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FINANCIAL ASSISTANCE AGREEMENT

THIS AGREEMENT is made the 15th day of December, 1997

BETWEEN: **FINSAC LIMITED**, a company incorporated under the laws of Jamaica and having its registered office at 76 Knutsford Boulevard, Kingston 5 in the Parish of Saint Andrew (hereinafter called "Finsac");

AND: **THE JAMAICA MUTUAL LIFE ASSURANCE SOCIETY**, a mutual society incorporated under the laws of Jamaica and having its registered office at Mutual Life Centre, 2 Oxford Road, Kingston 5 in the Parish of Saint Andrew (hereinafter called "the Society").

WHEREAS Finsac and the Society have agreed on a package of financial assistance (more particularly set forth herein) upon, and subject to, the terms and conditions hereof;

AND WHEREAS the aforesaid package of financial assistance is aimed at restoring the Society to a state of solvency.

NOW THEREFORE, in consideration of the premises and covenants herein contained, and other good and valuable consideration flowing from each party to the other, the receipt and sufficiency whereof both parties by the execution of this Agreement do hereby acknowledge, the parties HEREBY AGREE as follows:

ARTICLE I - DEFINITIONS

1. **Definitions**

1.1 In this Agreement:

(a) "**Approved De-mutualisation Plan**" means the De-mutualisation Plan approved in writing by Finsac;

(b) "**Board**" means the Board of Directors, for the time being, of the Society including, where appropriate, the Board reconstituted in accordance with sub-clause 25.1 hereof;

(c) "**Borrowings**" means the gross amount of all moneys including interest borrowed or raised and all obligations and liabilities guaranteed or secured, present and future, actual and contingent by the Society or its Subsidiaries (except to the extent already brought into account as Borrowings and excluding obligations owing to the Society or to any of its wholly-owned Subsidiaries) without allowing any set-off and includes:

(i) all moneys payable on redemption of loan capital, bonds, notes debentures, commercial paper or similar instruments in respect of which the Society or any Subsidiary has an obligation;

(ii) all sums outstanding under acceptances and bills or other instruments (other than trade bills discounted in the ordinary course of trading) discounted by or for the Society or any of its Subsidiaries and upon which the Society or any of its Subsidiaries is liable as principal obligor or surety and all interest and currency swap agreements, documentary credits to the extent liabilities are incurred under them;

(iii) contingent or other liabilities under debt purchase, factoring and like agreements or under a share sale and repurchase scheme;

(iv) rental payments under any hire purchase, installment credit, leasing and like agreements relating to plant, machinery or equipment rented or acquired by the Society or any of its Subsidiaries but only where the relevant agreement is a finance lease under the then latest statement of standard accounting practice of the Institute of Chartered Accountants of Jamaica (SSAP);

(v) payments for acquisitions, construction or services deferred for a period of more than six months;

(vi) preference share capital redeemable prior to the Date of Final Repayment;

and so that:

(a) "guarantee" includes all contingent liabilities for Borrowings including liabilities to pay on the exercise of a put option or under a comfort letter and all guarantees, indemnities, bonds or instruments or suretyship whether constituting primary or secondary obligations whatsoever their designation;

(b) where the Borrowings are in a currency other than dollars, the rate of exchange to be applied for the conversion of such currency shall be the Bank of Jamaica's spot rate for purchasing that currency in dollars on the date of the calculation;

(c) the Borrowings under (iv) above (rental payments under finance leases) shall be the sum of all lease or rental payments payable, discounted to present value on such basis as the auditors of the Society certify to be appropriate in their opinion;

(d) "**Business Day**" means a day (other than a Saturday or Sunday) on which commercial banks are open for business in Jamaica;

(e) "**Commitment**" means the amount in dollars of the Subordinated Loan to the extent it is not canceled or reduced under this Agreement;

(f) "**Commitment Period**" means the period commencing from the date of execution of this Agreement and terminating ninety (90) days thereafter;

(g) "**Completion Date**" means December 31, 1997 or such other date mutually agreed by the parties for the transfer to Finsac of the NCB Group Shares;

(h) "**Compliance Report**" means a report prepared at the end of each Financial Quarter by the Society pursuant to sub-clause 9.1 outlining the performance of the Society against performance targets agreed between the Board and Finsac;

(i) "**Connected Person**": the following persons shall be treated as being "Connected Persons" with the Society (S) and the Society with them, and shall be so treated notwithstanding that at the relevant time any of the persons (not being individuals) had not yet come into existence or had ceased to exist-

   (i) a holding company or subsidiary of S;

   (ii) a holding company of a subsidiary of S;

   (iii) any company of which S has control;

   (iv) any company of which S and persons connected with S together have any control;

   (v) any company which together with S constitute a group;

   (vi) an individual who is a director, manager or a person who has control of S or any partner or any immediate relative of such a director, manager or person aforesaid;

   (vii) any company of which any of the persons referred to in sub-paragraph (iv) is a director, manager or has control;

(j) "**Coupon Rate**" means the rate per annum equal to the aggregate of WAYR plus 1% per annum. For this purpose "WAYR" means the weighted average yield rate (expressed as a percentage per annum) in respect of the most recent tender of Treasury Bills next preceding the commencement of each Payment Date issued for a tenor of six months;

(k) "**Date of First Disbursement**" means the date on which Tranche A is disbursed;

(l) "**Date of Final Repayment**" means the date on which the final payment on account of the Subordinated Loan is made by the Society;

(m) "**De-mutualisation**" means the process by which the Society is converted to a company limited by shares or by which the undertaking of the Society is transferred to a company limited by shares;

(n) "**De-mutualisation Plan**" means the plan prepared by the De-mutualisation Committee in pursuance of sub-clause 27.2; and references to the "approved De-mutualisation Plan" shall mean the De-mutualisation Plan as approved by the Board pursuant to sub-clause 27.2 hereof;

(o) "**De-mutualisation Committee**" means a Committee of the Board constituted in accordance with sub-clause 27.1;

(p) "**De-mutualised Entity**" means the company limited by shares which, after De-mutualisation, will carry on the life assurance business carried on by the Society prior to De-mutualisation;

(q) "**Directive**" means a written instruction issued by Finsac to the Society pursuant to sub-clause 12.2 requiring the Society to take one or more appropriate courses of action to cure an Event of Default;

(r) "**Distributable Surplus**" means, in respect of any Financial Year of the Society, the net sum (accumulated and consolidated) remaining after deducting increases in actuarial reserves including cost of bonus to participating policyholders (in accordance with the Society's normal practice) from operating surplus net after tax;

(s) "**dollars**" and "**$**" mean Jamaican dollars, the lawful currency of Jamaica;

(t) "**Financial Quarter**" means in respect of any Financial Year of the Society, any three-month period ending on March 31, June 30, September 30 or December 31;

(u) "**Financial Statements**" means the profit and loss account and the balance sheet of the Society (consolidated, where appropriate) and cash flow statements and the notes thereto;

(v) "**Financial Year**" means the financial year of the Society commencing each year on January 1 and ending on December 31 or such other accounting period of the Society as the Society may, subject to the prior written consent of Finsac, from time to time designate as its accounting year;

(w) "**Finsac Bond**" means an unconditional long-term debt obligation in writing issued by Finsac and guaranteed by the Government of Jamaica payable at a fixed future date and bearing interest at the Coupon Rate;

(x) "**First Repayment Date**" means March 31, 2003;

(y) "**Members**" means, prior to De-mutualisation, "members" as defined by the Articles of Association of the Society; and after De-mutualisation, the shareholders of the De-mutualised Entity;

(z) "**Mutual Group**" means the Society and:

(i) any other company which is its holding company or Subsidiary;

(ii) any other company which is a Subsidiary of the holding company;

(iii) any company which directly or indirectly controls, or is controlled by, any company referred to in paragraph (i) or (ii);

