

DATED 28<sup>th</sup> March 2003

- (1) POST OFFICE LTD
- (2) FUJITSU SERVICES (PATHWAY) LTD
- (3) FUJITSU SERVICES (PATHWAY ASSET COMPANY) LTD
- and
- (4) FUJITSU SERVICES HOLDINGS PLC

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DEED OF RELEASE

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THIS DEED OF RELEASE is made the 28 day of March 2003

**BETWEEN:**

- (1) **POST OFFICE LTD** (Registered Number 2154540) a company incorporated under the laws of England whose registered office is at 80-86 Old Street, London EC1V 9NN ("**Post Office**");
- (2) **FUJITSU SERVICES (PATHWAY) LTD** (Registered Number 3011561) a company incorporated under the laws of England whose registered office is at 26 Finsbury Square, London EC2A 1SL ("**Pathway**");
- (3) **FUJITSU SERVICES (PATHWAY ASSET COMPANY) LTD** (Registered Number 3011564) a company incorporated under the laws of England whose registered office is at 26 Finsbury Square, London EC2A 1SL ("**Asset Co**"); and
- (4) **FUJITSU SERVICES HOLDINGS PLC** (Registered Number 142200) a company incorporated under the laws of England whose registered office is at 26 Finsbury Square, London EC2A 1SL ("**Holdings Plc**").

**RECITALS:**

- A) Pathway provides various services to the Post Office under an agreement between them dated 28 July 1999, in the form of that agreement set out in change control note number 1100 (dated 31 December 2002) (the "**Post Office Agreement**").
- B) Consent Agreements (as herein defined) were entered into by the parties in connection with the financing of work under, (i) contractual arrangements predating but related to the Post Office Agreement; and (ii) the Post Office Agreement. The Consent Agreements provide, amongst other related matters, that certain financing documents and corporate structures can only be changed with the consent of the relevant parties to the Consent Agreements.
- C) Borrowings under the credit facilities referred to in the Consent Agreements have been repaid in full and the financing arrangements and corporate structures, falling within the scope of Consent Agreements, no longer need to be maintained as provided for in the Consent Agreements. Consequently, the parties to this Release agree that they no longer wish to enforce the Consent Agreements and wish to release each other from any associated obligations and liabilities (if any).
- D) This Release sets out the terms on which the release, described in Recital C above, will be effected.

**IT IS AGREED:**

**1. INTERPRETATION**

- 1.1 In this Release the following terms have the following meanings:

**"Consent Agreements"**

The following agreements:

- A consent agreement dated 16



3.1.2 as between any or all of the Parties the Consent Agreements shall be deemed to be terminated and of no effect.

under or in relation to the Consent Agreements; and

(b) waive all rights they had in respect of each other,

(a) release each other from all obligations and liabilities (if any); and

3.1.1 the Parties:

### RELEASE OF THE CONSENT AGREEMENTS

3.1 From the Effective Date:

2.1.2 neither The Bank of Tokyo-Mitsubishi Ltd (London Branch) nor Mizuho Corporate Bank (formerly The Dai-ichi Kangyo Bank Ltd) (each a party to a Loan Agreement) has a valid claim on the assets owned by Pathway or Asset Co and used for the purposes of the Post Office Agreement.

2.1.1 it has repaid in full all borrowings under the Loan Agreements as amended and restated by the Supplemental Agreements (each as defined in the Consent Agreement dated 14 December 1999); and

2.1 Asset Co warrants that:

### WARRANTY

2. "Parties" Post Office, Pathway, Asset Co and Holdings Plc;

"Party" Post Office, Pathway, Asset Co or Holdings Plc.

"Release" this deed of release (including its clauses and recitals);

"Effective Date" 00:01 on 31 March 2003;

- A consent deed dated 14 December 1999 between (1) Post Office Counters Ltd(2) ICL Plc; (3) ICL Pathway Ltd; and (4) ICL Pathway Asset Company Limited.
- September 1997 between, (1) The Secretary of State for Social Security; (2) Post Office Counters Ltd; (3) ICL Plc; (4) ICL Pathway Limited; and (5) ICL Pathway Asset Company Limited (including an amendment to this consent agreement noted in a letter from Bird & Bird dated 19 September 1997 concerning the correction of the registered office of Post Office Counters Ltd as set out in the consent agreement); and



3.2 The terms of this Release shall be in full and final settlement of all claims and counterclaims which any of the Parties may have against any other of them under or in relation to the Consent Agreements (whether or not such have been made the subject of a claim or counterclaim at the Effective Date).

4. **GENERAL PROVISIONS**

4.1 **Entire Agreement**

This Release and the documents referred to herein constitute the entire understanding between the Parties relating to its subject matter. Each Party confirms that it has not relied on any representation, warranty, promise or assurance, whether or not in writing, and whether or not negligent, given or made by any other Party as an inducement to enter into this Release. Accordingly no Party shall have any other right of action (except in the case of fraud) against any other Party arising out of any such representation, warranty, promise or assurance.

4.2 **Rights of Third Parties**

No person who is not a Party to this Release shall have any right to enforce or benefit from any term of this Release.

4.3 **Law and Jurisdiction**

This Release shall be governed by and shall be interpreted in accordance with English Law and the Parties submit to the exclusive jurisdiction of the English Courts.

