FC 108/11

FINANCIAL ASSISTANCE AGREEMENT

THIS AGREEMENT is made the 14th day of April, 1998

BETWEEN: **N.C.B. GROUP LIMITED**, a company incorporated under the laws of Jamaica and having its registered office at "The Atrium", 32 Trafalgar Road, Kingston 10 in the Parish of Saint Andrew (hereinafter called "NCB Group");

NATIONAL COMMERCIAL BANK JAMAICA LIMITED, a company incorporated under the laws of Jamaica and having its registered office at "The Atrium", 32 Trafalgar Road, Kingston 10 in the Parish of Saint Andrew (hereinafter called "the Bank");

N.C.B. TRUST and MERCHANT BANK LIMITED, a company incorporated under the laws of Jamaica and having its registered office at "The Atrium", 32 Trafalgar Road, Kingston 10 in the Parish of Saint Andrew (hereinafter called "NCB Trust");

AND: **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").

WHEREAS Finsac, NCB Group, the Bank and NCB Trust have agreed upon on a package of financial assistance (more particularly set forth herein) upon, and subject to, the terms and conditions hereof.

AND WHEREAS Finsac acknowledges that the primary purpose for the package of financial assistance is to procure that NCB Group and its subsidiaries are rendered viable and can comply with all relevant targets, directives and instructions issued by the Bank of Jamaica.

AND WHEREAS the parties have entered into a Heads of Agreement dated March 30, 1998 setting out the preliminary terms of the aforesaid financial assistance package.

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 all parties by the execution of this Agreement do hereby irrevocably acknowledge, the parties HEREBY AGREE as follows:

ARTICLE 1 - DEFINITIONS AND INTERPRETATIONS

1. **Definitions**

1.1 In this Agreement:

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(a) "**Application for Shares**" means an application for shares in the form set out in Schedule 2 hereto;

(b) "**Audited Accounts**" means, with respect to any company, the audited balance sheet and profit and loss account (consolidated, where appropriate);

(c) "**Balance Sheet Date**" means September 30, 1997;

(d) "**Bank's Auditors**" means the auditors for the time being of the Bank;

(e) "**Bank's Preference Shares**" means the redeemable non-cumulative preference shares of J$1.00 each in the capital of the Bank having attached thereto the rights set out in Schedule 4 hereto;

(f) "**1st Share Subscription Date**" means the date agreed between Finsac and the Bank as being the date on which Finsac shall subscribe for ordinary shares and the Zero Coupon Redeemable Preference Shares in the capital of the Bank;

(g) "**2nd Share Subscription Date**" means the date agreed among Finsac, the Bank and NCB Group as being the date on which Finsac shall subscribe for the Bank's Preference Shares and the NCB Group Preference Shares;

(h) "**BOJ**" means the Bank of Jamaica;

(i) "**Credit Facilities (NCB) Sale and Purchase Documents**" means a Master Deed for Sale and Purchase of Credit Facilities between the Bank (as seller) and Recon Trust (as purchaser) together with all Schedules thereto and the Letter of Offer delivered by the Bank thereunder;

(j) "**Credit Facilities (NCB Trust) Sale and Purchase Documents**" means a Master Deed for Sale and Purchase of Credit Facilities between NCB Trust (as seller) and Recon Trust (as purchaser) together with all Schedules thereto and the Letter of Offer delivered by NCB Trust thereunder;

(k) "**Disclosure Letter**" means a joint disclosure letter delivered by NCB Group and the Bank to Finsac on or before the date hereof;

(l) "**Financial Year**" means the financial year of NCB Group or the Bank ending September 30 or such other financial year as may be adopted;

(m) "**Finsac Bond**" means a promissory note issued by Finsac and guaranteed by the Government of Jamaica in the form set out in Schedule 1 hereto;

(n) "**Monthly Report**" means the monthly report prepared by the management of the Bank for presentation to its Board of Directors;

(o) "**NCBI**" means N.C.B. (Investments) Limited, a company incorporated under the laws of Jamaica;

(p) "**NCB Group Preference Shares**" means the redeemable cumulative preference shares of J$0.50 each in the capital of NCB Group having attached thereto the rights set out in Schedule 5 hereto;

(q) "**Recon Trust**" means Recon Trust Limited, a company incorporated under the laws of Jamaica and being a wholly-owned subsidiary of Finsac;

(r) "**Rehabilitation Plan**" means a rehabilitation plan prepared by the Board of Directors of NCB Group in pursuance of clause 5.1;

(s) "**Subsidiary**" has the meaning ascribed thereto by section 149 of the Companies Act;

(t) "**Taxes**" means all taxes (including income tax and general consumption tax), levies, imposts, duties, fees, charges or withholdings of whatsoever nature and wherever levied, charged or assessed together with any interest thereon and any penalties in respect thereof;

(u) "**Tier 1 capital**" has the meaning ascribed thereto by Capital Adequacy Regulations prescribed for commercial banks by BOJ but if at the relevant time such Regulations are in draft form only, then the draft which is current as at the date on which BOJ issues its confirmation, provided that if the draft Regulations differ from the prescribed Regulations, the requirement that the Bank's Preference Shares shall qualify as Tier 1 capital shall mean that it shall so qualify under the prescribed Regulations;

(v) "**Tranche A**" means the package of financial assistance to be provided by Finsac under Article II;

(w) "**Tranche B**" means the package of financial assistance to be provided by Finsac under Article IV;

(x) "**Zero Coupon Preference Shares**" means the zero coupon 30-year redeemable preference shares of J$1.00 each in the capital of the Bank having attached thereto the rights set out in Schedule 3 hereto; and

(y) "**1997 Preference Shares**" means the 450,000,000 zero coupon redeemable preference shares of J$1.00 each in the capital of the Company issued to Financial Institutions Services Limited.

1.2 Any 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.

1.3 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 document being substantially in the relevant form.

1.4 A 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.

1.5 In this Agreement references to "the Bank", "Finsac", "NCB Group"or "NCB Trust" include references to a person who, for the time being, is entitled (by assignment, novation or otherwise) to the Bank's, Finsac's, NCB Group's or NCB Trust'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 passed as a result of a merger, division, reconstruction or reorganisation of any of the parties to this Agreement.

1.6 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*.

1.7 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) to this Agreement.

1.8 The table of contents and the headings of the Articles and clauses hereof are included for convenience of reference and shall not affect the construction of any provision of this Agreement. Reference therein to Articles, clauses, sub-clauses without further identification of a 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 as a whole and not to any individual Article, clause, sub-clause or other part of this Agreement.

ARTICLE II - TRANCHE A

2. Subscription for Ordinary Shares and Zero Coupon Preference Shares in the Bank

2.1 The obligation of Finsac to subscribe for the ordinary shares and the Zero Coupon Preference Shares in the Bank under this clause 2 is conditional upon:

(a) the receipt by Finsac of a certificate signed by at least two (2) directors of the Bank to the effect that all representations and warranties set forth in Schedule 6 are true in all material respects as at the 1st Share Subscription Date; and

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(b) the receipt by Finsac of a certificate signed by at least two (2) directors of the NCB Group to the effect that all representations and warranties set forth in Schedule 6 are true in all material respects as at the 1st Share Subscription Date;

(c) the Bank appropriately increasing its share capital to facilitate the share subscription.

2.2 Subject to satisfaction of the conditions precedent set out at sub-clause 2.1 above and receipt of written confirmation from BOJ that the Zero Coupon Preference Shares will qualify as Tier 1 Capital for the purposes of capital adequacy determination, Finsac shall, by an Application for Shares, apply in writing to the Bank to subscribe:

(a) at par for 167,333,000 ordinary shares of J$1.00 each in the capital of the Bank at a subscription price of J$167,333,000.00; and

(b) for 1,162,667,000 Zero Coupon Preference shares at a subscription price of J$1,162,667,000.00.

2.3 Completion of the subscription for the ordinary shares and the Zero Coupon Preference Shares referred to in sub-clause 2.2 above shall take place at the head office of the Bank at "The Atrium", 32 Trafalgar Road, Kingston 10 on the 1st Share Subscription Date or at such other time and place as may be agreed between the Bank and Finsac. At completion:

(a) the directors of the Bank shall procure that a meeting of the Board of Directors of the Bank is convened and held at which:

(i) the Application for Shares from Finsac shall be duly approved;

(ii) valid resolutions shall be passed to authorise the issue and allotment of 167,333,000 ordinary shares and 1,162,667,000 Zero Coupon Preference Shares in the capital of the Bank;

(b) Finsac shall issue and deliver to the Bank Finsac Bonds in the aggregate principal amount of J$1,330,000,000.00 in the following denominations, namely:

(i) twenty-six (26) Finsac Bonds in the principal amount of J$50,000,000.00 each; and

(ii) a further Finsac Bond in the amount of J$30,000,000.00.

Immediately upon receipt by the Bank of the aforesaid Finsac Bonds, the Bank shall issue and deliver to Finsac:

a) a share certificate under its common seal in respect of the 167,333,000 ordinary shares;

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b) a share certificate under its common seal in respect of the 1,162,667,000 Zero Coupon Preference Shares;

(c) the Bank shall enter Finsac's name on the Bank's register of members as the registered holder of the aforesaid ordinary shares and the Zero Coupon Preference shares and shall cause to be filed with the Registrar of Companies an appropriate Return on Allotment.

2.4 The Finsac Bonds issued to the Bank in subscription for the aforesaid ordinary shares and Zero Coupon Preference Shares shall be available for use by the Bank for general corporate purposes.

3. **<u>Purchase and Sale of Non-performing Loans (Without Recourse)</u>**

3.1 The parties hereby acknowledge that Finsac has procured Recon Trust to enter into:

(a) the Credit Facilities (NCB) Sale and Purchase Documents dated as of February 1, 1998 with respect to the sale to Finsac of a portfolio of non-performing loans and credit facilities having a principal face value of J$13,050,000,000.00; and

(b) the Credit Facilities (NCB Trust) Sale and Purchase Documents dated as of February 1, 1998 with respect to the sale to Finsac of a portfolio of non-performing loans and credit facilities having a principal face value of J$450,000,000.00.

3.2 Upon completion of the subscription for the ordinary shares in accordance with clause 2 above, Finsac shall execute and shall procure that Recon Trust executes and they shall both deliver such of the Credit Facilities (NCB) Sale and Purchase Documents and the Credit Facilities (NCB Trust) Sale and Purchase Documents which are required to be executed and delivered by Finsac and Recon Trust in order to complete and give effect to the transaction contemplated by the Credit Facilities (NCB) Sale and Purchase Documents and the Credit Facilities (NCB Trust) Sale and Purchase Documents.

3.3 The Finsac Bonds issued in pursuance of the Credit Facilities (NCB) Sale and Purchase Documents and the Credit Facilities (NCB Trust) Sale and Purchase Documents shall be in denominations of J$100,000,000 but for any principal amount less than J$100,000,000, a single Finsac Bond shall be issued for such principal amount.