(iv) any company which is controlled by a person who directly or indirectly controls a company referred to in paragraph (i), (ii) or (iii);

(aa) "**NCB**" means National Commercial Bank Jamaica Limited;

(bb) "**NCB Group of Companies**" means NCB and:

(i) any other company which is its holding company or Subsidiary;

(ii) any other company which is a Subsidiary of the holding company;

(iii) any company which directly or indirectly controls, or is controlled by, any company referred to in paragraph (i) or (ii);

(iv) any company which is controlled by a person who directly or indirectly controls a company referred to in paragraph (i), (ii) or (iii);

(cc) "**NCB Group Shares**" means 379,120,923 stock units in the capital of N.C.B. Group Limited registered in the name of the Society or beneficially owned by the Society;

(dd) "**Payment Dates**" means the First Payment Date and thereafter March 31, June 30, September 30 and December 31 of each year;

(ee) "**Permitted Payments**" means payments and receipts (directly or by set-off) of scheduled interest and principal payments (including voluntary prepayment and mandatory prepayment effected pursuant to sub-clause 7.2) but only so long as:

(i) none of the Senior Financing Debt is more than 30 days overdue and unpaid; and

(ii) none of the events set out at sub-paragraphs (a), (b), (c), (d), (e), (f), (g) and (h) of sub-clause 12.1 has occurred and is continuing;

(ff) "**Pension Fund Obligations**" means all obligations of the Society under contracts for the management and administration of pension or superannuation funds including, without limitation, obligations in respect of assets held in trust under all such contracts and all funds owing by the Society to the trustees or beneficiaries of any pension or superannuation fund;

(gg) "**Policyholders' Obligations**" means all obligations owing by the Society under policies of life assurance, annuities, personal accident, group health and other long-term or personal accident insurance contracts underwritten by the Society including, without limitation, obligations in respect of policy proceeds, policy encashments, bonuses, premium rebates and the like;

(hh) "**Rehabilitation Plan**" means the plan prepared by the Rehabilitation Committee in pursuance of sub-clause 31.2;

(ii) "**Rehabilitation Plan Compliance Report**" means a report prepared by the Rehabilitation Committee and containing the information required pursuant to sub-clause 31.4;

(jj) "**Rehabilitation Committee**" means a Committee of the Board constituted in accordance with sub-clause 31.1;

(kk) "**Security Interest**" means any mortgage, fixed or floating charge hypothecation, pledge, lien, or other encumbrance or security of any kind whatsoever over the whole or any part of the goodwill, undertaking, property assets or revenues (including uncalled capital) present or future or any arrangement having the effect of conferring security and for the purposes hereof, any asset which has been acquired or is held subject to the interest of a vendor under any conditional sale agreement, capital lease or other title retention agreement relating to such asset, shall be deemed to be subject to a Security Interest;

(ll) "**Senior Creditors**" means all the creditors of the Society (including, but not limited to, policyholders, annuitants and other persons to whom the Society is indebted in respect of assets under management and trade creditors but excluding Finsac or other person or persons entitled to the whole or any part of the Subordinated Loan or interest thereon;

(mm) "**Senior Debts**" means all present and future liabilities (whether direct and contingent) of the Society (including without limitation Policyholders Obligations and Pension Fund Obligations) other than principal, interest and other sums owing in respect of the Subordinated Loan;

(nn) "**Senior Financing Debts**" means all present and future Senior Debt:

(i) to any bank or financial institution;

(ii) in respect of any loan or credit facility (as defined in the Banking Act, but whether or not granted by a bank);

(iii) in respect of any hire purchase, credit sale or conditional sale agreement or financing lease or other title retention agreement;

(iv) upon commercial paper, notes, bonds, debentures, loan stock or other debt instrument or obligation;

(oo) "**Solvency Target**" means the consolidated financial state of affairs of the Society whereby the conditions set out in Schedule 1 is achieved;

(pp) "**Subordinated Loan**"means the loan of $9 billion (comprising Tranche A and Tranche B) which Finsac has agreed to make to the Society upon and subject to the terms and conditions of this Agreement;

(qq) "**Subsidiary**" has the meaning ascribed thereto by section 149 of the Companies Act and, for the avoidance of doubt, shall not include any company in which the Society has less than fifty percent (50%) plus one (1) of the aggregate voting rights in such company;

(rr) "**Tranche A**" means the sum of Seven Billion dollars ($7,000,000,000.00);

(ss) "**Tranche B**" means the sum of Two Billion dollars ($2,000,000,000.00).

1.2 References to "control" of any person include the right or power, whether directly or indirectly:

(a) to receive more than one-half of all distributions, whether of capital or revenue, at any time made by such person; or

(b) to cast more than one-half of all the votes capable of being cast in any general meeting of such person (but excluding any votes which are only exercisable upon the occurrence of any contingency); or

(c) to control the composition of more than one-half of the Board , of such person.

1.3 A reference to a "person" shall be construed as a reference to any individual, firm, company, body corporate, government or state, state entity or any association or partnership (whether or not having separate legal personality) of any two (2) or more of the foregoing.

1.4 Unless otherwise specified herein, a reference to any document or instrument is a reference to that document or instrument as same may have been, or may from time to time be, amended or supplemented and a reference to a document being in a prescribed form shall include such documents being substantially in the relevant form.

1.5 Reference to any statute or statutory provision includes a reference to:

(a) that statute or statutory provision as from time to time amended, extended or re-enacted or consolidated; and

(b) all statutory instruments or orders made pursuant to it.

1.6 In this Agreement references to "the Society" or "Finsac" include references to a person who, for the time being, is entitled (by assignment, novation or otherwise) to the Society's or Finsac's rights under this Agreement (or any interest in those rights) or who, as administrator, liquidator or otherwise, is entitled to exercise those rights; and in particular those references include a person to whom those rights (or any interest in those rights) are transferred or may pass as a result of a merger, division, reconstruction, De-mutualisation or other reorganisation involving the Society or Finsac.

1.7 For this purpose, references to "the Society's rights" under this Agreement include any similar rights to which another person becomes entitled as a result of a novation of this Agreement and references to "Finsac's rights" under this Agreement shall be construed likewise.

1.8 Words denoting any singular number only shall include the plural and *vice versa*. Words denoting any gender include all genders and words denoting persons shall include firms and corporations and *vice versa*.

1.9 Unless the context otherwise requires, reference to any Article, clause, sub-clause or Schedule is to an Article, a clause, sub-clause or Schedule (as the case may be) of or to this Agreement. The table of contents and the headings of the Articles and clauses hereof are included for convenience of reference. They shall not affect the construction of any provision of this Agreement. References herein to Articles, clauses, sub-clauses without further identification of the document to which reference is made are references to provisions and parts of this Agreement. The words "herein", "hereof" and "hereunder" are used in this Agreement to refer to this Agreement as a whole and not to any individual Article, clause, sub-clause or other part of this Agreement.

ARTICLE II - THE SUBORDINATED LOAN

2. **The Subordination Loan**

2.1 Subject to the terms and conditions of this Agreement, Finsac agrees to make available the Subordinated Loan during the Commitment Period to the Society. Unless agreed between the parties, Finsac shall not be obliged to lend any sum in excess of the Subordinated Loan.

2.2 Subject to the terms and conditions of this Agreement, the Society may borrow the Subordinated Loan during the Commitment Period.