**IN WITNESS** whereof the Parties have executed this Release as a deed on the date first appearing above:

**EXECUTED AS A DEED**  
by **POST OFFICE LTD** acting  
by a director and its  
secretary/two directors

) **GRO**  
)  
) **GRO**  
) Director/Secretary  
)  
) **GRO**  
) Director

**EXECUTED AS A DEED**  
by **FUJITSU SERVICES**  
**(PATHWAY) LTD** acting  
by a director and its  
secretary/two directors

) **GRO**  
)  
) **GRO**  
) Director/Secretary  
)  
) **GRO**  
) Director



EXECUTED AS A DEED  
by FUJITSU SERVICES  
(PATHWAY ASSET  
COMPANY) LTD acting  
by a director and its  
secretary/two directors

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**GRO**

) Director/Secretary

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**GRO**

EXECUTED AS A DEED  
by FUJITSU SERVICES  
HOLDINGS PLC acting  
by a director and its  
secretary/two directors

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**GRO**

) Director/Secretary

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**GRO**

) Director



**ICL PATHWAY LIMITED**

Finance is being arranged for ICL Pathway Limited for the entire value of capital expenditure and for related services expenditure on the Project, totalling approximately £200m. These arrangements are designed to meet the majority of ICL Pathway's financing needs over the term of the contract. However, further funding of £100m (approximately) for operational costs during roll out (peaking in 1999), will be arranged by ICL in due course.

To enable the financing, ICL Pathway Limited is proposing to enter into a Leasing and Other Services Agreement with ICL Pathway Asset Company Limited for the provision of capital and services expenditure of up to £200m incurred before 31 December 1999. ICL Pathway Asset Company Limited, formally Pathway 2000 (a dormant company wholly owned by ICL Pathway Limited) is being structured as a special purpose funding vehicle which will enter into various agreements with financial institutions to secure the funding.

Under these arrangements, ICL Pathway Asset Company Limited will arrange finance for up to £200m, and will charge ICL Pathway Limited a monthly rental for the provision of the capital and services expenditure. The rental will ensure that the underlying loans in ICL Pathway Asset Company Limited will be fully recovered by 30<sup>th</sup> September 2005 (the end point of the POCL contract).

As part of the arrangement between ICL Pathway Limited and ICL Pathway Asset Company Limited, a number of supply contracts will be assigned from ICL Pathway Limited to ICL Pathway Asset Company Limited. ICL Pathway Limited will nonetheless carry out all the services as previously contemplated and contracted for, and the rights of BA/POCL will not be affected in any way.

It is proposed to appoint the following Directors to the Board of ICL Pathway Asset Company Limited:

Richard Christou  
Stefan Riesenfeld  
Ian Hill

and that Rod Scott remain as Company Secretary.

The issued share capital of ICL Pathway Asset Company Limited will be increased to £1,000 (at present only £1 is issued) and it is proposed ICL Pathway Limited subscribe for the new shares.

**RESOLVED**

**THAT** the Board hereby appoints any of Stefan Riesenfeld, Tony Oppenheim or Richard Christou or the Company Secretary to finalise these arrangements or as they may be varied at their discretion and to sign the requisite documentation on behalf of ICL Pathway Limited.

SIGNED:

Director:

**GRO**

25/6/97





## MEMORANDUM

Company Secretary's Office

8<sup>th</sup> December 1999**To:** The Directors, ICL Pathway Ltd*complete.***From:** Rod Scott**Re:** ICL Pathway Ltd – Refinancing

Following the re-negotiation of the Pathway project in the summer, discussions have continued with DKB and Bank of Tokyo Mitsubishi (BOTM) to refinance the project.

The proposed new arrangements represent a formal project financing of Pathway, with an existing Fujitsu International Finance ("FIF") facility remaining in place as "back-up" line. Essentially £200m in fixed term loans previously negotiated with DKB and BOTM will be replaced by revolving facilities of the same initial amount. The available amount will reduce in line with project financing projections with expiry in September 2003. One of the consequences of this is that cash receipts as the project continues will reduce the borrowings outstanding under the facilities whereas previously the loan amounts were fixed. This should have a cost advantage.

The amendment to the financing agreements involve amendment to the original consent agreement (whereby (inter alia) the parties consented to the financing). ICL Pathway Asset Company Ltd, ICL Pathway Ltd, ICL PLC and Post Office Counters Limited (POCL) must execute a new consent agreement, which POCL insist includes a clause to ensure that the Fujitsu performance guarantee remains in place. Accordingly Fujitsu is being requested to confirm to the Directors of ICL PLC and ICL Pathway Ltd that its guarantee will continue in force following the changes in the arrangements. The FIF facility will also be amended to reflect the new financing arrangements through a deed of amendment. The amendments to the FIF facility, and the new consent agreement, are conditions precedent to the new loan arrangements being put in place.

May I therefore request that you kindly sign and fax back to me, the attached resolution giving the company's consent to the transaction and the execution of the documentation (as set out in detail in the resolution) and appointing Messrs Christou and Gibson by power of attorney to complete the formalities.

Thank you, Rod Scott



**ICL PATHWAY LIMITED**  
**Company No. 3011561**  
**(the "Company")**

Written Resolution of all the Directors of the Company pursuant to Regulation 93 of Table A as set out in the Schedule to the Companies (Tables A to F) Regulations 1985 (as amended) which is incorporated in the Company's Articles of Association.

The Board noted that in connection with the refinancing and rescheduling of rental payments (the "**Refinancing**") relating to the project for the provision of information technology services to bring technology to post offices and benefit payments (the "**Project**") the current terms of which are set out in an agreement dated 28 July 1999 (the "**Codified Agreement**") between the Company and Post Office Counters Limited ("**POCL**"), it was proposed that the following agreements be executed by the Company, its subsidiary ICL Pathway Asset Company Limited ("**ICL PACL**") and its holding company, ICL PLC.