<u>ARTICLE III - REHABILITATION PLAN</u>

4. **<u>Rehabilitation Plan</u>**

4.1 As soon as is reasonably practicable, but in any event within ninety (90) days of the 1st Share Subscription Date, the Board of Directors of NCB Group shall cause NCB Group to prepare the Rehabilitation Plan with respect to NCB Group and its subsidiaries. The Rehabilitation Plan shall, among other things, include the following:

(a) a plan for the divestment of non-core businesses;

(b) an executive and senior management compensation plan in line with the financial services industry in Jamaica;

(c) a plan for the upgrading of management skills;

(d) a plan to improve operations and internal efficiencies covering such matters as the establishment of appropriate systems to procure:

 (i) measurable improvements in internal control;

 (ii) measurable improvements in loan collections and recoveries;

 (iii) measurable improvements in the credit approval process;

 (iv) measurable improvements in key bank productivity indices; and

 (v) that all critical computer based systems shall be year 2000 compliant by June 30, 1999.

(e) an implementation timetable;

(f) an analysis of overhead costs of NCB Group and its subsidiaries benchmarked to industry and best practices standards; and

(g) a performance based employee compensation plan.

4.2 The directors of NCB Group shall also undertake a senior management review and shall prepare and deliver to Finsac proposals for the strengthening of senior management.

4.3 NCB Group shall deliver a copy of the Rehabilitation Plan to Finsac and shall give due weight to any relevant comments received from Finsac. The Rehabilitation Plan shall be approved by the Board of Directors of NCB Group and Finsac for implementation.

4.4 At the end of each financial quarter, the directors of NCB Group shall cause to be prepared and submitted to Finsac in a form acceptable to Finsac a Rehabilitation Compliance Report outlining the 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 directors of NCB Group shall cause to be prepared and submitted to Finsac an annual report on the work of the Rehabilitation Committee the progress made in the implementation of the Rehabilitation Plan and the objectives for the ensuing financial year.

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

ARTICLE IV - TRANCHE B

5. Control Environment

The Bank undertakes to implement, monitor and secure substantial compliance with the credit controls described in:

(a) Credit Administration Sanction Policy #35/1997/P from NCB Group the Bank's Head Office and Branches dated December 1, 1997 and attached hereto as Exhibit A;

(b) Circular #198/1997G dated July 14, 1997 and attached hereto as Exhibit B;

(c) Circular #36/1997/P from the Managing Director of the Bank dated December 16, 1997 and attached hereto as Exhibit C.

6. Conditions Precedent to the Grant of Tranche B Assistance

The obligation of Finsac to provide financial assistance under Tranche B is conditional upon:

(a) the approval of the Rehabilitation Plan by the Board of Directors of NCB Group;

(b) written confirmation from BOJ that the Bank's Preference Shares will qualify as Tier 1 capital for the purposes of capital adequacy determination;

(c) the Bank and NCB Group increasing their respective share capitals appropriately to facilitate the share subscriptions contemplated under Tranche B;

(d) receipt by Finsac of a certificate signed by at least two (2) directors of the Bank to the effect that, as of the date of the 2nd Share Subscription Date, to the best of their knowledge after due enquiry, the Bank is in compliance with the terms of this Agreement;

(e) receipt by Finsac of a certificate signed by at least two directors of the Bank to the effect that the representations and warranties set forth in Schedule 6 are true in all material respects (as at the 2nd Share Subscription Date) as if such representations had been made on and as of such date;

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(f) receipt by Finsac of a certificate signed by at least two (2) directors of NCB Group to the effect that the representations and warranties set forth in Schedule 6 are true in all material respects (as at the 2nd Share Subscription Date) as if such representations had been made on and as of such date;

(g) receipt by Finsac of a certificate signed by at least two (2) directors of NCB Group that NCB Group has disclosed in writing to Finsac all facts which materially and adversely affect or may affect (to the extent reasonably foreseeable), the business operations or financial condition of NCB Group and its consolidated subsidiaries taken as a whole, or the ability of NCB Group to perform its obligations under this Agreement.

7. **2nd Share Subscription**

7.1 After completion of the transactions contemplated under Tranche A and subject to satisfaction of the conditions precedent set out in clause 6 above, Finsac shall, by an Application for Shares, apply to subscribe for the following shares:

(a) 3,670,000,000 Bank's Preference Shares in the capital of the Bank at a subscription price of J$3,670,000,000.00;

(b) 2,000,000,000 NCB Group Preference Shares at a subscription price of J$1,000,000,000.00.

7.2 Notwithstanding anything herein, it is hereby declared and agreed for the avoidance of doubt that the obligations of the Bank to accept the subscription from Finsac in respect of the Bank's Preference Shares and to issue such shares to Finsac shall be conditional upon receipt of written confirmation from BOJ that the Bank's Preference Shares will qualify and be treated as Tier 1 capital.

7.3 The provisions of sub-clause 2.3 hereof with respect to the procedure for the subscription and allotment of the ordinary shares in the Bank shall apply *mutatis mutandis* to the subscription and allotment of the Bank's Preference Shares and the NCB Group Preference Shares.

7.4 The subscription price in respect of the Bank's Preference Shares shall be paid by the issue and delivery by Finsac of Finsac Bonds for an aggregate principal amount of J$3,670,000,000.00 to the Bank in respect of the Bank's Preference Shares.

7.5 The subscription price in respect of the NCB Group Preference Shares shall be paid by the issue and delivery by Finsac of Negotiable Finsac Bonds for an aggregate principal amount of J$1,000,000,000.00 to NCB Group in respect of the NCB Group Preference Shares.

7.6 The Finsac Bonds referred to in sub-clauses 7.4 and 7.5 above shall be issued in denominations of J$100,000,000 but for any principal amount less than J$100,000,000, a single Finsac Bond shall be issued for such principal amount.

8. **<u>Use of Preference Shares Subscription Bonds</u>**

8.1 The Finsac Bonds issued to the Bank in subscription for the Bank's Preference Shares and the Zero Coupon Preference Shares shall be available for use by the Bank for general corporate purposes.

8.2 The Finsac Bonds issued to NCB Group in subscription for the NCB Group Preference Shares shall, within thirty (30) days of receipt thereof by NCB Group, be used by NCB Group as follows:

(a) Finsac Bonds having an aggregate principal value of J$400,000,000.00 shall be used to subscribe for additional ordinary shares in the capital of NCB Trust; and

(b) Finsac Bonds having an aggregate principal value of J$600,000,000.00 will be used to subscribe for additional ordinary shares in the capital of NCBI.

In pursuance of the foregoing, the Finsac Bonds shall be endorsed and delivered to NCB Trust and NCBI in return for the relevant share certificate to be issued by NCB Trust and NCBI.

9. **<u>Subscription Warranties</u>**

The Bank and NCB Group hereby jointly and severally represent and warrant to Finsac that, except as disclosed in the Disclosure Letter, the warranties set out in <u>Schedule 6</u> are, as at the date of this Agreement, true and complete in all material respects.

<u>ARTICLE V - OPERATIONAL MATTERS</u>

10. **<u>Positive Covenants</u>**

10.1 The Bank hereby covenants with Finsac that so long as this Agreement remains in force, it will furnish to Finsac:

(a) as soon as reasonably practicable (and in any event within ninety (90) days) of the end of the previous Financial Year, an annual budget and cash flow forecast accompanied by a statement of the Bank'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;

(b) as soon as practicable (and in any event within one hundred and twenty (120) days after the close of each Financial Year:

(i) its Audited Accounts;

(ii) calculations (duly certified by the Bank's Chief Financial Officer) showing the actual performance of the Bank against the financial targets set out in the annual budget referred to in sub-paragraph (a) above;

(c) 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 Bank's Chief Financial Officer;

(ii) a Compliance Report (in a form agreed between the parties) duly certified by the Bank's Chief Financial Officer, setting forth in reasonable detail, the calculation required to establish whether the Bank 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 Bank 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 Bank and Finsac);

(d) as soon as practicable (and in any event within forty-five (45) days after the end of each calendar month), copies of the monthly management financial statements presented to the Board and the Monthly Report;

(e) promptly on becoming aware thereof:

(i) notice in writing certified by the Secretary 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 Bank or which may be threatened, instituted or commenced against the Bank 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 Bank;

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

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

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

(f) at the same time they are despatched by the Bank to its shareholders, all notices, proxy statements or other documents despatched by the Bank to its shareholders generally;

(g) promptly upon their becoming available copies of all regular and periodic reports and all prospectuses filed by the Bank with the BOJ;

10.2 The Bank further covenants with Finsac that so long as this Agreement remains in force, it will:

(a) procure that all its net profits (as defined in section 8(4) of the Banking Act) shall either be transferred to the reserve fund or retained in the retained earnings reserve until:

(i) the ratio of its Tier 1 capital base to total assets is at least 8%; and

(ii) the ratio of its Tier 1 capital base to risk weighted assets is at least 12%;

(b) not, without Finsac's prior written consent:

(i) reduce its authorised share capital or alter any rights attaching to its shares;

(ii) take or permit the taking of any step to be voluntarily wound up;

(iii) transfer the whole or any substantial part of its business to another person;

(iv) consolidate, merge or amalgamate with any other person; or

(v) make any material change in the nature of its business; or

(vi) subscribe for shares in any subsidiary of NCB Group; or

(vii) redeem or repurchase any preference shares other than the 1997 Preference Shares.

10.3 NCB Group hereby covenants with Finsac that so long as this Agreement remains in force, it will furnish to Finsac:

(a) as soon as reasonably practicable (and in any event within ninety (90) days) of the end of the previous Financial Year an annual budget and cash flow forecast accompanied by a statement of NCB Group'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;

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(b) as soon as practicable (and in any event within one hundred and twenty (120) days after the close of each Financial Year:

  (i) its Audited Accounts;

  (ii) calculations (duly certified by NCB Group's Chief Financial Officer) showing the actual performance of NCB Group against the financial targets set out in the annual budget referred to in sub-paragraph (a) above;

(c) 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 NCB Group's Chief Financial Officer;

  (ii) a Compliance Report (in a form agreed between the parties) duly certified by NCB Group's Chief Financial Officer, setting forth in reasonable detail, the calculation required to establish whether NCB Group 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 NCB Group 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 NCB Group and Finsac);

(d) as soon as practicable (and in any event within forty-five (45) days after the end of each calendar month), copies of the monthly management financial statements presented to the Board;

(e) promptly on becoming aware thereof:

  (i) notice in writing certified by the Secretary 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 NCB Group or which may be threatened, instituted or commenced against NCB Group 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 NCB Group;

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

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

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

(f) at the same time they are despatched by NCB Group to its shareholders, all notices, proxy statements or other documents despatched by NCB Group to its shareholders generally; and

(g) promptly upon their becoming available copies of all regular and periodic reports and all prospectuses filed by NCB Group with the Registrar of Companies.

