 2.13 The discussions must lead to either:
- 2.13.1 a written agreement;
 - 2.13.2 an agreed formula to enable the First Line Manager and the Unit Representative to complete their negotiations. The local parties will then have a further two weeks in which to reach agreement, failing which the matter will be returned to the Third Line Manager and the Divisional Representative for them to refer it promptly to their respective National Representatives; or
 - 2.13.3 recognition that agreement cannot be reached at this level, in which case the Third Line Manager and the CWU's Divisional Representative will report promptly the failure to agree to their respective National Representatives.
- 2.14 If a matter is referred to the National Representatives for national intervention pursuant to clause 2.13 and they cannot resolve it within seven days of being contacted, either party may refer the matter to External Mediation in accordance with paragraph 4 below.
- 2.15 Whilst the Achieving Local Agreement Procedure is being followed, the Company and its managers will apply the principles set out in paragraph 5.2 below.

Voluntary Mediation

- 2.16 At any point during the Achieving Local Agreement Procedure, the parties involved may agree to engage Voluntary Mediators to assist them in reaching agreement.
- 2.17 The parties agreeing to call in Voluntary Mediators will set out their points of agreement and difference in writing and provide appropriate evidence and assistance to enable the Voluntary Mediators to facilitate them reaching agreement.
- 2.18 Where agreement with the assistance of the Voluntary Mediators cannot be reached within one week of their appointment, the disagreement will move automatically to the next stage of the Achieving Local Agreement Procedure and the timescales in relation to that will apply.

National Point of Principle or Interpretation

- 2.19 If, at any point in the Achieving Local Agreement Procedure, any party involved identifies that a point of principle relating to a national collective agreement arises, they may refer it to their relevant National Party for resolution in accordance with paragraph 3 below.

3. Achieving National Agreement

3.1 Point of Principle

If at any time it is identified that a disagreement has arisen between the Company and the CWU that relates to a point of principle of interpretation or clarification of a national collective agreement it shall, subject to clause 8.3 of this Agreement, be referred in writing to the relevant National Parties by either party for resolution within one month of the disagreement arising, unless both parties agree that the disagreement is likely to be resolved within a further agreed period.

Where the disagreement is not resolved within that period, the matter will be referred for External Mediation in accordance with paragraph 4 below.

3.2 National Matters

Where agreement cannot be reached in respect of a matter at national level that is not covered by an existing collective agreement within one month of discussions commencing, unless both parties agree that the disagreement is likely to be resolved within a further agreed period, either party may refer the matter for External Mediation in accordance with paragraph 4 below.

4. External Mediation

- 4.1 Any matter required to be referred for External Mediation pursuant to the Procedures, shall be referred by either of the relevant parties contacting their respective National Representative in the timeframe set out in those Procedures. The National Representatives will, no later than seven days after being contacted (the period for national intervention), jointly appoint an External Mediator or, where the parties cannot agree the appointment, an External Mediator will be appointed by the Chief Conciliator of ACAS.
- 4.2 The parties shall instruct the External Mediator to attempt to facilitate agreement between the parties on the issues in dispute and, in the event agreement cannot be reached within four weeks (or a longer period if the parties agree to extend this time limit) of his or her appointment, to issue a statement by the end of such period covering the following:

- 4.2.1 a summary of the final positions of the parties at the conclusion of the mediation;
- 4.2.2 the External Mediator's conclusions regarding any disputed points of fact that have emerged during the External Mediation process; and
- 4.2.3 the External Mediator's recommended solution to the matter or matters of dispute or disagreement between the parties,

(a "**Recommendation**").

