



Keith Todd Esq
ICL plc
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Post Office Counters Ltd

24 May 1999

Dear Mr Todd

POCL AUTOMATION PROJECT

POCL, ICL Pathway, ICL and DSS have been negotiating, with the assistance of HM Treasury, the withdrawal of DSS from further involvement in the Project and certain material amendments to the existing contracts between the parties.

Most recently, negotiations have proceeded on the basis that the Project will be amended to introduce a new service, the Benefits Payment Service or BPS, and the draft Heads of Agreement dated May 1999 between POCL, ICL Pathway and ICL (document reference 207738/10582 CA991020.027 JRT 060599.2352) (the "Heads") reflect that position.

Ministers have decided that the Project will be scaled down and completed on the basis that the claims of each party against the others will be settled on the following terms:

1. The Heads as amended by Schedule 1 to this letter take effect from the date hereof.
2. ICL Pathway will complete its obligations under the Related Agreements, as the same are amended by the Heads, and as the Related Agreements and the Heads are further amended by this letter.
3. POCL will pay ICL Pathway the sums set out in Schedule 2 to this letter in the manner and at the times set out in Schedule 2.
4. ICL Pathway will provide services under the Related Agreements (as amended) until 31st March 2005 (notwithstanding any later date that may appear in the Related Agreements or the Heads). On cessation of

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the services, POCL will have the option, subject to due payment of all sums payable up to that date, to purchase from ICL Pathway for the sum of £1 the Project Assets (using the definition of that term in the Heads which is expressed to be "ICL's view"), such Project Assets to be sold "as is", free of encumbrances including perpetual royalty free licences of all IPRs in accordance with the Related Agreements but with all express or implied warranties and conditions excluded to the full extent permitted by law.

5. In parallel with performance of ICL Pathway's obligations under 2 above, and following our discussions with you, we wish to confirm our desire to use the Core System for network banking and the provision of services (via smart cards) for Modern Government. We will therefore work with you to revive and continue the discussions on the Public Private Partnership which we have previously considered. It is hoped that we can together develop a business strategy in these areas which we can deliver through appropriate arrangements under a Public Private Partnership in order to leverage the use of the Core System and develop to the full its potential for the delivery of electronic business services.
6. ICL Pathway shall provide such services as may be agreed by ICL Pathway and POCL for Royal Mail, DVLA, NAS, Girobank and the Co-Op (and other POCL clients as may be agreed) at marginal running costs.
7. This letter agreement will come into effect on signature and will remain binding on all parties unless and until replaced by a comprehensive codification of the relevant terms of the Related Agreements, the Heads and this letter (a "Codified Agreement") which is agreed between all the parties thereto. The parties will use reasonable endeavours to produce and agree such a codification by 16 July 1999. This provision shall be without prejudice to any change to this letter, the Heads or the Related Agreements which is agreed between the relevant parties in accordance with the terms of the document in question.
8. In the event of any disagreement concerning the terms to be included in the Codified Agreement, POCL and ICL Pathway will negotiate in good faith to reach a resolution of the matter in question. If the Managing Director of POCL (or any equivalent executive) and the Commercial Director of ICL are unable to reach resolution of the matter at their initial meeting to discuss the same they shall invite an expert to give guidance and act as a facilitator. Where the matter in question is of a programme or technical nature, the expert shall be Peter Copping of PA Consulting Group (or, if he is not available, a person chosen in accordance with paras. 6.2 and 6.3 of Schedule 6 to the Heads). Where the matter is of any other nature the expert shall be an independent City solicitor to be agreed between ICL Pathway and POCL within 7 days of the date of this letter or, in default of agreement, to be appointed at the request of either of them by the President for the time being of the Law Society. ICL Pathway and

POCL do not expect that the identification and notification of the disagreement, reference of the disagreement to the expert and obtaining his guidance should take longer than 7 days.

If the parties have used all reasonable endeavours to agree the terms of the Codified Agreement, including pursuing the dispute resolution procedure above, but by 16 July 1999 material issues still remain unresolved, POCL shall have the right (to be exercised by a written notice served on ICL Pathway by 30 July 1999) to terminate the agreement contained in this letter including, for the avoidance of doubt, the Heads and the Related Agreements as amended. Where POCL does not exercise this right of termination this letter shall continue in force. However, this shall not prevent POCL and ICL Pathway from agreeing to replace this letter in its entirety with an incomplete Codified Agreement which incorporates those matters which have been agreed and, as regards matters which have not been agreed, carries forward the relevant parts of the agreement contained in this letter. In the event that POCL does exercise its right of termination pursuant to this paragraph, it will make a payment of £150 million to ICL Pathway less the sum of £68 million referred to in Schedule 2, paragraph 1 if, at the date of such termination, the sum of £68 million has already been paid to ICL Pathway.