10.4 NCB Group hereby covenants with Finsac that so long as this Agreement remains in force:

(a) it shall not take or permit to be taken any step to be voluntarily wound up;

(b) it shall not reduce its ordinary shareholding in the Bank below 51% or transfer or otherwise dispose of the whole or any substantial part of its business to another person, provided that sale or other disposal of non-financial assets shall be permitted;

(c) it shall not consolidate, merge or amalgamate with any other person; and

(d) it shall not make any material change in the nature of its business.

11. **Reconstitution of Board of Directors**

Upon completion of the transactions contemplated by clauses 2, 3 and 7, Finsac shall be entitled to serve written notice upon NCB Group requiring it to secure the resignation or removal from office of up to six (6) directors of the Bank; such directors to be named by Finsac. NCB Group shall, within ninety (90) days, comply with any such request and the vacancies thereby arising shall be filled by persons nominated by Finsac.

12. **Undertakings**

12.1 The Bank further covenants with Finsac that so long as any of the Bank's Preference Shares are outstanding, its consolidated financial position shall be such as to ensure that with the exception of Minor Breaches, the Bank is compliant with the following provisions of the Banking Act:

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(a) section 6 (minimum capital requirements);

(b) section 8 (reserve fund);

(c) section 9 (maximum deposit liabilities);

(d) section 10 (limit on fixed assets);

(e) section 13 (credit limits);

(f) section 14 (cash reserves); and

(g) section 15 (liquid asset ratio).

For the purpose of this provision, "Minor Breaches" means any breach which is cured within thirty (30) days and which in a case where the financial position of the Bank is such that a state of actual or apprehended insolvency does not exist under section 25 of the Banking Act..

12.2 Finsac shall procure that:

(a) the Zero Coupon Preference Shares and the Bank's Preference Shares shall qualify as Tier 1 Capital for the purposes of capital adequacy determination; and

(b) the Finsac Bonds issued to the Bank and NCB Group as the subscription consideration for the ordinary shares, the Bank's Preference Shares and the Zero Coupon Preference Shares to be issued by the Bank and the NCB Group Preference Shares to be issued by NCB Group shall be designated by the Minister as liquid assets within the meaning of section 15 of the Banking Act.

13. **Listing of the Bank's Shares**

13.1 Subject to the Bank being in a position to comply with the listing requirements of the Jamaica Stock Exchange and all relevant legal requirements, Finsac may, at any time after the expiration of three (3) years from the date of this Agreement, request the Bank to apply to the Jamaica Stock Exchange for a listing of the ordinary shares in the Bank. Upon such request, the Bank shall promptly, and in any event within 150 days, make such application for such listing. All costs including listing fees, accounting and legal fees incurred in connection with the listing application shall be borne equally by the Bank and Finsac.

13.2 Neither the Bank nor NCB Group gives any warranty or makes any representation with respect to such application for listing.

ARTICLE VI - FINSAC'S COVENANTS

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14. **Voting Restriction**

14.1 Finsac hereby covenants that it will not exercise any voting rights attaching to the Zero Coupon Preference Shares unless in the reasonable opinion of Finsac:

(a) the Bank has embarked upon a material variation from the Rehabilitation Plan approved by Finsac; or

(b) the Bank proposes to embark upon a material variation from the Rehabilitation Plan.

14.2 In either of the circumstances set out in sub-clause 14.1, Finsac may, by written notice to the Bank, require the Bank to take remedial steps to conform to the Rehabilitation Plan approved by Finsac and if the Bank fails to take remedial steps, as aforesaid, within sixty (60) days of receipt of such notice, then Finsac shall be entitled to give written notice to the Bank that, with immediate effect, it will no longer be bound by the voting restriction set out in sub-clause 14.1 above and thereafter it will be entitled to exercise all voting rights attaching to the Zero Coupon Preference Shares.

ARTICLE VII - MISCELLANEOUS PROVISIONS

15. **Notice**

All notices which are required to be given hereunder shall be in writing and shall be sent to the address of the recipient set out in this Agreement or such other address as the recipient may designate by notice given in accordance with this clause. Any such notice may be delivered personally, by mail or facsimile transmission and shall be deemed to have been served by personal delivery when delivered; if by mail, 72 hours after posting; and if by facsimile transmission, when despatched.

16. **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.

17. **Assignment**

No party may assign its rights or obligations in whole or in part hereunder without the prior written consent of the other party hereto.

18. **Further Assurance**

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

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18.2 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.

19. **Effect of Disposal of Shares by Finsac**

If Finsac shall dispose of more than 50% of all the shares issued to it pursuant to this Agreement, then this Agreement shall terminate without prejudice to Finsac's rights under the remaining shares held by it.

20. **Discharge of Obligations to Finsac**

Any monetary obligation which NCB Group or the Bank may at any time have to Finsac may be discharged by the surrender of Finsac Bonds in the principal amount of the obligation to be discharged. In pursuance thereof, if the amount of the debt is less than the nominal amount of a Finsac Bond, then NCB Group or the Bank, as the case may be, shall be entitled to surrender the Finsac Bond on terms that a new Finsac Bond for the remaining principal amount shall be issued in replacement of the Finsac Bond which is surrendered.

21. **No Partnership**

Nothing in this Agreement shall constitute or be deemed to constitute a partnership between the parties hereto and no party shall have any authority to bind the other in any way.

22. **Waiver**

No failure to exercise and no delay in exercising on the part of any 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.

23. **Costs**

NCB Group, the Bank and NCB Trust (as the case may be) shall bear all legal costs, transfer tax (if any), stamp duties and registration fees (if any) in connection with the preparation of this Agreement and the implementation and completion of the transactions contemplated herein. Finsac undertakes to use its best endeavours to procure ministerial remissions in respect of such transfer tax (if any) and stamp duties. NCB Group and the Bank shall on demand reimburse Finsac the amount of all reasonable legal fees incurred by Finsac in connection with the negotiation, preparation, execution, implementation and completion of the transaction contemplated herein.

24. **Entire Agreement**

This Agreement constitutes the entire agreement between the parties hereto with respect to the matters dealt with therein and supersedes any previous agreements and understandings (including the Heads of Agreement referred to in the recitals hereto) between the parties hereto in relation to such matters. Each of the parties hereto hereby acknowledges that in entering into this Agreement it has not relied on any representation or warranty save as expressly set out herein or in any document referred to herein. No variation of this Agreement shall be valid or effective unless made by one or more instruments in writing signed by such of the parties hereto which would be affected by such variation.

25. **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.

26. **Governing Law**

This Agreement shall be governed by, and 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)
N.C.B. GROUP LIMITED and delivered as)
and for its proper act and deed by) Director
OLIVER CLARKE)
Director, and JOSEPH SIMCAIR)
~~Director~~/Secretary in the presence of:) ~~Director~~/Secretary

N.C.B. GROUP SEAL LIMITED

WITNESS
SHIRLEY-ANN EATON, M B.A. (Fin.) LL.B.
Attorney-at-Law

EXECUTED under the common seal of)
NATIONAL COMMERCIAL BANK
JAMAICA LIMITED and delivered as and)
for its proper act and deed by OLIVER) Director
CLARKE)
Director, and JOSEPH SIMCAIC)
~~Director~~/Secretary in the presence of:) ~~Director~~/Secretary

NATIONAL COMMERCIAL BANK JAMAICA LIMITED SEAL

WITNESS
SHIRLEY-ANN EATON, M.B.A. (Fin.) LL.B.
Attorney-at-Law

EXECUTED under the common seal of **N.C.B. TRUST and MERCHANT BANK LIMITED** and delivered as and for its proper act and deed by Director, and Director/Secretary in the presence of:	~~Director~~ Director/Secretary

N.C.B. TRUST AND MERCHANT BANK LIMITED SEAL

WITNESS

JENNIFER D. KELLY
ATTORNEY-AT-LAW
"THE ATRIUM"
32 TRAFALGAR ROAD
KINGSTON 10. JAMAICA

EXECUTED under the common seal of **FINSAC LIMITED** and delivered as and for its proper act and deed by PATRICK HYLTON, Director, and LISA SHIELDS ~~Director~~/Secretary in the presence of:	Director ~~Director~~/Secretary

WITNESS **VALERIE ALEXANDER, L.L.B.**
Attorney-at-Law

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SCHEDULE 1
FINSAC BOND

J$______________ Issue Date: ______________

Maturity Date: ______________

FOR VALUE RECEIVED, **FINSAC LIMITED** ("the Promisor") HEREBY UNCONDITIONALLY PROMISES TO PAY TO the order of the sum of ( ) ("the Principal Sum") on , (fixed).

The Promisor further promises to pay interest on the Principal Sum from the date hereof at the Agreed Rate (both before as well as after any judgment). Such interest shall be payable semi-annually on and of each year ("Interest Payment Dates"), the first such payment to be due and payable on .

The failure of the holder hereof to exercise any of his rights hereunder in any particular instance shall not constitute a waiver thereof in that or any other instance. The Promisor hereby waives presentment, demand, protest and notice of any kind in the enforcement of this Note.

No days of grace shall be added to any time for payment.

In this Note:

(a) "Agreed Rate" means the aggregate of the weighted average yield rate applicable to the latest 6-month Treasury Bill tender ("WAYR") (expressed as a percentage per annum) plus 100 basis points. The Agreed Rate shall be reset on each Interest Payment Date commencing on based on the latest 6-month Treasury Bill tender as at the day immediately preceding such Interest Payment Date ("Reset Date"). If, as at any Reset Date, there are in issue no 6-month Treasury Bills issued by the Government of Jamaica during the 90-day period immediately preceding such Reset Date, then the Agreed Rate shall be determined using the WAYR on the latest Treasury Bill tender with a tenor of 136 to 210 days plus 100 basis points; and

(b) references to "6-month Treasury Bills" shall mean treasury bills with a tenor of 181 to 183 days and, if pursuant to sub-paragraph (a) above, Treasury Bills with a tenor of 136 to 210 days are used to determine the Agreed Rate, then for the purposes hereof, such Treasury Bills shall be deemed to be 6-month Treasury Bills.

This Note is governed by, and shall be construed in accordance with, the laws of Jamaica.

FINSAC LIMITED

By: ______________

By: ______________

UNDERTAKING

The Government of Jamaica ("GOJ") HEREBY IRREVOCABLY AND UNCONDITIONALLY UNDERTAKES to the holder ("the Holder") of the Note upon which this Undertaking is endorsed ("the Note") that if FINSAC LIMITED ("the Promisor") shall fail to pay any principal or interest in accordance with the provisions of the Note as and when same shall become payable under the Note, then GOJ shall, on first demand, pay such principal or interest. GOJ shall not be exonerated or discharged from liability under this Undertaking by time being given to the Promisor by the Holder or by any other dealing or thing which but for this provision might operate to exonerate or discharge GOJ from its obligations herein contained. This Undertaking is to be a continuing undertaking and accordingly shall remain in operation until all moneys owing in respect of the Note have been paid or satisfied. The issue of this Undertaking constitutes private and commercial acts rather than governmental or public acts and GOJ hereby waives to the fullest extent permitted by applicable law any immunity from the jurisdiction of any court or from any legal process. All principal and interest payable by GOJ shall be a charge upon the general revenues and assets of the Island of Jamaica.