- 4.3 All External Mediations shall take into account any regulatory and legal requirements, the terms and spirit of the Agenda for Growth, Stability and Long Term Success, other relevant national agreements, the needs of customers, the universal service obligation, and the need for appropriate efficiency supported by a climate of sustainable trust and collaborative decision making.
- 4.4 In reaching his or her Recommendation, the External Mediator shall also take account of any document, collective agreements, processes or policies relevant to the subject matter of the dispute which is to be determined and in reaching a decision will interpret those documents, agreements, processes or policies in a manner consistent with the principles at paragraph 4.3 above.
- 4.5 Although the recommendations from the External Mediator are non-binding, the expectation is that both parties will use the External Mediator's recommendations to resolve their differences.
- 4.6 The parties will meet within one week of the Recommendation to consider it and confirm whether or not they are able to accept or implement it. If they both agree, the Recommendation will be implemented.
- 4.7 If the parties are unable to agree in whole or in part with the Recommendation, they will advise the other of the reasons for this, indicate what they are prepared to agree instead and there will then be a further two weeks during which there will be a final opportunity to reach agreement before the process is concluded.
- 4.8 In the event that the process concludes without agreement, the parties will notify each other of their intentions in writing and the relevant dispute shall not be further subject to the Procedures.

5. Joint Commitment to the Procedures

- 5.1 The Company and CWU commit to follow and exhaust the Procedures without recourse to unilateral management action or CWU industrial action as set out in paragraphs 5.2 to 5.6 below.
- 5.2 Whilst the Achieving Local Agreement Procedure is being followed, the Company and its managers will continue to apply national and local agreements which are already in place or have been agreed for implementation (or where there is no recorded agreement, whatever practice has been in place for at least one working week immediately prior to Stage 1 of the Achieving Local Agreement Procedure being entered into as described in paragraphs 2.2 to 2.7 above). The only exception to this is where an urgent operational health, safety or legal requirement cannot be delayed. The requirement will be fully explained immediately to the local CWU representative and employees. Either party may subsequently review the circumstances leading to the action and propose how to deal with such cases in future.
- 5.3 Without prejudice to clause 10.4 of this Agreement, until the Procedures have been exhausted in respect of any dispute (including any dispute subject to the early warning / flashpoints procedure in paragraph 7 below), the CWU will not call on its members to take strike action or industrial action short of a strike in relation to that dispute.
- 5.4 The CWU will at all times use its best endeavours to prevent and to stop any instances of unballoted industrial action.
- 5.5 The CWU shall, upon being notified of any instances of unballoted industrial action, take all necessary steps with the Company to achieve a return to working normally and will comply with its legal obligations in respect of such action. The CWU representative and Company manager will immediately inform the CWU's Divisional Representative and the Company's Head of Industrial Relations respectively.
- 5.6 The CWU's Divisional Representative and the Head of Industrial Relations will work with the relevant Company manager and relevant CWU representative to identify the cause of the industrial action, and seek to resolve differences.

6. Special Mediation

- 6.1 Where unballoted action has occurred and there is no expectation of a quick return to work, and/or the dispute continues into a second day, the CWU's Divisional Representative and the Head of Industrial Relations will appoint two Special Mediators (or a single Special Mediator where that is agreed between the parties) without delay to assist the parties in achieving a return to working normally so that the issues that led to the industrial action may be investigated and resolved through the appropriate process.
- 6.2 In the event that the industrial action continues for a period of more than 48 hours after it began, during which period the National Parties will discuss the situation, the National Parties will refer the matter for External Mediation in accordance with paragraph 4 above.

7. *Early Warning/Flashpoints Procedure*

- 7.1 Without prejudice to clause 8.3 of this Agreement, where industrial relations problems arise to which the other Procedures do not apply, the parties concerned will resolve the matter at the lowest possible level. If they cannot resolve the matter at that level, either party may refer the matter to the CWU's Divisional Representative or Third Line Manager.
- 7.2 The CWU's Divisional Representative and the Third Line Manager will then agree appropriate measures to resolve the issue.
- 7.3 In the event that a solution is not found within a period of no more than one month of the matter being raised by the original party, the CWU's Divisional Representative and the Third Line Manager will refer the matter for External Mediation in accordance with paragraph 4 above.

8 General

- 8.1 The Voluntary Mediation, Special Mediation or External Mediation shall be treated as a without prejudice and confidential dispute resolution process, provided that this paragraph shall not apply to a Recommendation.



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