3. **Disbursement**

3.1 Tranche A shall be disbursed when the Society shall have delivered to Finsac the following documents, each in form and substance satisfactory to Finsac, namely:

(a) a copy, certified by a Director or the Secretary of the Society to be a true, complete and up-to-date copy of the Jamaica Mutual Life Assurance Society (Incorporation) Act, 1963 and the Society's Memorandum and Articles of Association;

(b) a copy, certified by a Director or the Secretary of the Society as being a true and complete copy and in full force and effect of a resolution of the Board approving the terms of this Agreement and the transactions contemplated hereby and authorising one or more persons to sign and deliver on its behalf, this Agreement and any other document to be delivered pursuant to, or in connection with, this Agreement;

(c) a copy, certified by a Director or the Secretary of the Society as being a true and complete copy of each licence or permit granted by the regulatory authorities empowering the Society to carry on long-term assurance business, investment business and all other activities requiring regulatory approval together with evidence that the same are current;

(d) a certificate from the Secretary of the Society stating that execution of this Agreement and the performance by the Society of its obligations under this Agreement are within its corporate powers and have been duly approved by all necessary corporate action and will not cause any restriction on the powers of its Directors to be exceeded or breached;

(e) a copy of the signatures of the persons authorised to execute this Agreement and any other document contemplated by this Agreement and of the persons authorised to sign all notices, certificates and other documents in relation to this Agreement;

(f) a copy certified by a Director or the Secretary of the Society of the most recent audited financial statements of the Society;

(g) a certificate dated as of the date of disbursement and signed by either the Chairman or the President of the Society to the effect that immediately after disbursement of Tranche A, no Event of Default shall have occurred and be continuing;

(h) the written opinion of Patterson Phillipson & Graham, attorneys-at-law to the Society, reasonably satisfactory to Finsac, substantially in the form set out in Schedule 2 hereto.

3.2 Subject to Finsac having received the documents referred to in sub-clause 3.1 above, Finsac shall forthwith disburse Tranche A of the Subordinated Loan. Subject to the Society submitting to Finsac within ninety (90) days after disbursement of Tranche A:

(a) evidence satisfactory to Finsac that Tranche A or the relevant part thereof has been used for the purposes intended;

(b) a certified copy of an ordinary resolution adopted by the members of the Society in general meeting approving in principle the De-mutualisation of the Society;

(c) a certified copy of a special resolution amending the Articles of Association of the Society to entrench therein the right of Finsac to nominate in writing seven (7) persons who shall be appointed to the Board for so long as the Subordinated Loan is outstanding and after De-mutualisation to nominate one (1) director to the Board of the De-mutualised Entity for each 7% of the equity shares held by Finsac;

(d) a certificate dated as of the date of disbursement and signed by either the Chairman or the President of the Society to the effect that immediately after disbursement of Tranche B, no Event of Default shall have occurred and be continuing,

Finsac shall disburse Tranche B.

3.3 Time shall be of the essence with respect to the disbursement of the Subordinated Loan.

3.4 Disbursement shall be effected at Finsac's option either:

(a) by way of banker's draft or cheque drawn in favour of the Society or to the Society's order (herein called "a cash disbursement"); or

(b) by way of Finsac Bonds in such denomination as the Society may reasonably require; or

(c) partly by way of cash disbursements and partly by way of the issue of Finsac Bonds;

provided that, in the case of disbursements by way of the issue of Finsac Bonds, the Society shall not request disbursement in denominations of less than $100,000,000.00.

4. **Purpose**

4.1 The Subordinated Loan shall be used by the Society as follows, namely:

(a) the sum of Seven Billion dollars ($7,000,000,000.00) or such lesser or greater sum due to NCB in respect of short-term facilities (including overdrafts and commercial paper facilities) shall be paid to NCB to discharge the Society's indebtedness to NCB and the holders of such commercial paper;

(b) the balance shall be invested in interest-bearing instruments or otherwise used for general corporate purposes.

4.2 The Subordinated Loan shall be used for the purposes outlined in sub-clause 4.1 above, provided that the Society may use the Subordinated Loan for purposes other than those set forth in sub-clause 4.1 hereof upon the prior approval in writing of Finsac, which approval shall not to be unreasonably withheld.

5. **Interest**

5.1 The Society shall pay interest on the Subordinated Loan or the principal balance thereof outstanding from time to time in accordance with the following provisions:

(a) From the Date of First Disbursement to the fifth anniversary of the Date of First Disbursement, the Subordinated Loan (or the principal balance thereof outstanding from time to time) shall bear simple interest at the rate of four and one-half percent (4½%) per annum.

(b) As of the fifth anniversary of the Date of First Disbursement, simple interest on the Subordinated Loan shall be capitalised and shall be added to the principal amount of the Subordinated Loan and the aggregate sum (or the balance thereof outstanding from time to time) shall bear interest at the rate of four and one-half percent (4½%) per annum, compounded annually.

(c) Interest on the Subordinated Loan (or the balance outstanding from time to time) shall be amortised over the life of the Subordinated Loan and shall be due and payable in arrears on each consecutive Payment Date, the first such payment to be due and payable on the First Repayment Date. Any such interest which is not paid on the due date shall subject to sub-paragraph (a) be compounded by adding same to the principal sum.

5.2 Interest at the rate stated in sub-paragraphs (a) and (b) of sub-clause 5.1 above shall accrue from day to day and be calculated on each Tranche from the relevant date of disbursement on the basis of the actual days elapsed and a 365-day year.

5.3 Subject to the terms of this Agreement, if the Society has the financial capacity to pay any interest but fails to pay such interest on the due date, it shall forthwith on demand by Finsac pay interest on the overdue amount from the due date up to the date of actual payment as well as before judgment at the rate of six and one-half percent (6½%) per annum.

5.4 Default interest will be compounded on each Payment Date.

6. **Repayment**

6.1 Unless the parties otherwise agree, the Subordinated Loan shall be repaid in full fifteen (15) years after the Date of First Disbursement subject to a moratorium on principal payments and interest payments up to the fifth anniversary of the Date of First Disbursement.

6.2 Subject to sub-clause 6.1, the Subordinated Loan shall be repaid by way of forty (40) equal quarterly consecutive amortisation payments based on amortisation over a ten-year period. The first such installment shall be due and payable on the First Repayment Date and thereafter, an amortisation payment (comprising principal and interest) shall be due and payable on each consecutive Payment Date. For the avoidance of doubt, the parties acknowledge that the original principal amount of the Subordinated Loan advanced hereunder shall be reduced by the principal amount thereof converted into equity pursuant to clause 28 hereof.

6.3 If a payment under this Agreement is due on a day which is not a Business Day, the due date for that payment shall instead be the next Business Day in the same calender month (if there is one) or the preceding Business Day (if there is not).

6.4 Finsac acknowledges that payment of any sum due under this Agreement may be effected by the surrender of Finsac Bonds.

7. **Prepayment**

7.1 The Society shall be entitled from time to time, on giving to Finsac not less than seven (7) days' notice, to prepay without premium or penalty the whole or any part of the Subordinated Loan provided that:

(a) prepayment shall be in integral multiples of $10,000,000.00 subject to a minimum of $50,000,000.00;

(b) all prepayments under this sub-clause shall be made with accrued interest on the amount prepaid.

7.2 If the audited Financial Statements of the Society as at the end of any Financial Year (including statements of actuarial liabilities) reveal that the Society has exceeded the relevant Solvency Target, the Society shall, on or before one hundred and ninety (190) days following the last day of the aforesaid Financial Year, be obliged to make a payment in respect of the Subordinated Loan up to the amount of 25% of its Distributable Surplus unless an independent actuary acceptable to Finsac shall certify that achievement of the Solvency Target was attributable to exceptional circumstances affecting the Society during the relevant Financial Year and that by virtue of exceptional events or circumstances affecting or likely to affect the Society during the forthcoming Financial Year(s), such prepayment would expose the Society to the risk of insolvency at any time during the next three (3) years.

7.3 Any partial prepayment shall be applied against outstanding principal installments in inverse order of their maturity.

7.4 Mandatory prepayments effected pursuant to sub-clause 7.2 may be reborrowed during the life of the Subordinated Loan if necessary during any subsequent Financial Year to avoid insolvency. Such reborrowing shall be subject to the same terms and conditions which govern the outstanding Subordinated Loan to the intent that subject to the terms and conditions hereof, it shall be repaid by the Date of Final Repayment.