This Undertaking shall constitute an endorsement of the Promissory Note by GOJ with GOJ an endorser with full recourse against it.

IN WITNESS whereof GOJ has caused this Undertaking to be duly signed on its behalf.

THE GOVERNMENT OF JAMAICA

By: ____________________________
Hon. Shirley Tyndall, O.J.
Financial Secretary

SEE REVERSE SIDE FOR ENDORSEMENTS (if any)

SCHEDULE 2
APPLICATION FOR SHARES

The Directors
[HERE STATE NAME
AND ADDRESS OF COMPANY]

Dear Sirs

Re: Application for Shares

Reference is made to the Financial Assistance Agreement dated , 1998 wherein we agreed to subscribe for certain shares.

Now, therefore, we hereby apply for the issue of ____________________________ shares of J$1.00 each in the capital of the Company to be issued as fully paid and hereby request you to allot such shares to us. We enclose herewith Finsac Bonds in the aggregate principal amount of J$__________________ in full payment for the said shares.

We agree to take the said shares subject to the Memorandum and Articles of Association of the Company and authorise you to enter our name in the Register of Members as the holder of the said shares.

Dated this day of , 1998

Per: ____________________

SCHEDULE 3

RIGHTS ATTACHING TO ZERO COUPON PREFERENCE SHARES

The special rights and restrictions attached to, and imposed on the zero coupon 30-year redeemable preference shares of J$1.00 each (herein called the "Zero Coupon Preference Shares") are as follows:

A. As to Capital

The Zero Coupon Preference Shares shall confer on the holders thereof the right on a winding-up or other return of capital to repayment *pari passu* among themselves (after paying to the holders of the Prior Ranking Preference Shares the amount paid up or credited as paid upon the Prior Ranking Preference Shares together with any premiums paid or credited as paid on the Prior Ranking Preference Shares and all unpaid arrears of dividends and accruals of dividends on the Prior Ranking Preference Shares) but in priority to any payment to the holders of any other shares in the capital of the Bank of the amounts paid up or credited as paid up on the Zero Coupon Preference Shares held by them including any premium.

The Zero Coupon Preference Shares shall confer no further right to participate in the profits or assets of the Bank.

B. As to Further Issues

With the exception of the Prior Ranking Preference Shares, no further shares ranking as to dividend or repayment of capital in priority to the Zero Coupon Preference Shares shall be created or issued except with the consent or sanction of the holders of the Zero Coupon Preference Shares.

C. As to Voting

The Zero Coupon Preference Shares shall confer on the holders thereof, the right to receive notice of, to be present and to speak, and to vote, either in person or by proxy, at any general meeting of the Bank or by way of written resolution if:

(a) any resolution is proposed for the winding-up of the Bank, in which case the holders may only then vote at such general meeting on the election of a chairman and any motion for adjournment and the resolution for winding-up; or

(b) any resolution is proposed to dispose of the undertaking of the Bank; or

(c) the meeting is convened for the purpose of considering a reduction of the capital of the Bank; or

(d) the resolution to be proposed to the meeting if passed would abrogate or vary or otherwise directly affect the special rights and privileges attaching to the Zero Coupon Preference Shares; or

(e) the Minister shall, in pursuance of his powers under section 25 of the Banking Act, take any action against the Bank under the Second Schedule to the Banking Act; or

(f) without the prior written consent of Finsac Limited ("Finsac"), the Bank has embarked upon or proposes to embark upon a material variation from the Rehabilitation Plan and, having received written notice from Finsac requiring it to take remedial steps to conform to the Rehabilitation Plan, the Bank shall, within sixty (60) days of receipt of such notice, fail to take remedial steps to conform to the Rehabilitation Plan and following the foregoing, Finsac shall serve written notice upon the Bank that it proposes to exercise the voting rights attaching to the Zero Coupon Preference Shares. In this sub-paragraph, references to "the Rehabilitation Plan" means a rehabilitation plan prepared by NCB Group Limited pursuant to a Financial Assistance Agreement dated February 1, 1998 and approved by Finsac.

The voting right arising pursuant to sub-paragraph (f) above shall enure only to the benefit of Finsac and, accordingly, shall not apply to Zero Coupon Preference Shares which may be transferred by Finsac or in which Finsac no longer holds the beneficial interest.

On a show of hands, every holder of Zero Coupon Preference Shares (who is permitted to vote at such a meeting) and who is present in person shall have one vote, and on a poll every such holder present in person or by proxy shall have one vote for every 100 Zero Coupon Preference Shares held by him. Save as aforesaid, the Zero Coupon Preference Shares shall confer no further rights to vote or to participate in the profits or the assets of the Bank.

D. As to Redemption

The Zero Coupon Preference Shares shall, subject to the provisions of section 57 of the Companies Act (and/or any other enactment replacing or amending same) and to prior redemption of the Prior Ranking Preference Shares, be redeemed upon and subject to the following terms and conditions:

(a) The Bank shall have the right, at any time, after the date of allotment of any Zero Coupon Preference Share (provided it is fully paid) to redeem such share at par (that is to say, a redemption price of J$1.00 per share) and in the case of a partial redemption proportionately in respect of each holding of Zero Coupon Preference Shares.

(b) So long as the Zero Coupon Preference Shares are outstanding the Bank shall at the close of each financial year of the Bank place to the credit of an account in its books to be called "Zero Coupon Preference Share Redemption Fund" a sum (to be appropriated out of its Adjusted Net Profits) representing the Annual Redemption Fund Contribution. For this purpose:

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(i) "the Annual Redemption Fund Contribution" means, with respect to any financial year of the Bank, the sum calculated in accordance with the following formula, namely:

$$\frac{RFS}{YTR} = \text{Redemption Fund Contribution}$$

Where:

(1) "RFS" is the Redemption Fund Shortfall, being the amount which, as at the close of the financial year, with respect to which the calculation is being made, would be required along with funds, if any, then standing to the credit of the Zero Coupon Preference Shares Redemption Fund to redeem all the Zero Coupon Preference Shares outstanding as at such date;

(2) "YTR" is the number of financial years (including the financial year in respect of which the calculation is being made) left to run to December 31, 2028 (the Final Redemption Date).

(ii) "Adjusted Net Profits" shall mean the net profits (as defined in section 8(4) of the Banking Act) of the Bank and its subsidiaries and shown in the audited consolidated profit and loss accounts of the Bank and its subsidiaries for the relative financial period to the nearest dollar after recognition of:

(1) any exceptional or extraordinary items (if and to the extent that such items were not taken into account in determining net profits);

(2) provisions for the following, namely:

a) the sum transferred or required to be transferred to the Reserve Fund as required by the Banking Act or any other law or regulation for the time being in force;

b) any sum transferred or required to be transferred to the retained earnings reserve in accordance with any written directive or instruction from the Bank of Jamaica or other competent authority;

c) the sum to be transferred or required to be transferred to a preference share redemption fund (to be determined *mutatis mutandis* in accordance with the principles set out above for the determination of the Annual Redemption Fund Contribution) in respect of the outstanding 1997 Preference Shares;

d) the sum transferred or required to be transferred to the Bank's Preference Share Redemption Fund in accordance with the terms and conditions of the Bank's Preference Shares;

(3) all losses (if any) made by the Bank in any previous financial year or years of the Bank to the extent that such losses have not been made good out of the profits earned subsequently by the Bank, being profits which remain unappropriated in the books of the Bank.

(c) Subject to the provisions of the Companies Act or any enactment modifying or replacing same, the Bank may, at its discretion, redeem at par (that is to say a redemption price of J$1.00 per share) all or any of the Zero Coupon Preference Shares.

(d) If at the end of any financial year it shall be determined that the Bank has made Supra Profits then, same shall be applied in redeeming Zero Coupon Preference Shares. For the purposes hereof, "Supra Profits" shall be profits (if any) remaining after deducting from Distributable Finsac Profits (to be determined based on the terms and conditions attaching to the Bank's Preference Shares) or otherwise making allowance for, the following items, namely:

(i) the dividends payable on all preference shares issued by the Bank;

(ii) a final dividend on the ordinary shares in the capital of the Bank of 20% of after tax profits; and

(iii) any Super Profits (as defined in the relevant terms and conditions attached to the Bank's Preference Shares).

For the avoidance of doubt, it is hereby declared that, whether or not payment is made in full in respect to the above items, allowance shall, nonetheless, be made for those items in calculating Supra Profits.

(e) The Bank shall on December 31, 2028 ("Final Redemption Date") redeem at par (that is to say, a redemption price of J$1.00 per share) all the Zero Coupon Preference Shares which are outstanding at that date; and if, in accordance with section 57 of the Companies Act (or any other applicable enactment, replacing or modifying same), the Zero Coupon Preference Shares shall not on any such date be capable of being redeemed by the Bank, such redemption shall be effected as soon as possible after the Zero Coupon Preference Shares shall have become capable of being redeemed.

(f) Not less than one (1) month's notice of the intention of the Bank to redeem shall be given to the holders of the Zero Coupon Preference Shares to be redeemed. The notice shall be in writing and shall fix

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the time and place for such redemption. At the time and place so fixed the registered holders of the Zero Coupon Preference Shares to be redeemed shall be bound to deliver up to the Bank the relative certificates for cancellation, and the Bank shall pay to them the redemption money in respect of such Zero Coupon Preference Shares.

(g) If any holder of Zero Coupon Preference Shares shall fail or refuse to surrender the certificate or certificates for such Zero Coupon Preference Shares or shall fail or refuse to accept the redemption money payable in respect of them such money shall be retained and held by the Bank in trust for such holder but without interest or further obligation whatever.

(h) No Zero Coupon Preference Share shall be redeemed otherwise than out of distributable profits or the proceeds of a fresh issue of shares made for the purpose of the redemption or out of capital to the extent permitted by the law, but the premium payable on redemption shall be paid either out of distributable profits, or to the extent permitted by law, out of the share premium account of the Bank.

(i) Notwithstanding anything herein, any redemption sum or other amount payable by the Bank in respect of the Zero Coupon Preference Shares may be paid by the surrender or endorsement and transfer of Finsac Bonds of a like nominal value as the redemption sum or the amount of payment. "Finsac Bonds" means promissory notes issued by Finsac and guaranteed by the Government of Jamaica.

(j) No Zero Coupon Preference Share redeemed by the Bank shall be capable of reissue and on redemption of any Zero Coupon Preference Shares the directors may convert the authorised share capital created as a consequence of such redemption into shares of any other class of share capital into which the authorised share capital of the Bank is or may at that time be divided of a like nominal amount or (as nearly as may be) as the shares of such class then in issue or into unclassified shares of the same nominal amount as the Zero Coupon Preference Shares.