- (1) A consent deed between POCL, ICL PLC, the Company and ICL PACL (the "**New Consent Deed**"). This is required because under the terms of a Consent Agreement dated 16 September 1997 and made between the Secretary of State for Social Security, acting through and on behalf of the Department of Social Security and on behalf of the Department of Health for Northern Ireland (the "**DSS**"), POCL, ICL PLC, the Company and ICL PACL consent is required to any changes relating to the agreements which were entered into in relation to the financing of the Project. In view of the fact that the DSS has now withdraw from the Project its consent is not being sought in relation to the changes to be made. However, the New Consent Deed includes an indemnity in favour of POCL in respect of any claim from the DSS arising from the fact that its consent is not being sought in respect of the changes which are to be made to the original documentation. The New Consent Deed also contains a provision to the effect that the New Consent Deed will be of no effect to the extent that it has any effect on the validity or enforceability of the guarantee and indemnity dated 28 July 1999 given by Fujitsu Limited to POCL (the "**Guarantee**") and the Company has been advised that the directors should seek a comfort letter from Fujitsu Limited to the effect that they will not raise any issue that the Guarantee is invalid or unenforceable by reason of the Company having entered into the New Consent Deed.
- (2) A supplemental agreement to be entered into between ICL PACL and the Company relating to the rescheduling of rental payments under the Leasing and Other Services Agreement dated 18 September 1997 (ICL PACL and the Company desiring to make such changes for which POCL's consent is not required) and other changes consequential to the amendments to that agreement (the "**Pathway Companies Supplemental Agreement**").
- (3) A supplemental deed (the "**Supplemental Deed**") to be entered into between ICL PACL, The Bank of Tokyo-Mitsubishi, Limited ("**BTM**"), The Dai-Ichi Kangyo Bank, Limited ("**DKB**") and Fujitsu International Finance (Netherlands) B.V ("**FIF**") relating to:
  - (a) the amendment of the terms of a Loan Commitment Facility Agreement dated 18 September 1997 made between FIF and ICL PACL (the changes relating primarily to the replacement of the existing clause relating to representations, warranties, undertakings and default with new wording and amendments to certain definitions);
  - (b) the amendment of the terms of a Deed of Assignment dated 18 September 1997 made between ICL PACL and DKB as security trustee to include new recitals and a new Notice of Assignment;
  - (c) the amendment of certain definitions in the Security and Pari Passu Trust Deed dated 18 September 1997 made between BTM, DKB, ICL PACL and DKB (as security trustee).
- (4) A supplemental agreement between ICL PACL and BTM amending and restating the terms of a facility agreement dated 18 September 1997 with the effect that the facility is now a revolving facility with a maximum amount of £100 million and the interest is the aggregate of LIBOR plus 0.70% per annum (the "**BTM Supplemental Agreement**").



- (2) A supplemental agreement between ICL PACL and DKB amending and restating the terms of a facility agreement dated 18 September 1997 with the effect that the facility is now a revolving facility with a maximum amount of £100 million and the interest is the aggregate of LIBOR plus 0.70% per annum (the "**DKB Supplemental Agreement**").

**THE BOARD HEREBY RESOLVES THAT**

- (a) The arrangements detailed in the New Consent Deed, the Pathway Companies Supplemental Agreement, the Supplemental Deed, the BTM Supplemental Agreement and the DKB Supplemental Agreement be and hereby are approved.
- (b) The New Consent Deed and the Pathway Companies Supplemental Agreement (in the form annexed hereto in Schedule 1 with such amendments as the Attorney (as defined below) shall deem necessary or desirable) be and hereby is approved for execution, delivery and completion on behalf of the Company by the Attorney referred to in (c) below.
- (c) Each of Alan James Gibson and Richard Christou be and is hereby authorised to act as the Company's attorney on the terms set out in the form of Power of Attorney attached hereto as Schedule 2 (the "**Power of Attorney**") to execute and deliver the New Consent Deed as a deed on behalf of the Company and to execute and deliver the Pathway Companies Supplemental Agreement on behalf of the Company and to give all communications, certificates or confirmations and to take any other action under or in connection with the Refinancing on behalf of the Company as any of them may consider necessary, appropriate or desirable and to execute, arrange or approve execution and deliver on behalf of the Company any documents in relation to the Refinancing in such form or on such terms as either of them in his absolute discretion thinks fit.
- (d) The Power of Attorney should be executed as a deed by the Company in accordance with the Articles of Association of the Company and as required by law.

D GRO day of December 1999

Richard Christou

John Bennett

Sir Michael Butler

Timothy Escudier

Hiroaki Kurokawa

Anthony Oppenheim

Michael Stares

Keith Todd



No. 3011564

## **Fujitsu Services (Pathway) Limited**

Minutes of a Meeting of the Board of Directors  
held on 28 March 2003 at 26 Finsbury Square, London EC2A 1SL

Present: R. Christou (in the Chair)  
B. Harris

In attendance: R. Moseley  
R.A.J. Allnutt

Apologies: D.J. Courtley  
H. Hirata  
S.M. Muchnow

### **BACKGROUND**

1. It was noted that notice had been given to all the Directors of the Meeting and there was a quorum present.
2. It was reported that the meeting had been convened to consider certain actions to be taken by the Company pursuant to a proposed restructuring (the "Restructuring") of the Fujitsu Services group in the United Kingdom (the "FS Group"). It was explained that the primary reasons for the Restructuring were:
  - (a) to enable Fujitsu Services Holdings plc ("FSH") to continue paying preference dividends out of profits available for distribution in respect of its Preference Shares and to fully or partially repay amounts owing in respect of its Preference Shares of approximately £168,000,000 in July 2005; and
  - (b) to improve the financial position of Fujitsu Services Limited ("FSL"), the Company's holding company and a subsidiary of FSH, so as to provide further comfort and confidence to its customers and suppliers and reflect the FS Group's improving financial performance.
3. There was tabled before the meeting a copy of a memorandum setting out in outline the terms of the Restructuring which was envisaged in relation to the FS Group (the "Restructuring Memorandum"). It was explained that, as part of the Restructuring, the Company would be required to perform various actions pursuant to Step 1 of the Restructuring Memorandum. The meeting would consider the commercial reasons



for and legal issues relating to these proposed actions and, if appropriate, approve these actions in anticipation of the Restructuring.