9. The terms of this letter shall be in full and final settlement of all claims and counterclaims which any of POCL, ICL and ICL Pathway (the "Parties") may have against any other of them under or in connection with the Related Agreements arising from or in connection with acts or events which occurred or should have occurred, or statements that were made on or prior to the date of this letter (whether or not such have been made the subject of a claim or counterclaim at the date hereof). Each of the parties hereby waives any rights whatsoever which it might have against any other Party arising from or in connection with such acts, events or statements.

Words defined directly or by reference in the Heads bear the same meaning in this letter, unless the context otherwise requires. In the event of any conflict between the terms of this letter (including its schedules), the Heads, and any of the Related Agreements, the order of precedence shall be as follows (and so that the document listed earlier prevails over the document listed later);

This letter (including its schedules)
The Heads
The Related Agreements

Any amendment to this letter shall, to be valid, be made in writing under the hands of the signatories hereto or persons holding equivalent positions in the department, agency or company in question.

In the event of any disagreement concerning the terms of, or arising under this letter, the Heads or the Related Agreements, the Parties or such of them as are in disagreement, shall negotiate in good faith to reach an amicable resolution of the matter in question, but in default of resolution within a reasonable

period any relevant Party (that is a Party having a direct interest in the matter in question) may apply to the Courts of England & Wales for the matter to be resolved in accordance with English law. This provision shall be without prejudice to the specific provision for the resolution of disputes relating to Acceptance which is contained in the Heads and the provision in paragraph 8 as to the resolution of disagreements concerning terms to be included in the Codified Agreement.

For the sake of completeness please confirm your agreement to the above matters by signing the attached photocopy.

Yours sincerely

On original:

Signed for and on behalf of the
Post Office Counters Ltd

By: S. J. Sweetman

Name: S. J. SWEETMAN

Title: Managing Director

On photocopy:

We hereby agree the terms of the above letter

..... **GRO**

For and on behalf of ICL plc

..... **GRO**

For and on behalf of ICL Pathway Limited

SCHEDULE 1

Incorporate only the paragraphs, paragraphs of Schedules and Annexes to Schedules, of the Heads listed in column 1, subject to the amendments set out in column 2. For the avoidance of doubt, ignore all other paragraphs, paragraphs of Schedules and Annexes to Schedules.

Paragraphs and paragraphs of Schedules of the Heads:	Amendments:
Recitals	Delete: recital 5
1 ICL view	Delete: POCL view
2	
4	Delete all and replace with the following: "The Effective Date shall be the date that this letter agreement is countersigned by ICL and ICL Pathway."
5.3 POCL view	Delete: "and the Benefit Payment Service including, inter alia, as to the specification, development" and replace with "including"
5.4 POCL view	Delete "Updated POCL Agreement" (in the second line only) and replace with "Codified Agreement"; add after the words "shall apply" the following "(save that POCL and Pathway release all obligations and waive all rights they may have in respect of each other under the Authorities Agreement and the POCL Agreement in respect of BES, PAS and CMS)" and delete "[and has become unconditional]"
6	Delete "Schedule 4." and replace with "this letter agreement."
7	
8	
9	Delete "Schedule 7" and replace with "the terms of this letter agreement."
11.1, 11.2	
13.1	Delete: "[by 31" December 1999]" and replace with "so as not to delay Acceptance of the Core System Release."
13.2	

14.2, 14.3	
16	
Schedule 1	Delete the definitions of "POCL Account Service", "Post Office Account", "Post Office Smartcard" and "Post Office Smartcard Management Service". Delete references to DSS in definition of "Release Authorisation Board".
Schedule 4: Annex 1 Annex 3 Annex 4	Delete Annex 4 except to the extent that it applies to Orderbook transactions, girocheque transactions and OBCS. Add forecast transaction volumes for EPOSS and APS as set out in the most recent Workload Compendium adjusted to reflect reduced footfall in post offices resulting from the elimination of the Benefit Payment Card
Schedule 5: Paragraphs as follows: 1.1.1 ICL view 1.1.2 1.2 3.1 3.2 3.6	<p>Delete: POCL view. Continue end of paragraph 1.1.1. to read "...and the BES software code shall be stripped out of NR2 at no additional cost to POCL."</p> <p>Delete all under the heading "Further Releases" and replace with the following:</p> <p>"Further releases of Core System software shall be provided by Pathway (by way of upgrades to CSR and/or CSR+) either:</p> <ul style="list-style-type: none"> - on the basis of appropriate time and material charges (as set out in paragraph 20.1 of Schedule A06 of the Authorities Agreement which shall be expanded to include Pathway's rates for senior management and consultants and to clarify that all expenses incurred by Pathway in connection with such further releases shall be paid by POCL) which shall be invoiced monthly in arrears; or - for a fixed price to be agreed (on payment terms to be agreed), which shall not be audited;