E. Variation of Rights

Subject to the provisions of Section 72 of the Companies Act, all or any of the special rights and privileges for the time being attached to the Zero Coupon Preference Shares may from time to time (whether or not the Bank is being wound up), be varied or abrogated in any manner only with the consent in writing of the holders of not less than three-fourths (¾) of the issued Zero Coupon Preference Shares or with the sanction of an extraordinary resolution passed at a separate general meeting of the holders of Zero Coupon Preference Shares. All the provisions of the Bank's Articles of Association as to general meetings of the Bank shall, *mutatis mutandis*, apply to any such separate general meeting but so that the necessary quorum shall be the holder(s) of not less than one-third (⅓) of the issued Zero Coupon Preference Shares.

directive or instruction from the Bank of Jamaica or other competent authority;

(3) the sum transferred or required to be transferred to a preference share redemption fund (to be determined *mutatis mutandis* in accordance with the principles set out under paragraph F herein for the determination of the Annual Redemption Fund Contribution) in respect of the outstanding 1997 Preference Shares;

(4) the sum transferred or required to be transferred to the Bank's Preference Share Redemption Fund in accordance with paragraph E below;

(5) the sum transferred or required to be transferred to the 1998 Zero Coupon Preference Share Redemption Fund in accordance with the terms and conditions of the Zero Coupon Preference Shares;

(6) all losses (if any) made by the Bank in any previous financial year or years of the Bank to the extent that such losses have not been made good out of the profits earned subsequently by the Bank being profits which remain unappropriated in the books of the Bank.

(c) If any Distributable Finsac Profits are realised at the close of any financial year then, to the extent that dividend can be paid on the Bank's Preference Shares without causing the Bank to violate any BOJ Target or to fail to achieve any BOJ Target, the Bank shall, out of the available Distributable Finsac Profits, pay the fixed non-cumulative dividend up to the Agreed Coupon Rate on the capital for the time being paid up or credited as paid up on the Bank's Preference Shares. Payment of such dividends shall be made no later than four (4) weeks after the audited financial statements for the relevant financial period are approved by the directors of the Bank.

(d) In these provisions:

"Agreed Coupon Rate" means:

(i) up to the financial year ending September 30, 2002, 12½% per annum; and

(ii) after the financial year ending September 30, 2002, the weighted average yield rate applicable to the latest 6-month Treasury Bill tender ("WAYR") expressed as a percentage per annum. This rate shall be determined and applied at half yearly intervals on March 30 and September 30 of each year ("Calculation Date"). If as at any Calculation Date there are in issue no 6-month Treasury Bills issued by the Government of Jamaica during the 6-month period preceding such Calculation Date, then the Agreed Coupon Rate shall be determined using the WAYR on the latest Treasury Bill tender with a tenor of 136 to 210 days. References herein to "6-month Treasury

Bills" shall mean Treasury Bills with a tenor of 181 to 183 days and, if pursuant to the foregoing, Treasury Bills with a tenor of 136 to 210 days are used to determine the Agreed Coupon Rate, then for the purposes hereof, such Treasury Bills shall be deemed to be 6-month Treasury Bills.

"BOJ Target" means any minimum requirement or target:

(i) generally prescribed for banks under the Banking Act or under any law, regulation, order, direction or other subordinate legislation made or issued by the Bank of Jamaica or any competent authority; or

(ii) specifically imposed or mandated in writing by the Bank of Jamaica or other competent authority upon the Bank in either case relating to capital base, reserve fund, retained earnings reserve or other matter in respect of which the fulfillment of the requirement or target would require the Bank to retain or deal with its profits otherwise than by distributing same.

With respect to the claw-back dividend, the following provisions shall be applicable:

(i) The "claw-back" dividend shall be determined and paid if at the end of any financial year it shall be determined that the Bank has (based on its audited financial statements) made Super Profits and the Board of Directors of the Bank passes a resolution for claw-back dividend to be paid. In such a case, the Bank shall pay out of such Super Profits a fixed non-cumulative dividend in accordance with such resolution to the extent that same is payable in accordance with the provisions hereof.

(ii) The Directors may resolve to pay claw-back dividend only if, with respect to any of the previous three (3) financial years of the Bank (herein called "the Claw-back Period"), the Bank failed to pay the whole or any part of the fixed non-cumulative dividend referred to in sub-paragraph 2.(a)(i) above on account of unavailability of distributable profits.

(iii) The maximum claw-back dividend payable as at the end of any financial year of the Bank shall be a sum equivalent to the unpaid fixed non-cumulative dividend which would have been payable during the Claw-back Period but which was not so paid on account of unavailability of Distributable Finsac Profits.

(iv) Claw-back dividend shall be paid in the direct order in which such dividend arose. By way of illustration, if at the close of the financial year in 2006 claw-back dividend exists in respect of the years 2003, 2004 and 2005 then, in order of priority, claw-back dividend declared based on the financial statements for the financial year 2006 shall be applied first in paying claw-back dividend for the year 2003, secondly for the year 2004 and finally for the year 2005.

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B. <u>As to Capital</u>

The Bank's Preference Shares shall confer on the holders thereof, the right on a winding-up or other return of capital to repayment, *pari passu* among themselves (after paying to the holders of the 1997 Preference Shares the amount paid up or credited as paid upon the 1997 Preference Shares together with any premiums paid or credited as paid on the 1997 Preference Shares and all unpaid arrears of dividends and accruals of dividends on the 1997 Preference Shares), but in priority to any payment to the holders of any other shares in the capital of the Bank of the amounts paid up on the Bank's Preference Shares held by them including any premium.

C. <u>As to Further Issues</u>

With exception to the 1997 Preference Shares, no further shares ranking as to dividend or repayment of capital in priority to the Bank's Preference Shares shall be created or issued except with the consent or sanction of the holders of the Bank's Preference Shares.

D. <u>As to Voting</u>

The Bank's Preference Shares shall confer on the holders thereof, the right to receive notice of, to be present and to speak, and to vote, either in person or by proxy, at any general meeting of the Bank or by way of written resolution if:

(a) at the date of the notice or requisition to convene the meeting any fixed dividend shall be in arrears for more than six (6) years after any date fixed for payment of it, disregarding for this purpose whether the Bank is prevented by law from paying the same; or

(b) any resolution is proposed for the winding-up of the Bank, in which case the holders may only then vote at such general meeting on the election of a chairman and any motion for adjournment and the resolution for winding-up; or

(c) any resolution is proposed to dispose of the undertaking of the Bank; or

(d) the meeting is convened for the purpose of considering a reduction of the capital of the Bank; or

(e) the resolution to be proposed to the meeting, if passed, would abrogate or vary or otherwise directly affect the special rights and privileges attaching to the Bank's Preference Shares; or

(f) the Minister shall, in pursuance of his powers under section 25 of the Banking Act, take any action against the Bank under the Second Schedule to the Banking Act; or

(g) without the prior written consent of Finsac Limited ("Finsac"), the Bank has embarked upon or proposes to embark upon a material variation from the Rehabilitation Plan and, having received written notice from Finsac requiring it to take remedial steps to conform to the Rehabilitation Plan, the Bank shall, within sixty (60) days of receipt of such notice, fail to take remedial steps to conform to the Rehabilitation Plan and following the foregoing, Finsac shall serve written notice upon the Bank that it proposes to exercise the voting rights attaching to the Bank's Preference Shares. In this sub-paragraph, references to "the Rehabilitation Plan" means a rehabilitation plan prepared by NCB Group Limited pursuant to a Financial Assistance Agreement dated February 1, 1998 and approved by Finsac.

The voting right arising pursuant to sub-paragraph (g) above shall enure only to the benefit of Finsac and, accordingly, shall not apply to Bank's Preference Shares which may be transferred by Finsac or in which Finsac no longer holds the beneficial interest.

On a show of hands, every holder of Bank's Preference Shares (who is permitted to vote at such a meeting) and who is present in person shall have one vote, and on a poll every such holder present in person or by proxy shall have one vote for every 100 Bank's Preference Shares held by him. Save as aforesaid, the Bank's Preference Shares shall confer no further rights to vote or to participate in the profits or the assets of the Bank.

E. As to Redemption

The Bank's Preference Shares shall, subject to the provisions of section 57 of the Companies Act (and/or any other enactment replacing or amending same) and to prior redemption of the 1997 Preference Shares, be redeemed upon and subject to the following terms and conditions:

(a) The Bank shall have the right, at any time, after the date of allotment of any Bank's Preference Share (provided it is fully paid) to redeem such share at par (that is to say, a redemption price of J$1.00 per share) and in the case of a partial redemption proportionately in respect of each holding of Bank's Preference Shares.

(b) So long as the Bank's Preference Shares are outstanding the Bank shall at the close of each financial year of the Bank (prior to making any appropriation to the Redemption Funds in respect of the 1997 Preference Shares or the Zero Coupon Preference Shares) place to the credit of an account in its books to be called "the Bank's Preference Share Redemption Fund" a sum (to be appropriated out of its Adjusted Net Profits) representing the Annual Redemption Fund Contribution. For this purpose:

(i) "the Annual Redemption Fund Contribution" means, with respect to any financial year of the Bank, the sum calculated in accordance with the following formula, namely:

$$\frac{RFS}{YTR} = \text{Redemption Fund Contribution}$$

Where:

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(1) "RFS" is the Redemption Fund Shortfall, being the amount which, as at the close of the financial year, with respect to which the calculation is being made, would be required along with funds, if any, then standing to the credit of the Bank's Preference Share Redemption Fund to redeem all the Bank's Preference Shares outstanding as at such date; and

(2) "YTR" is the number of financial years (including the financial year in respect of which the calculation is being made) left to run to December 31, 2013 (the Final Redemption Date).

(ii) "Adjusted Net Profits" shall mean the net profits (as defined in section 8(4) of the Banking Act) of the Bank as shown in the audited profit and loss accounts of the Bank for the relative financial period to the nearest dollar after recognition of:

(1) any exceptional or extraordinary items (if and to the extent that such items were not taken into account in determining net profits);

(2) provisions for the following, namely:

a) the sum transferred or required to be transferred to the Reserve Fund as required by the Banking Act or any other law or regulation for the time being in force;

b) any sum transferred or required to be transferred to the retained earnings reserve in accordance with any written directive or instruction from the Bank of Jamaica or other competent authority.

(3) all losses (if any) made by the Bank in any previous financial year or years of the Bank to the extent that such losses have not been made good out of the profits earned subsequently by the Bank, being profits which remain unappropriated in the books of the Bank.

(c) Subject to the provisions of the Companies Act or any enactment modifying or replacing same the Bank may, at its discretion, redeem at par (that is to say a redemption price of J$1.00 per share) all or any of the Bank's Preference Shares.