#### **LEGAL ISSUES**

4. There was produced to the meeting a memorandum from the Company's legal advisors, Mayer, Brown, Rowe & Maw explaining the principal legal issues arising in relation to the proposed Restructuring and the matters to be considered by the directors of the relevant FS Group companies ("Legal Issues Memorandum"). The directors considered the Legal Issues Memorandum.

#### **SALE OF PATHWAY BUSINESS TO FSL**

5. It was noted that Step 1 in the Restructuring Memorandum involved the proposed sale by the Company of its entire business and assets (other than cash and the shares in its subsidiary, Fujitsu Services (Pathway Asset Company) Limited ("FSPAL") to FSL (the "FSPL Sale") and the proposed sale of the entire business and assets of the Company's subsidiary, FSPAL, to FSL (the "FSPAL Sale") as a going concern on the terms of draft sale and purchase agreements to be entered into between respectively (1) the Company and (2) FSL (the "FSPL Sale Agreement") and (1) FSPAL and (2) FSL (the "FSPAL Sale Agreement") (together the "Sale Agreements"). Copies of the latest drafts of the Sale Agreements were tabled to the meeting and initialled by the Chairman for the purposes of identification. It was noted that, in relation to the FSPL Sale, the consideration was £59,400,000 in respect of the Goodwill and £25,100,000 in respect of the Assets (as adjusted in accordance with the terms of the FSPL Sale Agreement) and that, in relation to the FSPAL Sale the consideration was £9,700,000. The directors noted that the basis for the valuations of the asset transfers in respect of the FSPL Sale and the FSPAL Sale were set out in a board paper prepared by Neil Henfrey addressed to the directors of the Company and FSPAL (the "Pathway Board Paper"). The Pathway Board Paper confirmed that the consideration for the FSPL Sale would be equal to the net book value of the Company's assets plus an amount representing goodwill. The consideration payable for the FSPAL Sale would be the economic value of FSPAL's deferred tax assets.

The directors concluded that, on the basis of the information set out in the Pathway Board Paper, the consideration payable for the FSPL Sale and the FSPAL Sale represented the market value of the businesses being sold. Accordingly the directors noted that the issues referred to in the Legal Issues Memorandum in relation to the FSPL Sale and the FSPAL Sale were satisfactorily addressed.



## NOVATION OF POST OFFICE AGREEMENT AND RELATED MATTERS

6. It was reported that under the agreement between Post Office Limited (the "Post Office") and the Company dated 28 July 1999, in its revised form dated 31 December 2002, (the "Post Office Agreement"), the Company is obligated to novate the Post Office Agreement to FSL (the "Novation"), subject to receiving confirmation from the Post Office that it wishes the Novation to be carried out. It was explained that such confirmation has been received from the Post Office and that the Novation is due to occur on or before 1 April 2003.
7. It was explained that under the Post Office Agreement, the Post Office had agreed that, having given the confirmation referred to in the previous minute, it would enter into a deed of novation (subject to agreement on the precise terms of that deed) under which the entire benefit and burden of the Company's rights and obligations under the Post Office Agreement would be transferred to FSL.
8. A copy of the form of the deed of novation (the "Post Office Novation Agreement") which had agreed by the Company, the Post Office and Fujitsu Services Limited was tabled to the meeting. It was noted that the effect of the Deed of Novation would be:
  - 8.1 to place FSL in a position as if it was, and had at all times been, an original party to the Post Office Agreement in place of the Company;
  - 8.2 that the Post Office would release and discharge the Company from any further performance under the Post Office Agreement and from all claims, demands and obligations whatsoever in relation to the Post Office Agreement; and
  - 8.3 that any further performance under the Post Office Agreement would be undertaken by FSL and all claims, demands and obligations whatsoever in relation to the Post Office Agreement would be made against FSL.
9. It was reported that in connection with the Novation:
  - 9.1 under the Post Office Agreement, the Company would be required to novate relevant subcontracts to FSL; and
  - 9.2 a number of other third party contracts and licence agreements would need to be transferred to FSL by the Company and by FSPAL to enable FSL to perform its obligations under the Post Office Agreement following the Novation.
10. Pursuant to Minute 9.1, copies of the forms of the novation agreements (the "Subcontract Novation Agreements") proposed to be entered into by (1) FSL, (2) the



Company and (3) the relevant subcontractor were tabled to the meeting. It was noted that the relevant subcontractors were the following entities:

- Energis Communications Limited
- The Escher Group Limited
- Fujitsu Consulting Limited
- Hypercom Financial Terminals AB
- Romec

11. Pursuant to Minute 9.2, copies of the forms of the novation agreements (the "Supplier Novation Agreements") proposed to be entered into by (1) FSL, (2) the Company and (3) the relevant principal supplier in relation to the Post Office Agreement, were tabled to the meeting. It was noted that the principal suppliers were the following entities:

- IBM UK Limited (Tivoli)
- Oracle Corporation UK Limited
- Metron Technology Limited.