	as elected by POCL, provided that payment is made by POCL within 30 days of receipt of invoice and any such further releases are introduced through the change control process set out in the Related Agreements.”
<p>Schedule 6:</p> <p>Paragraphs as follows:</p> <p>1.1</p> <p>1.2</p> <p>2</p> <p>3.1</p> <p>3.2</p> <p>3.4</p> <p>3.5</p> <p>4</p> <p>6</p> <p>7</p>	<p>Schedule 6 shall be amended to refer to Acceptance of the Core System Release only</p> <p>Delete: 1.1 (ii)</p> <p>Link second and third sentences by insertion of the words “..provided always that..”</p> <p>Amend paragraph 3.4 such that Schedule C5 of the Authorities Agreement (liquidated damages to a maximum of 13 weeks delay) shall apply to Acceptance not being achieved by 30 September 1999 and, in addition to the CS Completion Date not being achieved by 31 March 2001 (as such date is adjusted to reflect any delay in Acceptance), in both cases where delay is due to Default by ICL Pathway.</p> <p>Delete: 4(i)</p>
<p>Schedule 7:</p> <p>Paragraphs as follows:</p> <p>1.1</p> <p>1.2</p> <p>1.3</p> <p>1.5</p> <p>2.1</p> <p>3</p>	<p>Amend paragraph 3.1 to read “If Acceptance or Roll Out of the Core System is changed...”.</p> <p>Delete paragraphs: 3.1.1 (ii), (iii) and (iv) and paragraph 3.1.2.</p> <p>Amend paragraph 3.1.3 to read as follows: “To the extent that compensation is not payable by POCL under paragraph 3.1.1 of Schedule 7, or liquidated damages are not payable by Pathway under paragraph 3.4 of Schedule 6, costs shall lie where they fall.”</p>

4.1 Annex A	
Schedule 8: Paragraphs as follows: 5.1	Incorporate definition of "CS Completion Date" and ICL view of definition of "Project Assets" only subject to deleting all references to BPS. Delete remainder of paragraph 5.1
Schedule 10: All paragraphs.	<p>Amend recital 3 such that "the Agreement" shall be the agreement set out in this letter.</p> <p>Replace paragraph 1.2 with</p> <p>1.2 On the date of execution of the ^{Updated} POCL Agreement, the Guarantor shall execute a guarantee in the same form as this Deed, mutatis mutandis, relating to the obligations of Pathway and shall deliver the same to POCL on that date together with a legal opinion of a Japanese law firm in a form reasonably acceptable to POCL confirming that such guarantee has been duly authorised and validly executed and that the Guarantor has the capacity to enter into an agreement governed by English law.</p>
Schedule 11:	Replace with form of legal opinion (document reference 207738/10582 CA 991030.269 PKWL 190499:2255).

codified

SJS.

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SCHEDULE 2**Payment Schedule****1. Capital Sum Payments**

- 1.1 ICL Pathway shall be paid a Capital Sum of £480 million. The Capital Sum is to be paid in four equal Progress Payments, subject to retention described below, each to be paid upon the later to occur of (i) achieving the Completion of Roll-Out to the cumulative number of Post Offices set out below and (ii) the date set out opposite the cumulative number of Post Offices:

Cumulative number of Post Offices completed	Date
1,800	1/11/1999
6,000	1/5/2000
12,000	1/11/2000
The number of post offices to achieve CS Completion Date	1/3/2001

A further £68 million (in addition to the £480 million described above) will be paid to ICL Pathway on Acceptance of the Core System.

Retention of 25% shall be withheld from each Progress Payment.

Upon achieving approval by the Release Authorisation Board of CSR+ (as referred to in Schedule 5 of the Heads), the sums retained on the first two Progress Payments ("the First Retention Sum") shall be converted into an availability fee ("the First Availability Fee") to be paid as described below.

At the end of each calendar month following the later to occur of (i) conversion of the First Retention Sum or (ii) 1 January 2001, POCL shall pay to ICL Pathway in respect thereof an amount equal to the First Retention Sum divided by the lesser of 48 and the number of months from the date of such conversion to 31 March 2005 until the full amount of the First Retention Sum is paid.

Following the first period of three consecutive months occurring after CS Completion Date during which in each month ICL Pathway shall have achieved service levels which relate to the performance of (as opposed to the operation of) the Core System which exceed the Termination Review Thresholds (as referred to in Schedule A8 of the Authorities Agreement) the sums retained on the third and fourth Progress Payments (the "Second Retention Sum") shall be converted into a further availability fee ("the Second Availability Fee").