(d) If at the end of any financial year it shall be determined that the Bank has made Super Profits then, same shall be applied in redeeming Bank's Preference Shares. For the purposes hereof, "Super Profits" shall be profits (if any) remaining after deducting from Distributable

Finsac Profits (as defined above) or otherwise making allowance for, the following items, namely:

(i) the dividends payable on the Bank's Preference Shares and any other preference shares issued by the Bank; and

(ii) a final dividend on the ordinary shares in the capital of the Bank of 20% of after tax profits.

For the avoidance of doubt, it is hereby declared that, whether or not payment is made in full in respect of the above items, allowance shall, nonetheless, be made for those items in calculating Super Profits and Super Profits shall be applied in redeeming Bank's Preference Shares and/or in paying claw-back dividends in priority to the redemption of any 1997 Preference Shares or Zero Coupon Preference Shares.

(e) The Bank shall on December 31, 2013 ("Final Redemption Date") redeem at par (that is to say, a redemption price of J$1.00 per share) all the Bank's Preference Shares which are outstanding at that date; and if, in accordance with section 57 of the Companies Act (or any other applicable enactment, replacing or modifying same), the Bank's Preference Shares shall not on any such date be capable of being redeemed by the Bank, such redemption shall be effected as soon as possible after the Bank's Preference Shares shall have become capable of being redeemed.

(f) Not less than one (1) month's notice of the intention of the Bank to redeem shall be given to the holders of the Bank's Preference Shares to be redeemed. The notice shall be in writing and shall fix the time and place for such redemption. At the time and place so fixed the registered holders of the Bank's Preference Shares to be redeemed shall be bound to deliver up to the Bank the relative certificates for cancellation, and the Bank shall pay to them the redemption money in respect of such Bank's Preference Shares.

(g) If any holder of Bank's Preference Shares shall fail or refuse to surrender the certificate or certificates for such Bank's Preference Shares or shall fail or refuse to accept the redemption money payable in respect of them such money shall be retained and held by the Bank in trust for such holder but without interest or further obligation whatever;

(h) No Bank's Preference Shares shall be redeemed otherwise than out of distributable profits or the proceeds of a fresh issue of shares made for the purpose of the redemption or out of capital to the extent permitted by the law, but the premium payable on redemption shall be paid either out of distributable profits, or to the extent permitted by law, out of the share premium account of the Bank;

(i) No Bank's Preference Share redeemed by the Bank shall be capable of re-issue and on redemption of any Bank's Preference Shares the directors may convert the authorised share capital created as a

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consequence of such redemption into shares of any other class of share capital into which the authorised share capital of the Bank is or may at that time be divided of a like nominal amount or (as nearly as may be) as the shares of such class then in issue or into unclassified shares of the same nominal amount as the Bank's Preference Shares.

F. <u>Variation of Rights</u>

Subject to the provisions of Section 72 of the Companies Act or any statutory provision modifying or replacing same, all or any of the special rights and privileges for the time being attached to the Bank's Preference Shares may from time to time (whether or not the Bank is being wound up), be varied or abrogated in any manner only with the consent in writing of the holders of not less than three-fourths (¾) of the issued Bank's Preference Shares or with the sanction of an extraordinary resolution passed at a separate general meeting of the holders of Bank's Preference Shares. All the provisions of the Bank's Articles of Association as to general meetings of the Bank shall, *mutatis mutandis*, apply to any such separate general meeting but so that the necessary quorum shall be the holder(s) of not less than one-third (⅓) of the issued Bank's Preference Shares.

G. <u>As to Notices</u>

The Bank's Preference Shares shall confer on the holders thereof the right to receive a copy of any notice summoning general meeting or other document distributed generally to its ordinary shareholders, such notice or other document to be despatched to the holders of the Bank's Preference Shares no later than the date on which they are despatched to the ordinary shareholders.

H. <u>Other Rights</u>

The Bank's Preference Shares shall not confer on the holders thereof any further rights to participate in the profits or assets of the Bank or to vote.

I. <u>1997 Preference Shares</u>

"1997 Preference Shares" means 450,000,000 zero coupon redeemable preference shares of J$1.00 each in the capital of the Bank or the balance thereof outstanding from time to time.

J. <u>Zero Coupon Preference Shares</u>

"Zero Coupon Preference Shares" means 1,162,667,000 zero coupon redeemable preference shares of J$1.00 each in the capital of the Bank or the balance thereof outstanding from time to time.

K. <u>Auditors' Certificate</u>

A certificate issued by the Bank's auditors for the time being as to Distributable Finsac Profits, Adjusted Net Profits, the Annual Redemption Fund Contribution and/or Super Profits shall, in the absence of fraud or manifest error, be binding and conclusive on the Bank and the holders for the time being of the Bank's Preference Shares.

L. General

Notwithstanding anything herein, any dividend, redemption sum or other amount payable by the Bank in respect of the Bank's Preference Shares may be paid by the surrender or endorsement and transfer of Finsac Bonds of a like nominal value as the dividend payment, redemption sum or other payment. "Finsac Bonds" means promissory notes issued by Finsac and guaranteed by the Government of Jamaica.

If any term used herein is defined by reference to the terms and conditions attached to any other preference share, such definition shall continue to apply notwithstanding the redemption of such other preference share.

Nothing herein shall, in any way, restrict the power of the Bank to capitalise profits from time to time in accordance with legal requirements for the time being in force.

The terms and conditions attaching to the Bank's Preference Shares with respect to the application of net profits shall be subject to the provisions of paragraph (a) of sub-clause 10.2 of the Financial Assistance Agreement

SCHEDULE 5
RIGHTS ATTACHING TO NCB GROUP PREFERENCE SHARES

The special rights and restrictions attached to, and imposed on the convertible redeemable non-cumulative preference shares (herein called "NCB Group Preference Shares") are as follows:

A. As to Income

1. The NCB Group Preference Shares shall confer on the holders thereof, as a class, the right (subject to the provisions hereof) to receive a fixed non-cumulative dividend at the Agreed Coupon Rate on the capital for the time being paid up or credited as paid up thereon (including any premium, if applicable) to be determined and paid in accordance with the provisions set out at sub-paragraph 2 below.

2. With respect to the fixed non-cumulative dividend, the following provisions shall be applicable, namely:

   (a) No fixed non-cumulative dividend shall be paid on the NCB Group Preference Shares in respect of any financial year of the Company unless at the end of such financial year, it shall be determined that the Company (based on its audited consolidated financial statements) made Distributable Finsac Profits.

   (b) In connection with the foregoing, "Distributable Finsac Profits" shall mean the net profits of the Company and its subsidiaries as shown in the audited consolidated profit and loss account of the Company and its subsidiaries for the relevant financial period to the nearest dollar after recognition of:

      (i) any exceptional or extraordinary items (if and to the extent that such items were not taken into account in determining net profits);

      (ii) the sum transferred or to be transferred to the Preference Share Redemption Fund in accordance with paragraph E below;

      (iii) losses (if any) (whether of a revenue or capital nature) made by the Company in any previous financial year or years of the Company to the extent that such losses have not been made good out of the profits earned subsequently by the Company being profits which remain unappropriated in the books of the Company.

   (c) If any Distributable Finsac Profits are realised at the close of any financial year, then the Company shall, out of the available Distributable Finsac Profits, pay the fixed non-cumulative dividend up to the Agreed Coupon Rate on the capital for the time being paid up or credited as paid up on the NCB Group Preference Shares. Payment of such dividends shall be made no later than four (4) weeks after the audited financial statements for the relevant financial period are approved by the directors of the Company.

   (d) In these provisions:

"Agreed Coupon Rate" means:

(i) up to the financial year ending September 30, 2002, 12½% per annum; and

(ii) after the financial year ending September 30, 2002, the weighted average yield rate applicable to the latest 6-month Treasury Bill tender ("WAYR") expressed as a percentage per annum. This rate shall be determined and applied at half yearly intervals on March 30 and September 30 of each year ("Calculation Date"). If as at any Calculation Date there are in issue no 6-month Treasury Bills issued by the Government of Jamaica during the 6-month period preceding such Calculation Date, then the Agreed Coupon Rate shall be determined using the WAYR on the latest Treasury Bill tender with a tenor of 136 to 210 days. References herein to "6-month Treasury Bills" shall mean Treasury Bills with a tenor of 181 to 183 days and, if pursuant to the foregoing, Treasury Bills with a tenor of 136 to 210 days are used to determine the Agreed Coupon Rate, then for the purposes hereof, such Treasury Bills shall be deemed to be 6-month Treasury Bills.

B. As to Capital

NCB Group Preference Shares shall confer on the holders thereof, the right on a winding-up or other return of capital to repayment, *pari passu* among themselves, but in priority to any payment to the holders of any other shares in the capital of the Company of the amounts paid up on NCB Group Preference Shares held by them including any premium.

C. As to Further Issues

No further shares ranking as to dividend or repayment of capital in priority to the NCB Group Preference Shares shall be created or issued except with the consent or sanction of the holders of the NCB Group Preference Shares.

D. As to Voting

NCB Group Preference Shares shall confer on the holders thereof, the right to receive notice of, to be present and to speak, and to vote, either in person or by proxy, at any general meeting of the Company or by way of written resolution if:

(a) any resolution is proposed for the winding-up of the Company, in which case the holders may only then vote at such general meeting on the election of a chairman and any motion for adjournment and the resolution for winding-up; or

(b) any resolution to dispose of the undertaking of the Company or any of its shares in the Bank whereby its holding of ordinary shares in the Bank would be reduced below fifty percent (50%) of the issued ordinary share capital of the Bank;

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(c) the meeting is convened for the purpose of considering a reduction of the capital of the company; or

(d) the resolution to be proposed to the meeting if passed, would abrogate or vary or otherwise directly affect the special rights and privileges attaching to NCB Group Preference Shares.

On a show of hands, every holder of NCB Group Preference Shares (who is permitted to vote at such a meeting) and who is present in person shall have one vote, and on a poll every such holder present in person or by proxy shall have one vote for every 100 NCB Group Preference Shares held by him. Save as aforesaid, NCB Group Preference Shares shall confer no further rights to vote or to participate in the profits or the assets of the Company.

E. <u>As to Redemption</u>

NCB Group Preference Shares shall, subject to the provisions of section 57 of the Companies Act (and/or any other enactment replacing or amending same), be redeemed upon and subject to the following terms and conditions:

(a) The Company shall have the right, at any time, after the date of allotment of any NCB Group Preference Share (provided it is fully paid) to redeem such share at par (that is to say, a redemption price of J$0.50 per share) and in the case of a partial redemption proportionately in respect of each holding of NCB Group Preference Shares.

(b) So long as the NCB Group Preference Shares are outstanding, the Company shall at the close of each financial year place to the credit of an account in its books to be called "Preference Share Redemption Fund" a sum (to be appropriated out of its Adjusted Net Profits) representing the Annual Redemption Fund Contribution. For this purpose:

(i) "the Annual Redemption Fund Contribution" means, with respect to any financial year of the Company, the sum calculated in accordance with the following formula, namely:

$$\frac{\text{RFS}}{\text{YTR}} = \text{Redemption Fund Contribution}$$

Where:

(1) "RFS" is the Redemption Fund Shortfall, being the amount which, as at the close of the financial year, with respect to which the calculation is being made, would be required along with funds, if any, then standing to the credit of the Preference Share Redemption Fund to redeem all the NCB Group's Preference Shares outstanding as at such date;

(2) "YTR" is the number of financial years (including the financial year in respect of which the calculation is being made) left to run to December 31, 2013 (the Final Redemption Date).