12. It was reported that the intention was that each Subcontract Novation Agreement and each Supplier Novation Agreement would be entered into on, or as soon as the Novation is completed after, 31 March 2003.

13. It was further reported that:

13.1 all other agreements between the Company and third parties relevant to the performance of the Post Office Agreement were listed in Schedule 2 (Contracts Schedule) of the FSPL Sale Agreement which it is intended be entered into by the Company and FSL on 31 March 2003; and

13.2 it was intended that the transfer of those agreements would be effected by the FSPL Sale Agreement or by such other additional agreements as may be necessary to effect such transfer.

14. The directors present carefully considered:

14.1 the form of the Post Office Novation Agreement;



- 14.2 the forms of the Supplier Novation Agreements;
  - 14.3 the forms of the Subcontract Novation Agreements; and
  - 14.4 the form of Schedule 2 (Contracts Schedule) of the FSPL Sale Agreement.
15. The meeting discussed the financial and commercial aspects of the Novation, including the requirement to novate relevant subcontracts to FSL (as noted in Minute 9.1) and the need to transfer a number of other third party contracts and licence agreements to FSL (as noted in Minute 9.2) (together, the "Transaction") and concluded that:
- (a) the Transaction is in the best interests of the Company; and
  - (b) the Post Office Novation Agreement, the Subcontract Novation Agreements, the Supplier Novation Agreements, and the list in Schedule 2 each be and are hereby approved subject to such changes as the Committee (established pursuant to Minute 23) (the "Committee") may approve.

#### **GUARANTEE**

16. It was also noted that FSH was party to a guarantee entered into on 31 December 2002 (the "Guarantee") relating to the Company's obligations and liabilities under the Pathway Contract. It was also noted that the provisions of the Guarantee confirmed that, following execution of the Novation Agreement, FSH would guarantee the performance of FSL's obligations and liabilities (in substitution for the Company's obligations and liabilities) under the Pathway Contract. Consequently, no re-statement or re-execution of the Guarantee was required as part of the Restructuring.

#### **DEEDS OF RELEASE**

17. It was reported to the meeting that there existed two consent agreements as follows:
- 17.1 the first, an agreement dated 16 September 1997 between (1) The Secretary of State for Social Security, (2) Post Office Counters Limited (now Post Office Limited), (3) ICL Plc (now FSH), (4) the Company and (5) ICL Pathway Asset Company Limited (now FSPAL) (including an amendment to this consent agreement noted in a letter from Bird & Bird dated 19 September 1997 concerning the correction of the registered office of Post Office Counters Limited as set out in the consent agreement); and



17.2 the second, a deed dated 14 December 1999 between (1) Post Office Counters Limited, (2) ICL Plc, (3) the Company and (4) FSPAL;

(together, the "Consent Agreements") pursuant to which certain financing arrangements and corporate structures can only be changed with the consent of the relevant parties to the Consent Agreements. The Consent Agreements also detailed a number of ancillary agreements to which the Company and FSPAL were parties relating to those financing arrangements.

18. It was reported to the meeting that borrowings under the financing arrangements referred to in the Consent Agreements had been repaid in full and the financing arrangements and corporate structures falling within the scope of the Consent Agreements would no longer need to be maintained as provided for in the Consent Agreements. Consequently it was desirable that the parties to the Consent Agreements were released from their obligations under those agreements.

19. There was produced to the meeting a form of deed of release from the Consent Agreements to be entered into between (1) the Post Office, (2) the Company, (3) FSPAL and (4) FSH (the "First Deed of Release"). It was noted that under the First Deed of Release with effect from 00:01 on 31 March 2003:

19.1 the parties would release each other from all obligations and liabilities (if any) and waive all rights they had in respect of each other under or in relation to the Consent Agreements;

19.2 as between any or all of the parties to the First Deed of Release, the Consent Agreements would be deemed to be terminated and of no effect; and

19.3 the terms of the release would be in full and final settlement of all claims and counterclaims which any of the parties to the First Deed of Release may have against any other of them.

20. There was also produced to the meeting a second form of deed of release to be entered into between (1) the Company and (2) FSPAL (the "Second Deed of Release"). It was noted that under the Second Deed of Release with effect from [12:00pm] on 31 March 2003:

20.1 the parties would release each other from all obligations and liabilities (if any) and waive all rights they had in respect of each other under or in relation to the ancillary agreements (being a sale agreement, four assignment agreements, a licence



agreement, a leasing and other services agreement, a service agreement and an account bank agreement, all as referred to in the Consent Agreements);

- 20.2 any leasing, service, licensing or other arrangements between the parties provided for in the ancillary agreements still in effect would be terminated and as between the parties the ancillary agreements would be deemed to be terminated and of no effect;
- 20.3 the terms of the release would be in full and final settlement of all claims and counterclaims which either of the parties may have against the other.
- 21. The meeting discussed the financial and commercial aspects of the Consent Agreements and the First Deed of Release and the Second Deed of Release (the "Releases") and concluded that the Releases are in the best interests of the Company.