At the end of each calendar month following such conversion of the Second Retention Sum, POCL shall pay to ICL Pathway in respect thereof an amount equal to the Second Retention Sum divided by the lower of 48 and the number of months from the date of such conversion to 31 March 2005 until the full amount of the Second Retention Sum is paid.

If in the event that after nine months following the CS Completion Date, completion of Roll Out (by reference to Annex 3 to Schedule 4 of the Heads as the same may have been amended through change control) has not been achieved, then retentions from the Second Availability Fee will be made to a maximum sum of £4m and will be released in full upon completion of Roll Out.

- 1.2 All Progress Payments to ICL Pathway will be made within 30 days of the date on which the Progress Payment becomes payable.
- 1.3 Subject to Clause 2.6 of this Schedule all payments to be made without set off or deduction whatsoever.
- 1.4 In the event that Acceptance of the Core System is delayed then payment of the next Progress Payment following the delay will be adjusted in accordance with paragraph 3.1 of Schedule 7 of the Heads as amended in accordance with Schedule 1 of this letter.
- 1.5 The final Progress Payment will be due on the date of completion of National Roll-Out or, if National Rollout has not been completed by 31/3/2001, on the CS Completion Date.
- 1.6 In the event that the Roll-Out program changes from the program set out in Annex 3 to Schedule 4 of the Heads then the relevant Progress Payments will be adjusted in accordance with paragraph 3.1 of Schedule 7 of the Heads as amended in accordance with Schedule 1 of this letter.
- 1.7 The payments assume that the following paragraphs of Schedule 7 of the Heads shall apply
 - Paragraphs 1.1, 1.2, 1.3 and 1.5 (Infrastructure program in Post Offices)
 - Paragraph 2.1 (Training)
 - Paragraph 4.1 (In Office migration)
- 1.8 For the avoidance of doubt, the transition costs associated with converting existing Benefits Agency customers with cards back to order books as referred to in paragraph 7 of this letter have not been taken into account in calculating the payments.
2. Operating payments
- 2.0 In addition, payments with respect to operating the Core System shall be made on a monthly basis from 1/4/2001 in accordance with the table below ("Monthly Operating Fee"). The Monthly Operating Fee shall be calculated by taking the periodic payment figure and dividing by the number of months in the period.

Period	Periodic Payment
1/4/2001 - 31/12/2001	£63m
1/1/2002 - 31/12/2002	£85m
1/1/2003 - 31/12/2003	£87m
1/1/2004 - 31/12/2004	£81m
1/1/2005 - 31/3/2005	£21m

- 2.1 If the CS Completion Date has not been achieved by 31/3/01 the Monthly Operating Fee shall be adjusted pro rata to the number of Post Offices installed relative to the number planned to be installed at the CS Completion Date provided however that Roll-Out has taken place in at least 90% of those planned to be installed. For the avoidance of doubt amounts paid pursuant to the Capital Sum include operating and maintenance costs incurred prior to 1 April 2001.
- 2.2 The payments assume an RPI of 2.5% from the date of this letter until 31/3/2005. In the event that RPI is not equal to 2.5% over this period, the payments will be adjusted to take into account the actual rate.
- 2.3 The parties acknowledge that the Monthly Operating Fees include:
- (i) a Transaction volume cost element of 7% of the amount in the table above, which is based upon the Transaction volume forecast as set out in Annex 4 to Schedule 4 of the Heads for the period up to 31/03/2005; and
 - (ii) an Outlet cost element of 32% of the amount in the table above, which is based upon the parties' intention that Pathway will roll out the Core System to 18,573 Outlets.

The amount of the Transaction volume cost element shall be adjusted for each month by the proportion of the actual Transaction volume (calculated in accordance with Annex 1 to Schedule 4 of the Heads) to the Transaction volume forecast in the month in question, and the Outlet cost element will be adjusted for each month by the proportion which the actual number of Outlets to which services are being provided during such month bears to 18,573.

In addition, POCL shall pay for the cost of Pathway carrying out operational business change in excess of the limits set out in the Related Agreements on an incremental basis at marginal cost plus 10%.

- 2.4 The payments are based on the services comprised in the Core System Release. For the avoidance of doubt the payments assume costs relating to all aspects of the system including maintenance of the Post Office and data centre infrastructure including help desk support, all telecoms charges including line costs and usage charges, and Management Information Systems.

- 2.5 ICL Pathway will be subject to service level commitments and liquidated damages according to the Related Agreements and that these will be set off against payment. The service level commitments and liquidated damages relating to Counter Transaction Times will need to be adjusted to take reasonable account of the exclusion of BES.
- 2.6 POCL's rights to set off any sum against payments to Pathway shall be as set out by Clause 804 of the Authorities Agreement, save that POCL shall not be entitled to set off any sum due other than under this letter agreement.