(ii) "Adjusted Net Profits" shall mean the net profits of the Company and its subsidiaries calculated as shown in the audited consolidated profits and loss accounts of the Company and its subsidiaries for the relative financial period to the nearest dollar after recognition:

(1) any exceptional or extraordinary items (if and to the extent that such items were not taken into account in determining net profits); and

(2) losses (if any) made by the Company any previous financial year or years of the Company to the extent that such losses have not been made good out of the profits earned subsequently by the Company being profits which remain unappropriated in the books of the Company.

(c) Subject to the provisions of the Companies Act or any enactment modifying or replacing same the Company may, at its discretion, redeem at par (that is to say a redemption price of J$0.50 per share) all or any of the NCB Group Preference Shares.

(d) If at the end of any financial year it shall be determined that the Company has made Super Profits then, the directors may apply the whole or any part of such Super Profits in redeeming NCB Group Preference Shares. For the purposes hereof, "Super Profits" shall be profits (if any) remaining after deducting from Distributable Finsac Profits (as defined above) or otherwise making allowance for, the following items, namely:

(i) the dividends payable on the NCB Group Preference Shares and any other preference shares issued by the Company; and

(ii) a final dividend on the ordinary shares in the capital of the Company of 20% of after tax profits.

(e) The Company shall on December 31, 2013 ("Final Redemption Date") redeem at par (that is to say, a redemption price of J$0.50 per share) all the NCB Group Preference Shares which are outstanding at that date; and if, in accordance with section 57 of the Companies Act (or any other applicable enactment, replacing or modifying same), the NCB Group Preference Shares shall not on any such date be capable of being redeemed by the Company, such redemption shall be effected as soon as possible after the NCB Group Preference Shares shall have become capable of being redeemed.

(f) Not less than one (1) month's notice of the intention of the Company to redeem shall be given to the holders of NCB Group Preference Shares to be redeemed. The notice shall be in writing and shall fix the time and place for such redemption. At the time and place so fixed the registered holders of NCB Group Preference Shares to be redeemed shall be bound to deliver up to the Company the relative certificates for cancellation, and the Company shall pay to them the redemption money in respect of such NCB Group Preference Shares.

(g) If any holder of NCB Group Preference Shares shall fail or refuse to surrender the certificate or certificates for such NCB Group Preference Shares or shall fail or refuse to accept the redemption money payable in respect of them such money shall be retained and held by the Company in trust for such holder but without interest or further obligation whatever;

(h) No NCB Group Preference Share shall be redeemed otherwise than out of distributable profits or the proceeds of a fresh issue of shares made for the purpose of the redemption or out of capital to the extent permitted by law, but the premium payable on redemption shall be paid either out of distributable profits, or to the extent permitted by law, out of the share premium account of the Company;

(i) No NCB Group Preference Share redeemed by the Company shall be capable of re-issue and on redemption of any NCB Group Preference Shares the directors may convert the authorised share capital created as a consequence of such redemption into shares of any other class of share capital into which the authorised share capital of the Company is or may at that time be divided of a like nominal amount or (as nearly as may be) as the shares of such class then in issue or into unclassified shares of the same nominal amount as NCB Group Preference Shares.

F. <u>As to Conversion</u>

The holders of the NCB Group Preference Shares shall be entitled at any time after the Final Redemption Date to convert the whole or any part of their holdings of NCB Group Preference Shares into ordinary shares in NCB Group on the following basis:

(i) the conversion shall be effected by notice in writing signed by the holder of the NCB Group Preference Shares intended to be converted;

(ii) the conversion shall take effect immediately upon the date of delivering of such notice to NCB Group;

(iii) the number of ordinary shares to be issued upon any such conversion shall be determined based on the following formula, viz:

$$N = \frac{RS}{M}$$

Where:

"N" is the number of ordinary shares to be issued by NCB Group as a consequence of such conversion;

"RS" is the total sum (including unpaid dividend) which NCB Group would have had to pay to redeem the NCB Group Preference Shares, the subject of such conversion; and

"M" is the weighted average price at which ordinary stock units of NCB Group traded on the Jamaica Stock Exchange during the last thirty (30) trading days immediately prior to the date on which the

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conversion notice is received by NCB Group. If the ordinary stock units of NCB Group shall cease to be listed on the Jamaica Stock Exchange, then "M" shall be the value of each ordinary stock unit of NCB Group as certified by its auditors.

(iv) Upon conversion aforesaid, the ordinary shares resulting therefrom shall be converted into ordinary stock units and such ordinary stock units shall rank *pari passu* in all respects with the existing ordinary stock units of NCB Group.

G. Variation of Rights

Subject to the provisions of Section 72 of the Companies Act or any statutory provision modifying or replacing same, all or any of the special rights and privileges for the time being attached to the NCB Group Preference Shares may from time to time (whether or not the Company is being wound up), be varied or abrogated in any manner only with the consent in writing of the holders of not less than three-fourths (¾) of the issued NCB Group Preference Shares or with the sanction of an extraordinary resolution passed at a separate general meeting of the holders of NCB Group Preference Shares. All the provisions of the Company's Articles of Association as to general meetings of the Company shall, *mutatis mutandis*, apply to any such separate general meeting but so that the necessary quorum shall be the holder(s) of not less than one-third (⅓) of the issued NCB Group Preference Shares.

H. As to Notices

The NCB Group Preference Shares shall confer on the holders thereof the right to receive a copy of any notice summoning general meeting or other document distributed generally to its ordinary shareholders, such notice or other document to be despatched to the holders of the NCB Group Preference Shares no later than the date on which they are despatched to the ordinary shareholders.

I. Other Rights

NCB Group Preference Shares shall not confer on the holders thereof any further rights to participate in the profits or assets of the Company or to vote.

J. Auditors' Certificate

A certificate issued by the Company's auditors for the time being as to the Distributable Finsac Profits, Adjusted Net Profits, Annual Redemption Fund Contribution shall, in the absence of fraud or manifest error, be binding and conclusive on the Company and the holders for the time being of the NCB Group Preference Shares.

K. General

Notwithstanding anything herein, any dividend, redemption sum or other amount payable by the Bank in respect of the NCB Group Preference Shares may be paid by the surrender or endorsement and transfer of Finsac Bonds of a like nominal value as the dividend payment, redemption sum or other payment. "Finsac Bonds" means promissory notes issued by Finsac and guaranteed by the Government of Jamaica.

Nothing herein shall, in any way, restrict the power of the Bank to capitalise profits from time to time in accordance with legal requirements for the time being in force.

SCHEDULE 6

WARRANTIES

PART 1

1. The Bank hereby warrants to Finsac that, except as disclosed in the Disclosure Letter:

(a) it is duly incorporated and validly existing under the laws of Jamaica and has full power and authority to enter into and to undertake the share transactions contemplated by this Agreement;

(b) the ordinary shares and the Bank's Preference Shares to be issued to Finsac under this Agreement will be free from all pledges, liens and other encumbrances other than a lien under the Articles of Association of the Bank for any unpaid subscription moneys;

(c) the latest audited financial statements of the Bank give a true and fair view of the financial condition of the Bank as at the date of such balance sheet and there is no material liability which is known to the Bank and which, in accordance with the accounting principles applicable to the preparation of the aforesaid balance sheet and profit and loss account, ought to be taken into account in the preparation of such balance sheet and profit and loss account but which has not been so taken into account;

(d) to the best of the knowledge and belief of the Bank (after due enquiry), there is no litigation or arbitration proceeding pending or threatened against the Bank or any of its Subsidiaries which, if successful, would materially adversely affect the business operations of the Bank or of the relevant Subsidiary, as the case may be;

(e) the Bank has filed all Tax returns required to be filed according to law and all such returns have been prepared on a proper basis;

(f) the Bank has good marketable title to the assets taken into account in its latest audited balance sheet and, except as stated in any notice to such balance sheet, such assets are free from any mortgage, charge, pledge, lien or other encumbrance;

(g) all necessary and appropriate governmental and regulatory consents and approvals (including consents and approvals from the Minister of Finance and Planning and the Bank of Jamaica) have been duly obtained to enable it to undertake the transactions contemplated herein; and

(h) the issue of the ordinary shares and the Bank's Preference Shares and the consummation of the transactions relating thereto will not conflict with, or result in the breach or violation of, any term or provision of or (with or without notice or passage of time, or both) constitute a default under any indenture, mortgage, deed or trust (constructive or otherwise), loan agreement or other agreement or instrument to which the Bank is bound, or violate any legal requirement applicable to or binding upon the Bank.

PART 2

2. NCB Group hereby warrants to Finsac that, except as disclosed in the Disclosure Letter:

(a) it is duly incorporated and validly existing under the laws of Jamaica and has full power and authority to enter into and to undertake the share transactions contemplated by this Agreement;

(b) the NCB Group Preference Shares to be issued to Finsac under this Agreement will be free from all pledges, liens and other encumbrances other than a lien under the Articles of Association of NCB Group for any unpaid subscription moneys;

(c) the latest audited financial statements of NCB Group give a true and fair view of the financial condition of NCB Group as at the date of such balance sheet and there is no material liability which is known to NCB Group and which, in accordance with the accounting principles applicable to the preparation of the aforesaid balance sheet and profit and loss account, ought to be taken into account in the preparation of such balance sheet and profit and loss account but which has not been so taken into account;

(d) to the best of the knowledge and belief of NCB Group (after due enquiry), there is no litigation or arbitration proceeding pending or threatened against NCB Group or any of its Subsidiaries which, if successful, would materially adversely affect the business operations of NCB Group or of the relevant subsidiary, as the case may be;

(e) NCB Group has filed all Tax returns required to be filed according to law and all such returns have been prepared on a proper basis;

(f) NCB Group has good marketable title to the assets taken into account in its latest audited balance sheet and, except as stated in any notice to such balance sheet, such assets are free from any mortgage, charge, pledge, lien or other encumbrance;

(g) since the date of the Heads of Agreement referred to in the recitals, it has not:

(i) increased its share capital except by the sum of J$1,000,000,000.00 by the creation of 2,000,000,000 shares of J$0.50 each to facilitate the share subscription which Finsac has undertaken to make under the terms hereof;

(ii) issued or otherwise disposed of any of its shares or granted any option or warrant, the exercise of which would give the holder of such option or warrant the right to acquire any of its shares nor has it undertaken any other transaction which may have the effect of reducing the value to Finsac of the subscription rights granted to Finsac hereunder;

(h) the issue of the NCB Group Preference Shares and the consummation of the transactions relating thereto will not conflict with, or result in the breach or violation of, any term or provision of or (with or without notice or passage of time, or both) constitute a default under any indenture, mortgage, deed or trust (constructive or otherwise), loan agreement or other agreement or

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instrument to which NCB Group is bound, or violate any legal requirement applicable to or binding upon NCB Group.