#### **THE FSPL LOAN AND THE FSPAL LOAN**

- 22. The Chairman explained that, as a further part of Step 1 of the Restructuring, the Company would on 31 March 2003 lend to FSL an amount equal to the consideration payable by FSL in relation to the FSPL Sale (as adjusted in accordance with the terms of the FSPL Sale Agreement) (the "FSPL Loan") and that FSPAL would on 31 March 2003 lend to FSL an amount equal to the consideration payable by FSL in relation to the FSPAL Sale (as adjusted in accordance with the terms of the FSPAL Sale Agreement) (the "FSPAL Loan") (together with the FSPL Loan, the "Loans"). The Loans would be interest free, unsecured and repayable on demand. The meeting noted the issues raised in the Legal Issues Memorandum and it was noted that in practice this meant that were either the Company or FSPAL ever to go into insolvent liquidation, FSL could be required to repay to the Company or FSPAL (as relevant) an amount equal to the value of the loss of interest (that is, an amount equal to the commercial rate of interest that would have been payable on the Loans). The directors considered whether FSL ought to be capable of repaying the Loans and concluded that there was no reason for this not to be the case given the existence of the comfort letter from the Company's ultimate shareholder, Fujitsu Limited (and Fujitsu Limited's strong balance sheet) and the comfort letter from FSH to FSL. However, it was also noted that it was intended that the Company and FSPAL were to be left dormant and then wound up or dissolved after the proposed Restructuring so that there was no reason to believe the Company and FSPAL would be insolvently wound up.



## RESOLUTIONS

23. The directors present took time to consider all the proposed actions of the Company pursuant to the Restructuring. Having fully and carefully considered those actions and the legal issues relevant to those actions (which had been discussed earlier in the meeting) the directors present were unanimously of the opinion that it was in the best commercial interests of the Company and the FS Group to approve the Restructuring and for the Company to enter into the agreements referred to in the Resolutions set out in this Minute 23.

And **IT WAS THEREFORE UNANIMOUSLY RESOLVED** that:

- (a) The terms of the proposed Restructuring in substantially the form set out in the Restructuring Memorandum be approved (subject to any amendments considered appropriate by Richard Christou and Brian Harris);
- (b) The terms of the FSPL Sale Agreement, the FSPAL Sale Agreement and the FSPL Loan be and they are hereby approved subject to such final amendments as the directors may in their sole discretion consider to be necessary or appropriate in the interests of the Company;
- (c) Any director, or in the case of any deed any two directors or any director and the secretary, be and is hereby authorised to sign the FSPL Sale Agreement for and on behalf of the Company;
- (d) the Company enter into the Post Office Novation Agreement and each of the Supplier Novation Agreements and Subcontract Novation Agreements in the form presented to the meeting or in such form as the Committee may approve;
- (e) in order to effect the transfers of the other third party contracts and licence agreements to FSL, the Company enter into such additional agreements as may, in the opinion of the Committee, be necessary and in such form as the Committee may approve;
- (f) Richard Christou and Brian Harris be and are hereby appointed as a Committee of the Board and that such Committee be and is hereby given full authority to do all such things as might seem to the Committee to be necessary, desirable or expedient in connection with (whether directly or indirectly) the Transaction including (but without limitation):



- (i) approving the Post Office Novation Agreement, the Subcontract Novation Agreements, the Supplier Novation Agreements, and the list in Schedule 2 of the FSPL Sale Agreement in their final forms;
  - (ii) approving any additional agreements which may be necessary in order to effect the transfers of the other third party contracts and licence agreements to FSL;
  - (iii) approving any other documents, deeds, matters, acts or things which might be necessary or desirable in connection with the Transaction;
- (g) that in connection with the Transaction:
  - (i) any document requiring a signature on behalf of the Company should be signed by any director of the Company or Colin Lenton-Smith;
  - (ii) any document to be executed by the Company should be executed as provided by the Company's Articles of Association or as otherwise provided by law and that such document be exchanged with the other parties thereto but pending any such exchange any such document would not be considered as delivered; and
  - (iii) that approval of any document may be given by the Committee;
- (h) the Releases each be and are hereby approved subject to such changes as the Committee (established pursuant to this Minute 23) (the "Committee") may approve;
- (i) each of the Releases be signed by any director of the Company or Colin Lenton-Smith or, if they are to be executed by the Company, then to be executed as provided by the Company's Articles of Association or as otherwise provided by law and exchanged with the other parties thereto but pending any such exchange the Release(s) would not be considered as delivered; and
- (j) any director, or in the case of any deed any two directors of any director and the secretary, be and is hereby authorised to take all steps and do all such things and deeds as they consider necessary to give effect to the Restructuring and to agree any amendments to the above which he may consider necessary to give effect to the Restructuring.



## MEETING CLOSED

24. There being no further business, the Chairman declared the meeting closed.

**GRO**

Chairman



No. 3011564

## **Fujitsu Services (Pathway Asset Company) Limited**

Minutes of a Meeting of the Board of Directors

held on 28 March 2003 at 26 Finsbury Square, London EC2A 1SL

Present: R. Christou (in the Chair)  
B. Harris

In attendance: R. Moseley  
R.A.J. Allnutt

### **BACKGROUND**

1. It was noted that notice had been given to all the Directors of the Meeting and there was a quorum present.
2. It was reported that the meeting had been convened to consider certain actions to be taken by the Company pursuant to a proposed restructuring (the "Restructuring") of the Fujitsu Services group in the United Kingdom (the "FS Group"). It was explained that the primary reasons for the Restructuring were:
  - (a) to enable Fujitsu Services Holdings plc ("FSH") to continue paying preference dividends out of profits available for distribution in respect of its Preference Shares and to fully or partially repay amounts owing in respect of its Preference Shares of approximately £168,000,000 in July 2005; and
  - (b) to improve the financial position of Fujitsu Services Limited ("FSL") a subsidiary of FSH, so as to provide further comfort and confidence to its customers and suppliers and reflect the FS Group's improving financial performance.
3. There was tabled before the meeting a copy of a memorandum setting out in outline the terms of the Restructuring which was envisaged in relation to the FS Group (the "Restructuring Memorandum"). It was explained that, as part of the Restructuring, the Company would be required to perform various actions pursuant to Step 1 of the Restructuring Memorandum. The meeting would consider the commercial reasons for and legal issues relating to these proposed actions and, if appropriate, approve these actions in anticipation of the Restructuring.



for and legal issues relating to these proposed actions and, if appropriate, approve these actions in anticipation of the Restructuring.