8. Undertakings

8.1 The Society covenants with Finsac that so long as any part of the Subordinated Loan or any interest due thereon is outstanding, neither it nor any of its wholly-owned Subsidiaries will, save with Finsac's written consent, which consent shall not be unreasonably withheld:

(a) after the date hereof, contract to incur indebtedness in respect of any Senior Financing Debt to the extent that the aggregate of all Senior Financing Debts shall exceed the aggregate of all Senior Financing Debts owing as at the date hereof less the amount of Tranche A plus the $ currency equivalent of US$1,500,000.00;

(b) issue any new shares after De-mutualisation except, as contemplated pursuant to clause 29 hereof;

(c) except for payments made or transactions undertaken in the ordinary course of business make any investment or grant any loan to any Connected Person exceeding in the aggregate in any Financial Year the $ currency equivalent of US$500,000.00 (adjusted annually based on United States inflation);

(d) acquire or incorporate any Subsidiary;

(e) enter into any joint venture or partnership arrangement;

(f) create or permit to subsist any Security Interest over the whole or any part of its undertaking or assets (present or future) except:

(i) a Security Interest in existence as at the date hereof;

(ii) a Security Interest on or over an asset securing Borrowings incurred solely for the purpose of financing all or any part of the cost of acquiring such asset, provided that such Security Interest attaches to such asset concurrently with or within ninety (90) days after the acquisition thereof;

(iii) Security Interest arising under any retention of title arrangement entered into in the ordinary course of trading and not for the specified purpose of securing such indebtedness;

(iv) a Security Interest arising out of the refinancing, extension, renewal or refunding of any Borrowings secured by any Security Interest permitted by any of the foregoing paragraphs of this clause, provided that such Borrowing is not increased and is not secured by any additional assets;

(v) Security Interests over goods or documents of title to goods arising in the ordinary course of documentary transaction;

(vi) any Security Interest arising by operation of law;

(vii) any Security Interest arising pursuant to any order of attachment, distraint, garnishee order or injunction restraining the disposal of assets;

(viii) any Security Interest created to secure other indebtedness permitted to be secured under sub-paragraphs (i), (ii), (iii), (iv), (v), (vi) and (vii);

(g) factor, sell, assign, discount or otherwise dispose of any book or other book debts, claims or securities for money;

(h) give any guarantee or indemnity in respect of the obligations of overseas Subsidiaries or allow the amount of inter-company indebtedness owing to the Society and its Jamaican Subsidiaries to exceed US$1,500,000.00 or the $ currency equivalent thereof;

(i) except as specified in the Approved De-mutualisation Plan or the Rehabilitation Plan sell, lease or otherwise dispose of all or any substantial part of its assets or permit any Subsidiary to sell, lease or otherwise dispose of all or any substantial part of its assets;

(j) except as specified in the Approved De-mutualisation Plan or the Rehabilitation Plan, merge or consolidate the whole or any substantial part of its business with the business of any other person;

(k) except as specified in the Approved De-mutualisation Plan, declare any dividends or make any capital distributions to its Members PROVIDED that if the Society survives De-mutualisation as the De-mutualised Entity and is listed on any Stock Exchange, it may distribute to its Members up to 25% of its Distributable Surplus for any Financial Year;

(l) except as contemplated by the provisions of sub-clause 26.3 and clause 30, enter into any contract or arrangement with any Connected Person on terms which are less favourable to the Society than those reasonably obtainable on an arm's length basis between two willing parties;

(m) except as specified in the Approved De-mutualisation Plan or contemplated by sub-clause 3.2, make any amendment to its Memorandum or Articles of Association or adopt new Memorandum or Articles of Association;

(n) spend or pay out an amount exceeding the Specified Limit in any Financial Year for fixed assets other than investments, expenditures or payment made in the ordinary course of business or make or acquire any investment in any person other than:

(i) investments in Subsidiaries of the Society on the date of this Agreement; and

(ii) Temporary Cash Investments.

For the purposes of this provision:

"Specified Limits" means the $ currency equivalent of US$1,000,000.00 (adjusted annually based on United States inflation rate); and

"Temporary Cash Investments" means any Investment in (i) direct obligations of the Government of Jamaica or any agency thereof, or obligations guaranteed by the Government of Jamaica or any agency thereof, or (ii) commercial paper guaranteed by, or time deposits with, including certificates of deposit issued by, any bank or financial institution duly licensed to conduct business in Jamaica or elsewhere, or (iii) repurchase agreements with respect to securities described in clause (i) above entered into with any bank or financial institution referred to in sub-paragraph (ii) above, provided in each case that such investment matures within one year from the date of acquisition thereof by the Society or such Subsidiary; or (iii) not more than 5% of the share capital of any company listed on a recognised stock exchange or any company approved by Finsac.

(o) directly or indirectly pay or become obligated to pay in excess of $5,000,000.00 (adjusted annually for Jamaican inflation) in any one fiscal year as compensation for services in any form to, or for the account of, any one employee except for employment contracts in existence at the date hereof.

8.2 Except as contemplated by this Agreement, the Society shall not, without the prior written consent of Finsac, issue, sell, distribute or otherwise grant in any manner, any shares or rights to subscribe for or to purchase any warrants or options for the purchase of its shares in the De-mutualised Entity or any securities convertible into, or exchangeable for shares in the De-mutualised Entity, whether or not immediately exercisable.

8.3 Except as contemplated by this Agreement, the De-mutualised Entity shall not, without the prior written consent of Finsac, issue, sell, distribute or otherwise grant in any manner, any shares or rights to subscribe for or to purchase any warrants or options for the purchase of its shares or any securities convertible into, or exchangeable for its shares, whether or not immediately exercisable.

8.4 The Society shall, at Finsac's request, meet with Finsac from time to time to review the financial condition of the Society. The Executive Chairman and such other officers of the

Society as the Executive Chairman shall designate, shall attend such meeting. Such meeting shall be held at a time and place convenient to Finsac and the Borrower.

9. **Covenants**

Positive Covenants

9.1 The Society hereby covenants with Finsac that so long as the Subordinated Loan or any part thereof or any interest thereon is outstanding, it will furnish to Finsac:

(a) as soon as practicable (and in any event within one hundred and eighty-five (185) days after the close of each Financial Year:

(i) its audited Financial Statements:

(ii) an annual budget and cash flow forecast accompanied by a statement of the Society's Chief Financial Officer to the effect that the amounts shown in such budget and cash flow forecast are reasonable estimates for the period covered thereby;

(iii) a calculation (duly certified by the Society's Chief Financial Officer) in respect of the Solvency Target and where applicable showing the amount of mandatory prepayment (if any) to be made pursuant to sub-clause 7.2;

(b) as soon as practicable (and in any event within forty-five (45) days after the end of each Financial Quarter):

(i) quarterly unaudited Financial Statements duly certified by the Society's Chief Financial Officer;

(ii) a Compliance Report (in a form agreed between the parties) duly certified by the Society's Chief Financial Officer, setting forth in reasonable detail, the calculation required to establish whether the Society is compliant with this Agreement on the date of such financial statements and stating whether any default exists on the date of such certificate and, if any default then exists, setting forth the details thereof and the action which the Society is taking or proposes to take with respect thereto;

(iii) such other reports as may be reasonably required by Finsac (each in such form as may be agreed between the Society and Finsac);

(c) as soon as practicable (and in any event within thirty (30) days after the end of each calendar month), copies of the monthly management financial statements presented to the Board;

(d) promptly on becoming aware thereof:

(i) notice in writing certified by the Executive Chairman or Chief Financial Officer of any litigation, administrative or arbitration proceedings before or of any court (judicial or administrative) or governmental authority, tribunal, arbitrator(s) or other body, affecting the Society or which may be threatened, instituted or commenced against the Society and which is or are likely to have a material adverse effect on its business or financial condition;

(ii) written notice of the resignation or the decision not to stand for re-election of any director or the auditor of the Society;

(iii) written notice of any other event of circumstances which will or could have a material adverse effect on the Society's business or financial condition;

(iv) a copy of any management letters from the Society's auditors relating to the Society's financial affairs or its accounting and other systems;

and in each case (where appropriate) setting forth in detail the action which the Society has taken or proposes to take with respect to the matter;

(e) at the same time they are despatched by the Society to its Members, all notices, proxy statements or other documents despatched by the Society to its Members generally;

(f) promptly upon their becoming available copies of all regular and periodic reports and all prospectuses filed by the Society with the Superintendent of Insurance or the Securities Commission or any governmental authority succeeding to any of the functions of those agencies.