## **LEGAL ISSUES**

4. There was produced to the meeting a memorandum from the Company's legal advisors, Mayer, Brown, Rowe & Maw explaining the principal legal issues arising in relation to the proposed Restructuring and the matters to be considered by the directors of the relevant FS Group companies ("Legal Issues Memorandum"). The directors considered the Legal Issues Memorandum.

## **SALE OF PATHWAY BUSINESS TO FSL**

5. It was noted that Step 1 in the Restructuring Memorandum involved the proposed sale by the Company of its entire business and assets (other than cash) to FSL (the "FSPAL Sale") as a going concern on the terms of a draft sale and purchase agreement to be entered into between (1) the Company and (2) FSL (the "FSPAL Sale Agreement"). A copy of the latest draft of the FSPAL Sale Agreement was tabled to the meeting and initialled by the Chairman for the purposes of identification. It was noted that, in relation to the FSPAL Sale, the consideration was £9,700,000. The directors noted that the basis for the valuation of the asset transfer in respect of the FSPAL Sale was set out in a board paper prepared by Neil Henfrey addressed to the directors of the Company (the "Pathway Board Paper"). The Pathway Board Paper confirmed that the consideration payable for the FSPAL Sale would be the economic value of FSPAL's deferred tax assets.

The directors concluded that, on the basis of the information set out in the Pathway Board Paper, the consideration payable for the FSPAL Sale represented the market value of the business being sold. Accordingly the directors noted that the issues referred to in the Legal Issues Memorandum in relation to the FSPAL Sale were satisfactorily addressed.

## **NOVATION OF POST OFFICE AGREEMENT AND RELATED MATTERS**

6. It was reported that under the agreement between Post Office Limited (the "Post Office") and Fujitsu Services (Pathway) Limited ("FSPL") dated 28 July 1999, in its revised form dated 31 December 2002, (the "Post Office Agreement"), FSPL is obligated to novate the Post Office Agreement to FSL (the "Novation"), subject to receiving confirmation from the Post Office that it wishes the Novation to be carried out. It was explained that such confirmation has been received from the Post Office and that the Novation is due to occur on or before 1 April 2003.



7. It was explained that under the Post Office Agreement, the Post Office had agreed that, having given the confirmation referred to in the previous minute, it would enter into a deed of novation (subject to agreement on the precise terms of that deed) under which the entire benefit and burden of FSPL's rights and obligations under the Post Office Agreement would be transferred to FSL.
8. It was reported that in connection with the Novation a number of third party contracts and licence agreements would need to be transferred to FSL by FSPL and by the Company to enable FSL to perform its obligations under the Post Office Agreement following the Novation.
9. Pursuant to Minute 8, copies of the forms of the novation agreements (the "Supplier Novation Agreements") proposed to be entered into by (1) FSL, (2) the Company and (3) the relevant principal supplier in relation to the Post Office Agreement were tabled to the meeting. It was noted that the principal suppliers were the following entities:
  - IBM UK Limited (Sequent); and
  - EMC2 Computer Systems (UK) Limited.
10. It was reported that the intention was that each Supplier Novation Agreement would be entered into on, or as soon as the Novation is completed after, 31 March 2003.
11. The directors present carefully considered the forms of the Supplier Novation Agreements.
12. The meeting discussed the financial and commercial aspects of the Novation as it may impact on the Company, including the need to transfer a number of third party contracts and licence agreements to FSL (as noted in Minute 8) (the "Transaction") and concluded that:
  - (a) the Transaction is in the best interests of the Company; and
  - (b) the Supplier Novation Agreements each be and are hereby approved subject to such changes as the Committee (established pursuant to Minute 19) (the "Committee") may approve.

#### **DEEDS OF RELEASE**

13. It was reported to the meeting that there existed two consent agreements as follows:



13.1 the first, an agreement dated 16 September 1997 between (1) The Secretary of State for Social Security, (2) Post Office Counters Limited (now Post Office Limited), (3) ICL Plc (now FSH), (4) FSPL and (5) the Company (including an amendment to this consent agreement noted in a letter from Bird & Bird dated 19 September 1997 concerning the correction of the registered office of Post Office Counters Limited as set out in the consent agreement); and

13.2 the second, a deed dated 14 December 1999 between (1) Post Office Counters Limited, (2) ICL Plc, (3) FSPL and (4) the Company;

(together, the "Consent Agreements") pursuant to which certain financing arrangements and corporate structures can only be changed with the consent of the relevant parties to the Consent Agreements. The Consent Agreements also detailed a number of ancillary agreements to which FSPL and the Company were parties relating to those financing arrangements.

14. It was reported to the meeting that borrowings under the financing arrangements referred to in the Consent Agreements had been repaid in full and the financing arrangements and corporate structures falling within the scope of the Consent Agreements would no longer need to be maintained as provided for in the Consent Agreements. Consequently it was desirable that the parties to the Consent Agreements were released from their obligations under those agreements.