Financial Covenants

9.2 The Society shall procure that its financial position shall be such that:

(a) at the end of the 1998 Financial Year:

(i) Free Assets Deficit shall not be more than $750,000,000.00; and

(ii) Assets shall match Liabilities to the extent of not less than seventy percent (70%);

(b) at the end of the 2000 Financial Year:

(i) Free Assets shall be more than zero percent (0%) of Assets; and

(ii) Assets shall match Liabilities to the extent of not less than ninety percent (90%);

(c) at the end of the 2002 Financial Year:

(i) Free Assets shall be more than three percent (3%) of Assets; and

(ii) Assets shall match Liabilities to the extent of not less than ninety-two and one-half percent (92½%);

(iii) current assets shall not be less than 120% of current liabilities and for this purpose, interest receivable on all Finsac Bonds shall be treated as current assets;

(iv) the Society shall comply with any margin of solvency prescribed by law.

9.3 For the purposes of sub-clause 9.2:

(a) "Free Assets" shall mean the excess of Assets over Liabilities as determined from the audited balance sheet of the Society (as adjusted under sub-paragraph (b));

(b) "Liabilities" shall include all liabilities of the Society including Policyholder's Obligation, Pension Fund Obligations and other obligations to insurance clients but, excluding outstanding principal and interest in respect of the Subordinated Loan;

(c) the matching of Assets against Liabilities shall be determined by the Society's Actuary or the request of Finsac by an independent actuary approved by Finsac, having regard to the nature and duration of all Liabilities in the balance sheet. All fees payable to the independent actuary shall be borne by Finsac; and

(d) it is assumed that the Subordinated Loan shall be treated as equivalent to share capital.

9.4 After 2002, the financial criteria referred to in sub-clause 9.2 above shall be reviewed bi-annually and adjusted by mutual agreement between the parties with a view of ensuring that the Society is required to maintain a solvency position and a matching of Assets and Liabilities sufficient to meet its obligations hereunder as they become due.

10. **Illegality**

If it becomes unlawful for the Society to repay the Subordinated Loan or any part thereof, then the Society shall indemnify Finsac to the same extent as if such transaction were not illegal.

11. **Increased Costs**

11.1 If Finsac shall incur any increased costs of providing the Subordinated Loan as a result of the introduction of any law or regulation, including any law or regulation relating to taxation, then such increased costs shall be treated as a further loan to the Society by Finsac and such further loan shall be subject to the same terms and conditions which govern the outstanding Subordinated Loan to the intent that it shall be repayable by the Date of Final Repayment.

11.2 In this Agreement "Increased Cost" means an additional cost incurred by Finsac as a result of it having entered into, or performing, maintaining or funding its obligations under this Agreement.

12. **Events of Default**

12.1 If:

(a) a *bona fide* petition is presented or a resolution is passed for the Society to be wound up; or

(b) a receiver is appointed over the whole or any part of the assets of the Society; or

(c) the Society proposes a scheme of arrangement with its creditors; or

(d) a judicial manager is appointed over the Society or a petition is filed for such appointment; or

(e) steps are taken for the Society to be put in administration; or

(f) the Society takes any steps under any law to procure protection from its creditors; or

(g) any proceedings (other than as specified or approved in the Approved De-mutualisation Plan) analogous to any of the foregoing is taken by the Society; or

(h) the Society stops payment or declares a moratorium or becomes or is deemed to be insolvent or unable to pay its debts within the meaning of section 204 of the Companies Act; or

(i) any final judgment or order made against the Society is not complied with within fourteen (14) days or if an execution, distress, sequestration or other process is levied or enforced upon or sued out against any part of the Society's undertaking property, assets or revenues; or

(j) the Society, without Finsac's prior consent, ceases or threatens to cease to carry on its business or any material part thereof in the normal course or changes the nature or mode of conduct of its business in any material respect; or

(k) the Society, being financially able to pay any sum due under this Agreement, shall fail to pay within fourteen (14) days of the due date any such sum; or

(l) any material part of the assets or revenues of the Society is sold or disposed of or threatened to be sold or disposed of (otherwise than in the normal course of business or under the Approved De-mutalisation Plan), whether in a single transaction or a number of transactions; or

(m) any obligation under this Agreement assumed by the Society is invalid or unenforceable; or

(n) any licence, authorisation, consent or registration at any time necessary or desirable to enable the Society to comply with its obligations to Finsac or to carry on business in the normal course shall be revoked, withheld or materially modified or shall fail to be granted, perfected or shall cease to remain in full force and effect; or

(o) the Society fails to comply with any term, condition, covenant or provision of this Agreement or if any representation or warranty made by the Society to Finsac is or becomes incorrect or misleading in a material respect other than where such failure to comply results in a Payment Default,

then, an Event of Default shall be deemed to have occurred.

12.2 Upon the occurrence of an Event of Default (except a Payment Default), the Society shall in good faith consult with Finsac with a view of agreeing on one or more appropriate courses of action to remedy the Event of Default, whether forthwith or over a reasonable period of time having regard to the circumstances of the case. If, in spite of reasonable attempts, the parties cannot agree within sixty (60) days (or such further period as may be mutually agreed) on the appropriate courses of action to be taken, then Finsac shall be entitled to issue one or more Directives to the Society. If the Society shall fail, within a reasonable time, to implement or otherwise comply with any Directive or if the Society has committed a Payment Default, then, and in any such event, Finsac shall be entitled to serve a notice in writing upon the Society declaring that an Event of Default has occurred and upon service of such notice and subject to Article III, the Subordinated Loan (or the balance thereof outstanding) and all interest thereon shall become immediately due and payable. For the purposes hereof, a "Payment Default" means any of the events set out at sub-paragraph (a), (b), (c), (d), (e), (f), (g), (h) and (k) of sub-clause 12.1 above.

12.3 The Society will immediately notify Finsac in writing of the occurrence of any Event of Default and of the occurrence of any event which, with the giving of notice and/or the lapse of time, will or may constitute an Event of Default.

ARTICLE III - SUBORDINATION

13. **Finsac's Subordination Undertaking**

13.1 So long as any of the Senior Debts is or may become outstanding, the Society will not (except to the extent previously consented in writing by the Senior Creditors):

(a) pay or repay or purchase or acquire, any of the Subordinated Loan in cash or in property or securities except in pursuance of the equity conversion contemplated by clause 28 and Permitted Payments;

(b) permit any of its Subsidiaries to purchase or acquire any of the Subordinated Loan;

(c) discharge any part of the Subordinated Loan by set-off, except in respect of the equity conversion contemplated by clause 28 and Permitted Payments;

(d) create or permit to arise or subsist any Security Interest over any of its assets for the Subordinated Loan or any part thereof;

(e) take or omit any action whereby the subordination achieved by this Article III may be impaired.

13.2 So long as any of the Senior Financing Debts of the Society is or may become outstanding, then (notwithstanding the obligation to pay principal and interest in accordance with sub-clauses 5.1, 6.2 and 7.2) Finsac shall not:

(a) demand or receive payment of, or any distribution in respect or on account of, the Subordinated Loan from the Society or apply any money or assets in discharge of the Subordinated Loan or any part thereof except in pursuance of the equity conversion contemplated by clause 28 and Permitted Payments;

(b) discharge the Subordinated Loan or any part thereof by set-off, except in respect of the equity conversion contemplated by clause 28 and Permitted Payments;

(c) permit to subsist or receive any Security Interest for or in respect of the Subordinated Loan or any part thereof;

(d) without giving prior written notice to the Society, permit to subsist or receive any guarantee or other assurance against loss in respect of the Subordinated Loan or any part thereof;

(e) other than action taken in accordance with clause 12:

(i) accelerate any repayment of the Subordinated Loan or any part thereof;

17. **Subrogation**

If any Senior Debt is wholly or partially paid out of any proceeds received by virtue of any provision of Article III in respect of or on account of the Subordinated Loan, then the Finsac will to that extent be subrogated to the Senior Debt so paid (and all securities and guarantees for that Senior Debt) BUT not before all the Senior Debts are irrevocably paid in full.

18. **Protection of Subordination**

18.1 The subordination provisions of this Agreement constitute a continuing subordination regardless of any intermediate payment or discharge of the Senior Financing Debts in whole or in part.

18.2 The subordination in this Agreement and the obligations of Finsac shall not be affected by any act, omission, matter or thing which, but for this provision, would reduce, release or prejudice the subordination or any of those obligations in whole or in part, including without limitation:

(a) any time or waiver granted to, or composition with, the Society or any other person; or

(b) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any security or any rights against, or security over, the assets of the Society or any other person in respect of the Senior Financing Debts or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security; or

(c) any unenforceability, illegality or invalidity of any obligation of the Society in respect of any Senior Debt or any document evidencing or securing any Senior Debt.

18.3 Finsac agrees, if requested, to endorse a memorandum of this Article III on any promissory note, agreement or other document or instrument evidencing, securing or otherwise issued in connection with the Subordinated Loan.

19. **Subordination for the Benefit of the Senior Creditors**

19.1 For the avoidance of doubt the parties hereby agree that the subordination provisions of this Article III:

(a) are solely for the purpose of defining the relative rights of the Senior Creditors, on the one hand, and the holders of the Subordinated Loan, on the other hand, and that nothing herein shall impair as between the Society and the holders of the Subordinated Loan, the obligation of the Society, which is unconditional and absolute to pay to the holders of the Subordinated Loan the principal and interest thereon in accordance with the terms hereof;

(b) shall bind all transferees, assignees, holders or other persons entitled to the Subordinated Loan or any part thereof.

19.2 For the purpose of this Article III, references to "the Subordinated Loan" shall be deemed to include principal, interest (including default interest) and all other sums owing in respect of the Subordinated Loan.

ARTICLE IV - NCB GROUP SHARES

20. **Sale of NCB Group Shares**

Concurrently with the disbursement of Tranche A, the Society shall sell, as beneficial owner, and Finsac shall purchase and pay the consideration for the NCB Group Shares free from all Security Interests and with all rights attaching to them, with effect from the Completion Date.

21. **Purchase Consideration**

21.1 The purchase consideration for the NCB Group Shares shall be determined based on the closing selling price for stock units of N.C.B. Group Limited which prevailed on the Jamaica Stock Exchange on the Completion Date (herein called "the JSE Selling Price"). Accordingly, the total consideration payable to the Society for the NCB Group Shares shall be the JSE Selling Price multiplied by the number of NCB Group Shares transferred to Finsac.

21.2 The purchase consideration shall be satisfied by the issue of negotiable Finsac Bonds.

22. **Completion**

22.1 Completion of the purchase of the NCB Group Shares shall be effected on or before the Completion Date.

22.2 The parties recognise and accept that if the NCB Group Shares are transferred on the Jamaica Stock Exchange and the Council of the Jamaica Stock Exchange does not grant approval for the transfer to be effected as an uninterrupted block transfer, then, in such event, the trade pursuant to which the transfer is effected may, in accordance with the Rules of the Jamaica Stock Exchange, be interrupted in which event, other purchasers may purchase stock units from the block of NCB Group Shares or other sellers may offer additional stock units of N.C.B. Group Limited to Finsac.

22.3 All transfer tax, stamp duties and other costs incurred in connection with the transfer of the NCB Group Shares shall, be borne by Finsac, but to the extent applicable, Finsac shall apply to Government for appropriate remissions or waivers.

23. **Postponement of Completion**

If for any reason Finsac elects to postpone the transfer of the NCB Group Shares, then the Society shall be entitled to deliver to Finsac the following documents, namely:

(a) an irrevocable voting power of attorney in the form set out in Schedule 3 hereto:

(b) a blank signed transfer of the NCB Group Shares; and

(c) the share certificates in respect of the NCB Group Shares.

Delivery of the foregoing documents shall be deemed to be completion and Finsac shall be bound to discharge the purchase consideration for the NCB Group Shares as at the date of delivery of the said documents.

24. **Exclusion of Representations and Warranties**

With the exception of the representation and warranty set out at paragraph (d) of sub-clause 32.2, the Society makes no representations and grants no warranties to Finsac with respect to NCB Group of Companies.

ARTICLE V - DIRECTORSHIP AND MANAGEMENT

25. **Board of Directors**

25.1 Subject to disbursement of Tranche A of the Subordinated Loan and receipt of negotiable Finsac Bonds for the NCB Group Shares, the Society shall forthwith reconstitute its Board to comprise fifteen (15) directors including the Executive Chairman, of which seven (7) shall be persons nominated in writing by Finsac ("the Finsac Directors") and seven (7) from among the existing directors of the Society other than those appointed by the Government ("the Society's Directors"). The Executive Chairman of the reconstituted Board shall be acceptable to Finsac and shall be appointed by the Finsac Directors and the Society's Directors acting as a duly constituted Board. The Society shall ensure that as at the date of reconstitution or at any time thereafter all former directors of the Board are properly compensated for any loss of office arising from such termination or removal from office and in the event that any claim is made against Finsac in respect of such claims, the Society shall indemnify Finsac to the extent of such claims.

25.2 Finsac shall give reasonable prior notice to the Board of the persons which it recommends for appointment to the Board together with a detailed resume of each such person.

25.3 If Finsac wishes to remove any director recommended by it from the Board, it shall indemnify the Society against any claim which such director may have against the Society for unfair or wrongful dismissal or other compensation arising out of such removal.

26. **Management**

26.1 With a view of strengthening the Society's executive management team, the parties have agreed that the Board shall make the following two (2) additional appointments to complement the Society's existing management team, namely:

(a) the Executive Chairman; and

(b) the Chief Financial Officer.

The two (2) individuals appointed to the foregoing posts shall be acceptable to Finsac and shall have the requisite experience and skills to discharge the duties of their respective offices. In particular, the Executive Chairman shall be capable of guiding the Society during the de-mutualisation and rehabilitation processes. The appointments referred to above shall be for an initial period of three (3) years and the appointees shall be encouraged to transfer their knowledge and expertise to their understudies to ensure smooth succession.

26.2 The Society undertakes to establish programmes to train and upgrade its current executive and management staff.

26.3 The parties acknowledge that it is necessary for the reconstituted Board to undertake a review of the remuneration packages of senior management. The parties contemplate that the revised remuneration packages will comprise two principal components, namely, basic pay and incentive pay.

ARTICLE VI - DE-MUTUALISATION

27. De-mutualisation Plan

27.1 It is the intention of the parties that as soon as reasonably practicable, the Society will be de-mutualised and converted into a company limited by shares. In pursuance of the foregoing, the parties shall procure that the Board (as reconstituted in accordance with the provisions of sub-clause 25.1) shall establish a De-mutualisation Committee comprising the following persons, namely:

(a) the Executive Chairman;

(b) four (4) directors, two (2) of which shall be appointed from among the directors nominated by Finsac and two (2) from among the other directors.