15. There was produced to the meeting a form of deed of release from the Consent Agreements to be entered into between (1) the Post Office, (2) FSPL, (3) the Company and (4) FSH (the "First Deed of Release"). It was noted that under the First Deed of Release with effect from 00:01 on 31 March 2003:

15.1 the parties would release each other from all obligations and liabilities (if any) and waive all rights they had in respect of each other under or in relation to the Consent Agreements;

15.2 as between any or all of the parties to the First Deed of Release, the Consent Agreements would be deemed to be terminated and of no effect; and

15.3 the terms of the release would be in full and final settlement of all claims and counterclaims which any of the parties to the First Deed of Release may have against any other of them.

16. There was also produced to the meeting a second form of deed of release to be entered into between (1) FSPL and (2) the Company (the "Second Deed of Release"). It was



noted that under the Second Deed of Release with effect from [12:00pm] on 31 March 2003:

- 16.1 the parties would release each other from all obligations and liabilities (if any) and waive all rights they had in respect of each other under or in relation to the ancillary agreements (being a sale agreement, four assignment agreements, a licence agreement, a leasing and other services agreement, a service agreement and an account bank agreement, all as referred to in the Consent Agreements);
- 16.2 any leasing, service, licensing or other arrangements between the parties provided for in the ancillary agreements still in effect would be terminated and as between the parties the ancillary agreements would be deemed to be terminated and of no effect;
- 16.3 the terms of the release would be in full and final settlement of all claims and counterclaims which either of the parties may have against the other.
17. The meeting discussed the financial and commercial aspects of the Consent Agreements and the First Deed of Release and the Second Deed of Release (the "Releases") and concluded that the Releases are in the best interests of the Company.

#### THE FSPAL LOAN

18. The Chairman explained that, as a further part of Step 1 of the Restructuring, the Company would on 31 March 2003 lend to FSL an amount equal to the consideration payable by FSL in relation to the FSPAL Sale (the "FSPAL Loan"). The FSPAL Loan would be interest free, unsecured and repayable on demand. The meeting noted the issues raised in the Legal Issues Memorandum and it was noted that in practice this meant that were the Company ever to go into insolvent liquidation, FSL could be required to repay to the Company an amount equal to the value of the loss of interest (that is, an amount equal to the commercial rate of interest that would have been payable on the FSPAL Loan). The directors considered whether FSL ought to be capable of repaying the FSPAL Loan and concluded that there was no reason for this not to be the case given the existence of the comfort letter from the Company's ultimate shareholder, Fujitsu Limited (and Fujitsu Limited's strong balance sheet) and the comfort letter from FSH to FSL. However, it was also noted that it was intended that the Company was to be left dormant and then wound up or dissolved after the proposed Restructuring so that there was no reason to believe the Company would be insolvently wound up.



**RESOLUTIONS**

19. The directors present took time to consider all the proposed actions of the Company pursuant to the Restructuring. Having fully and carefully considered those actions and the legal issues relevant to those actions (which had been discussed earlier in the meeting) the directors present were unanimously of the opinion that it was in the best commercial interests of the Company and the FS Group to approve the Restructuring and for the Company to enter into the documents referred to in the Resolutions of the Company set out in this Minute 19.

And **IT WAS THEREFORE UNANIMOUSLY RESOLVED** that:

- (a) The terms of the proposed Restructuring in substantially the form set out in the Restructuring Memorandum be approved (subject to any amendments considered appropriate by Richard Christou and Brian Harris;
- (b) The terms of the FSPAL Sale and the FSPAL Loan be and they are hereby approved subject to such final amendments as the directors may in their sole discretion consider to be necessary or appropriate in the interests of the Company;
- (c) Any director, or in the case of any deed any two directors or any director and the secretary, be and is hereby authorised to sign the FSPAL Sale Agreement for and on behalf of the Company;
- (d) the Company enter into each of the Supplier Novation Agreements in the form presented to the meeting or in such form as the Committee may approve;
- (e) Richard Christou and Brian Harris be and are hereby appointed as a Committee of the Board and that such Committee be and is hereby given full authority to do all such things as might seem to the Committee to be necessary, desirable or expedient in connection with (whether directly or indirectly) the Transaction including (but without limitation):
  - 1) approving the Supplier Novation Agreements in their final forms;
  - 2) approving any other documents, deeds, matters, acts or things which might be necessary or desirable in connection with the Transaction;
- (f) that in connection with the Transaction:



GRO

Colin Lenton - Sm

GRO

- 1) any document requiring a signature on behalf of the Company should be signed by any director of the Company;
  - 2) any document to be executed by the Company should be executed as provided by the Company's Articles of Association or as otherwise provided by law and that such document be exchanged with the other parties thereto but pending any such exchange any such document would not be considered as delivered; and
  - 3) that approval of any document may be given by the Committee;
- (g) the Releases each be and are hereby approved subject to such changes as the Committee (established pursuant to Minute 6.2) (the "Committee") may approve;
- (h) each of the Releases be signed by any director of the Company<sup>1</sup> or, if they are to be executed by the Company, then to be executed as provided by the Company's Articles of Association or as otherwise provided by law and exchanged with the other parties thereto but pending any such exchange the Release(s) would not be considered as delivered;
- (i) any director, or in the case of any deed any two directors of any director and the secretary, be and is hereby authorised to take all steps and do all such things and deeds as they consider necessary to give effect to the Restructuring and to agree any amendments to the above which he may consider necessary to give effect to the Restructuring.

GRO

Colin Lenton - Sm

GRO

#### MEETING CLOSED

20. There being no further business, the Chairman declared the meeting closed.

GRO

Chairman