27.2 The De-mutualisation Committee shall, no later than six (6) months after the appointment of the Executive Chairman, formulate and present to the Board and Finsac the De-mutualisation Plan. If the De-mutualisation Plan is approved by the Board and Finsac, the Society shall take all necessary steps to implement the Plan including where necessary to summon meeting(s) of its Members to consider and vote upon any aspect of the De-mutualisation Plan which may require the approval of the Members in general meeting.

27.3 The parties shall co-operate with each other and shall use their best endeavours to procure that the De-mutualisation Plan is formulated and implemented within the soonest possible time.

27.4 If the Society does not survive De-mutualisation as the De-mutualised Entity, then the De-mutualised Entity shall, by novation or otherwise, adopt this Agreement and the parties hereby agree to take such steps as may be necessary to procure that all the rights and obligations of the Society shall be assumed by the De-mutualised Entity; and the Society shall be simultaneously released from all its obligations hereunder.

28. **Conversion of Subordinated Loan to Equity**

28.1 The De-mutualisation Committee shall recommend for consideration by Finsac the minimum principal amount of the Subordinated Loan which Finsac ought to convert into equity in the De-mutualised Entity.

28.2 Finsac hereby agrees that upon De-mutualisation it shall convert a part of the Subordinated Loan into equity in the De-mutualised Entity. The amount of the Subordinated Loan to be converted to equity shall be such sum as may be proposed by the De-mutualisation Committee and agreed to by Finsac but, in no event shall the amount be less than such sum as may be recommended by the Superintendent of Insurance.

29. **Allotment of Shares**

Upon conversion (pursuant to clause 28) of the aforesaid part of the Subordinated Loan into equity, the shares allotted upon such conversion shall, in consideration for the obligations assumed by the Society herein, be distributed and beneficially held as follows:

(a) 51% shall be allotted to the Society or to a trustee (for the benefit of Members) if the Society survives as the De-mutualised Entity; and

(b) 49% shall be allotted to Finsac.

30. **ESOP**

The parties agree that upon De-mutualisation they shall cause the De-mutualised Entity to establish an employee share ownership plan ("ESOP") for the benefit of employees of the De-mutualised Entity. The following provisions shall apply with respect to the ESOP:

(a) the shares to be allocated to the ESOP shall be contributed by Finsac and the Society in such proportion that after such contribution, the number of shares held by Finsac and the Society shall not be less than 49% and 51%, respectively, of the total number of shares held or which should have been held by Finsac and the Society (assuming that neither Finsac nor the Society has transferred or otherwise disposed of any of their shares ; and

(b) the terms of the ESOP shall be settled by the Board of the Society in consultation with representatives of the employees.

ARTICLE VII - REHABILITATION

31. **Rehabilitation Plan**

31.1 As soon as the new Board is reconstituted in accordance with sub-clause 25.1 hereof, the parties shall procure the establishment of a Rehabilitation Committee of the Board. The Rehabilitation Committee shall comprise the Executive Chairman and four (4) directors, two (2) of which shall be appointed from among the directors nominated by Finsac and two (2) from among the other directors. The Rehabilitation Committee shall be chaired by the Executive Chairman.

31.2 The Rehabilitation Committee shall, no later than six (6) months after the appointment of the Executive Chairman with the assistance of such independent consultant(s) as it may deem appropriate in the circumstances, formulate and present to the Board, a comprehensive three-year Rehabilitation Plan. The Rehabilitation Plan shall include, *inter alia,* (i) a product development plan; (ii) a personnel training and upgrading plan; (iii) a plan to achieve improved financial reporting and accounting systems; (iv) a plan to achieve sales and profitability targets; (v) an organisational and manpower requirement plan; (vi) and analysis of overhead costs of the Mutual Group benchmarked to industry standards; (vii) an information systems plan; (viii) a performance-based employee compensation plan; (ix) a divestment plan with respect to non-core assets and non-performing assets; and (x) an implementation timetable. A copy of the Rehabilitation Plan shall also be delivered to Finsac.

31.3 The Board undertakes to implement, in a timely and businesslike manner, the Rehabilitation Plan (or such part(s) thereof) which has been accepted by the Board.

31.4 At the end of each Financial Quarter, the Rehabilitation Committee shall prepare and submit to the Board and Finsac a Rehabilitation Plan Compliance Report depicting progress made in the implementation of the Rehabilitation Plan against the implementation timetable and reasons for deviation (if any) between actual progress and the timetable. At the end of each Financial year, the Rehabilitation Committee shall prepare and submit to the Board and Finsac an annual report on the work of the Rehabilitation Committee, the progress made in the implementation of the Rehabilitation Plan and objectives for the ensuing Financial Year.

31.5 The parties accept and recognise that the Rehabilitation Plan (notwithstanding acceptance by the Board) may be revised from time to time in the interest of achieving the overall objective of restoring the Society to financial viability within the soonest possible time. Any such revision shall be presented in writing to the Board and Finsac and shall not be implemented unless approved by the Board.

ARTICLE VIII - REPRESENTATIONS AND WARRANTIES

32. **Representations and Warranties**

32.1 Each party hereby represents and warrants to the other that:

35. **Successors Bound**

This Agreement shall be binding on and shall enure for the benefit of the successors and assigns of each of the parties hereto.

36. **Assignment**

Neither party may assign its rights or obligations in whole or in part hereunder without the prior written consent of the other party hereto.

37. **Good Faith**

Each party undertakes with the other to do all things reasonably within its power which are necessary or desirable to give effect to the spirit of this Agreement.

38. **Further Assurance**

The parties hereto shall use their respective reasonable endeavours to procure that any necessary third party shall do, execute and perform all such further deeds, documents, assurances, acts and things as any of the parties hereto may reasonably require by notice in writing to the other to carry the provisions of this Agreement into full force and effect.

39. **No Partnership**

Nothing in this Agreement shall constitute or be deemed to constitute a partnership between the parties hereto and neither of them shall have any authority to bind the other in any way.

40. **Legal Rights**

Subject to Article III, without limiting the rights of each party to pursue all other legal and equitable rights available as a result of the other party's failure to perform its obligations, the parties acknowledge and agree that the remedy at law for any failure to perform their respective obligations may be inadequate and that each of them, respectively, shall be entitled to specific performance, injunctive relief or other equitable remedies in the event of any such failure.

41. **Failure to Respond**

Where any party to this Agreement has a right to grant approval, consent or permission to the other party ("the Applicant"), if such party shall fail within thirty (30) days of receipt of an application from the Applicant (or sixty (60) days in the case of approval of the De-mutualisation Plan) to grant or refuse such approval, consent or permission, then such failure shall be deemed to be consent and the Applicant shall be entitled to proceed accordingly. Any approval, consent or permission may be granted subject to conditions.

42. **Entire Agreement**

This Agreement constitutes the entire Agreement between the parties with respect to the matters dealt with herein and supersedes any previous agreement between the parties hereto in relation to such matters. Each party hereto hereby acknowledges that in entering into this Agreement it has not relied on any representation or warranty save as expressly set out herein. No variation of this Agreement shall be valid or effective unless made in writing and signed by the party or parties to be bound.

43. **Waiver**

No failure to exercise and no delay in exercising on the part of either party hereto any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies otherwise provided by law.

44. **Severability**

Notwithstanding that any provision of this Agreement may prove to be illegal or unenforceable, the remaining provisions shall continue in full force and effect.

45. **Termination**

The termination of this Agreement, however caused, shall be without prejudice to any obligations or rights of either party hereto which may have accrued prior to such termination.

46. **Law**

This Agreement shall be governed by and shall be construed in accordance with Jamaican law.

IN WITNESS whereof this Agreement was duly executed and delivered by the parties on the day and year first hereinbefore written.

EXECUTED UNDER THE COMMON SEAL of **FINSAC LIMITED** and delivered as and for its proper act and deed by Director, and Director/Secretary in the presence of:

SEAL

Director

Director/Secretary

WITNESS

EXECUTED UNDER THE COMMON)
SEAL of **THE JAMAICA MUTUAL LIFE**) ________________
ASSURANCE SOCIETY and delivered) Director
as and for its proper act and deed by)
, Director,)
and)
Director/Secretary in the presence of:) ________________
) Director/Secretary

____
WITNESS

Schedule 1

Solvency Target

Total assets less all liabilities (including Policyholders' Obligations) shall not be less than the sum of the following:

- 0.3% of net amount at risk for Individual Life
- 0.1% of net amount at risk for Group Life
- 1% of unit reserves
- 4% of all other actuarial reserves
- 20% of the market value of investments in real estate
- 20% of the market value of investments in equity shares

Schedule 2

Legal Opinion

December __, 1997

Finsac Limited
76 Knutsford Boulevard
Kingston 5

Dear Sirs

We have acted as attorneys-at-law to The Jamaica Mutual Life Assurance Society ("the Society") in connection with the negotiation, preparation, execution and delivery of the Financial Assistance Agreement dated December 15, 1997 ("the Agreement") between the Society and Finsac Limited ("Finsac").

Terms defined in the Agreement are used herein as therein defined, unless otherwise defined herein.

In connection with this opinion, we have examined the following documents:

1. The Agreement executed by each party thereto.

2. The Power of Attorney dated December 15, 1997 granted by the Soceity to Finsac.

3. The Memorandum and Articles of Association of the Society.

4. Relevant laws and regulations of Jamaica, including the Jamaica Mutual Life Assurance Soceity (Incorporation) Act, 1963 ("the Incorporation Act").

5. The certificates and other documents delivered pursuant to the Agreement.

6. All such other additional documents and regulations as we have deemed necessary for purposes of this opinion.

In our examination of the documents referred to above, we have assumed the genuineness of the signatures on behalf of Finsac and that the persons executing and delivering the Agreement on Finsac's behalf have been duly authroised to do so. As to factual matters, we have relied on the documents that we have examined.

Based upon the foregoing and subject as aforesaid, and having regard for such legal consideration which we deem relevant, we are of the opinion that, under the laws of Jamaica, in effect on the date hereof:

(a) The Society has full power, authority and legal right to enter into and perform the Agreement (including to borrow the Subordinated Loan and to dispose of the NCB Group Shares).

(b) The entry into and performance by the Society of the Agreement and all other documents and instruments to be executed and delivered thereunder by the Society have been duly authorised by all necessary corporate action, and do not contravene (i) the Incorporation Act or the Memorandum and Articles of Association of the Society; (ii) any other law or regulation or judgment, award, injunction or similar legal restriction, as now in force, or (iii) any contractual restriction binding on or affecting the Society or any of its properties, assets or revenues; and no contractual provision or any provision of any law or regulation is applicable that imposes materially adverse conditions upon the Agreement and the obligations of the Society thereunder.

(c) No authorization or approval or other action by, no notice to or filing with, any governmental authority is required for the due execution, delivery and performance by the Society of the Agreement or for the legality, validity or enforceability of the Agreement against the Society.

(d) The Agreement when duly executed and delivered will be the legal, valid and binding obligation of the Society enforceable against the Society in accordance with its terms.

(e) The Society is not entitled to immunity from suit under any law.

(f) As a result of the Stamp Duty (Finsac Limited) (Remission) Notice, 1997 made by the Minister under the Stamp Duty Act, no stamp duty or other tax, levy, assessment, impost, deduction, charge or withholding of any kind will be imposed upon the Agreement or the Power of Attorney.

(g) The Agreement is in proper legal form under the laws of Jamaica for the enforcement thereof against the Society.

The qualifications to which this opinion is subject are as follows:

(i) This opinion relates only to Jamaican domestic law and it is assumed that no law of any other jurisdiction affects the conclusions in this opinion;

(ii) No opinion is expressed as to the effectiveness of sub-clause 5.3 which provides for default rate of interest upon default by the Society) or the effectiveness of clauses 10 (Illegality) and 11 (Increased Costs);

(iii) Equitable remedies such as specific performance and injunction, are in the discretion of the court and may not be available;

(iv) We have not independently verified any representation or statement of fact in the Agreement made by the Society.

The enforceability of the obligations of the Society under the Agreement may be limited by applicable moratorium or similar laws affecting the enforcement of creditors' rights generally and is subject to statutory preferences granted under Jamaican law.

This opinion is given for the sole benefit of Finsac and may not be relied upon by, or disclosed to, any other person.

Very truly yours,
PATTERSON PHILLIPSON & GRAHAM

Per: ____________________
Trevor O. Patterson
Partner

Schedule 3

POWER OF ATTORNEY

In consideration of the sum of $10.00 and other consideration, the receipt and sufficiency of which is hereby acknowledged, this Power of Attorney is given on the day of December, 1997 by THE JAMAICA MUTUAL LIFE ASSURANCE SOCIETY ("the Society") of Mutual Life Centre, 2 Oxford Road, Kingston 5 in the Parish of Saint Andrew.

NOW THIS DEED WITNESSES as follows:

1. **Appointment**

We hereby appoint FINSAC LIMITED of 76 Knutsford Boulevard, Kingston 5 in the Parish of Saint Andrew ("Finsac") to be our attorney in our name and on our behalf and in respect of 379,120,923 stock units in N.C.B. Group Limited of which we are the beneficial owner ("the Stock Units") (i) to vote at all or any meetings of the members or of any particular class of members of N.C.B. Group Limited and at all or any adjournments of such meetings and at ever poll that may be taken at such meetings, and whenever Finsac shall deem it expedient to do so, to demand a poll and also to appoint from time to time any one or more proxies for any of the above purposes and for such one or more meetings as Finsac shall think fit and also from time to time to revoke any appointment of a proxy or proxies; (ii) to receive dividends, interest, income, cash, securities or other property paid or distributed on or with respect to or in exchange for the Stock Units; (iii) to execute all documents in relation to the Stock Units, including documents for the transfer of Stock Units and agreements for the sale of the Stock Units; (iv) to sell, transfer and deal in all respects with the Stock Units; (v) to pledge, mortgage or charge the Stock Units and any dividends, interest income, cash, securities or other property paid or distributed on, with respect to, or in exchange for, the Stock Units; (vi) to commence, carry on and defend all actions or other proceedings in respect of the Stock Units; (vii) to appoint and remove at its pleasure any substitute for or agent under it in respect of all or any of the matters aforesaid upon such terms as it shall think fit; and (viii) generally to act in relation to the Stock Units as fully and effectually in all respects as the Society itself could do.

2. **Irrevocable**

All powers conferred on Finsac by this Power of Attorney are irrevocable.

3. **Attorney's Power**

Finsac, as attorney hereunder (i) has absolute and independent discretion with respect to the exercise of its powers hereunder, including the terms of any documents which it signs or approves; (ii) may act or exercise powers granted to it hereunder in Jamaica or any other place or both in Jamaica and any other place; (iii) may act and exercise powers granted to it hereunder through its directors, officers, managers, attorneys-at-law and any person duly authorised by it.

IN WITNESS WHEREOF this Power of Attorney was duly executed and delivered on the date first above written.

The Common Seal of THE JAMAICA MUTUAL	)	
LIFE ASSURANCE SOCIETY was affixed to this	)	______________________________
Deed in the presence of	)	Director
Director, and	)	
Director/Secretary	)	
	)	______________________________
		Director/Secretary