PART 3

3. The Bank and NCB Group hereby jointly and severally warrants to Finsac that except as disclosed in the Disclosure Letter:

(a) Schedule 7 contains true particulars of the authorized and issued share capital of the Bank and NCB Group and all the shares there shown as issued are in issue and fully paid.

(b) all issued shares of the Bank and NCB Group have been duly authorised and validly issued and are fully paid and non-assessable.

(c) there are no outstanding: (i) shares or securities of the Bank or NCB Group which are convertible into, or exchangeable for, shares or securities giving the right to vote; or (ii) options or other rights to acquire from the Bank or NCB Group or other obligation of the Bank or NCB Group to issue any voting shares or securities or shares or securities convertible into, or exchangeable for, voting shares or securities of the Bank or NCB Group.

(d) there are no outstanding obligations of the Bank or NCB Group or any subsidiary to repurchase, redeem or otherwise acquire any Securities.

(e) to the best of their knowledge and belief, there is no order, decree, or judgment of any Court or any governmental agency of Jamaica outstanding against the Bank which may have a material adverse effect upon the assets or business of the Bank;

(f) to the best of their knowledge and belief, no order has been made or petition presented or resolution passed for the winding up of the Bank nor has any distress, execution or other process been levied against the Bank or action taken to repossess goods in its possession;

(g) to the best of their knowledge and belief, no steps have been taken for the appointment of a receiver of any part of the Bank's property;

(h) no floating charge created by the Bank has crystallised and, so far as the Bank is aware, there are no circumstances likely to cause such a floating charge to crystallise;

(i) to the best of their knowledge and belief, the Bank has not entered into any transaction during the last six (6) months which could be avoided in a winding up;

(j) the Bank has not made or proposed any scheme of arrangement or composition with its creditors or any class of its creditors;

(k) to the best of their knowledge and belief, all accounts, books, ledgers and other records required to be maintained pursuant to the Companies Act and the Banking Act have been properly maintained, are in the possession of the Bank and (with the exception of immaterial inaccuracies or discrepancies) contain true and accurate records of all matters required by law to be entered therein; and

(l) to the best of their knowledge and belief, the last unaudited management accounts have been prepared in accordance with SSAPs consistently applied and are not misleading in any material respect;

(m) to the best of their knowledge and belief, the Bank has complied with the provisions of the Companies Act and all returns, particulars, resolutions and other documents required under any legislation to be delivered on behalf of the Bank to the Registrar of Companies or to any other authority whatsoever, been properly made and delivered. All such documents delivered to the Registrar of Companies or to any other authority whatsoever, whether or not required by law were true and accurate when so delivered;

(n) to the best of their knowledge and belief, since the Balance Sheet Date, the Bank:

(i) has, except as contemplated herein or disclosed in the Disclosure Letter, carried on its business in the ordinary and usual course and without entering into any transaction, assuming any liability or making any payment which is not in the ordinary course of its business and without any interruption or alteration for the nature of its business;

(ii) has not entered into, or agreed to enter into any capital commitment in excess of J$500,000,000.00;

(iii) has not issued any share or loan capital or agreed (apart from the proposed issue herein) to issue any of the same;

(iv) has not declared any distribution of capital or income nor has there been any payment been made in respect of its share capital; and

(v) there has been no material deterioration in the financial position of the Bank;

(o) no one is entitled to receive from the Bank any finder's fee, brokerage or other commission in connection with this Agreement or the subscription for the shares in the Bank;

(p) the subscription for shares by Finsac or compliance with the terms of this Agreement:

(i) will not cause the Bank to lose any licence or official authorisation which would affect its ability to conduct its banking business;

(ii) will not relieve any person of any obligation to the Bank or enable any person to determine any such obligation;

(iii) will not result in any present or future indebtedness of the Bank becoming due or capable of being declared due and payable prior to its stated maturity; and

(iv) will not give rise to or cause to become exercisable any right of pre-emption;

(q) the particulars of the insurances carried by the Bank and summarised in Schedule 8 are true and accurate in all material respects

(r) except for current assets disposed of by the Bank in the ordinary course of business or as contemplated herein, it has not disposed of any substantial part of its undertaking or created any security interest over its undertaking, goodwill or uncalled capital;

(s) since the Balance Sheet Date, save for disposal in the ordinary course of its business the assets of the Bank have been in the possession of, or under the control of, the Bank;

(t) except in the ordinary course of business, no asset is shared by the Bank with any person (other than NCB Group or a company controlled by NCB Group) and the Bank does not depend substantially for its business upon any assets, facilities or services owned or supplied by its Subsidiaries;

(u) to the best of their knowledge and belief, the Bank is not a party to or subject to any material agreement, transaction or obligation or is subject to any liability arising outside the ordinary course of its business or, being a credit facility, exceeds the principal sum of J$200,000,000.00, which:

(i) is incapable of complete performance by the Bank in accordance with its terms within six months after the date on which it was entered into or undertaken; or

(ii) is known by the Bank to be likely to result in material loss to the Bank on completion or performance; or

(iii) cannot readily be fulfilled or performed by the Bank on time without undue or unusual expenditure of money and effort; or

(iv) involves or is likely to involve obligations, restrictions, expenditure or receipts of an unusual, onerous of exceptional nature and not in the ordinary course of the Bank's business; or

(v) in any way restricts the Bank's freedom to carry on the whole or any part of its business in any part of the world in such manner as it thinks fit; or

(vi) involves liabilities which may fluctuate in accordance with an index or rate of currency exchange; or

(vii) is a contract for the sale of shares or assets which contains warranties or indemnities;

(v) no person, as agent or otherwise is entitled or authorized to bind or commit the Bank (by power of attorney or otherwise) to any obligation not in the ordinary course of its business and the Bank and NCB Group are not aware of any person purporting to do so;

(w) to the best of their knowledge and belief, there are no debts owing by or to the Bank other than debts which have arisen in the ordinary course of banking business;

(x) the total amount borrowed by the Bank from its bankers does not exceed its facilities and the total amount borrowed by the Bank from whatsoever source does not exceed any limitation on its borrowing contained in its Articles of Association, or in any debenture or loan stock deed or other instrument;

(y) the Bank has not extended or received any credit facility exceeding J$100,000,000.00 which is not required to be reflected in the Audited Accounts;

(z) since the Balance Sheet Date no increase has been made to the rate of remuneration, or the emoluments or pension benefits of any member of the Bank's executive management team or to the terms of engagement of any such member of the executive management team;

(aa) with the exception of shares or interest acquired in the satisfaction of debts, the Bank:

(i) is not the holder or beneficial owner of, and has not agreed to acquire, any class of the share or other capital of any other company or corporation (whether incorporated in the Jamaica or elsewhere) other than its Subsidiaries;

(ii) is not and has not agreed to become a member of any partnership, joint venture, consortium or the other unincorporated association or arrangement for sharing commissions or income; and

(iii) has no branch, agency or place of business outside Jamaica and no permanent establishment (as that expression is defined in the relevant double taxation relief orders current at the date hereof) outside Jamaica.

SCHEDULE 7

PARTICULARS OF SHARE CAPITAL

PART A

THE BANK

Authorised = J$750,000,000.00 divided into:

- 300,000,000 ordinary shares of J$1.00 each; and
- 450,000,000 zero coupon redeemable convertible preference shares of J$1.00 each

Issued and fully paid = J$701,000,000.00 comprising:

- 251,000,000 ordinary shares of J$1.00 each; and
- 450,000,000 zero coupon redeemable convertible preference shares of J$1.00 each

PART B

NCB GROUP

Authorised = J$500,000,000.00 divided into 1,000,000,000 ordinary shares/stock units of J$0.50

Issued and fully paid = J$432,962,643.50 comprising 865,925,287 ordinary stock units of J$0.50 each

SCHEDULE 8

PARTICULARS INSURANCE

See Particulars of Insurance consisting of eight (8) pages and signed at the foot thereof by Trevor O. Patterson, Attorney-at-Law, for identity.

DATED the day of , 1998

AGREEMENT

between

N.C.B. GROUP LIMITED

NATIONAL COMMERCIAL BANK JAMAICA LIMITED

N.C.B. TRUST and MERCHANT BANK LIMITED

and

FINSAC LIMITED

PATTERSON PHILLIPSON & GRAHAM
ATTORNEYS-AT-LAW
6TH FLOOR, FIRST LIFE BUILDING
60 KNUTSFORD BOULEVARD
KINGSTON 5
TEL.: (876) 920-1000-7
FAX: (876) 920-1008
E-MAIL: pp&g@cwjamaica.com

RECEIVED DEC. 0 2

NATIONAL COMMERCIAL BANK JAMAICA LIMITED

EXHIBIT A

Head Office
"The Atrium"
2 Trafalgar Road
KINGSTON 10

December 1, 1997

CIRCULAR NO35/1997/P

TO: ALL MANAGERS OF HEAD OFFICE DEPARTMENTS AND BRANCHES OF NATIONAL COMMERCIAL BANK JAMAICA LIMITED AND OTHER SUBSIDIARIES OF N.C.B. GROUP LIMITED

RE: CREDIT ADMINISTRATION SANCTION POLICY

At our Managers' Meeting on Wednesday, December 18, 1996, I had indicated that, with the frequency and increase in breaches of laid-down regulations and policy, we would be reviewing and enforcing sanctions for such offences on a rigid basis. During the interim, we have initiated a review of the existing Codes of Conduct (for MSB and NCB) and will shortly present one single Code for the N.C.B. Group.

The Sanction Policy, which itself will be codified, will embrace non-compliance with the Code of Conduct but will also extend to functional responsibilities and, in this regard, may have particular relevance to Managers and Heads of units.

Recent events in the Bank have placed the administration of credit in sharp focus, as the organization has been put at great risk and greater embarrassment by breaches of one sort or another. Viewed against the fact that the current burden of non-performing loans had its genesis, for the most part, from such breaches, we are impelled to begin the application of sanctions in the credit area. We begin with those infractions which evoke the most severe consequences, as set out below and Managers should be guided thereby.

Breaches of regulations and policy do not always come immediately to the attention of Head Office and are often unearthed by subsequent events, such as an Inspection. Even so, we do not propose to embark on any vast historical research to ferret out such breaches, as the purpose of our review is the establishment and maintenance of prudent, professional and responsible allegiance to duty befitting management of our organization.

INFRACTION	SANCTION CODE (SC)	SANCTION
Breach of discretionary limits, whether by way of excesses on overdrafts, direct loans or indirect liabilities.	SC1	Dismissal

INFRACTION	SANCTION CODE (SC)	SANCTION
Non-compliance with policy guidelines (as contained in the Credit Manual, Handbook or Circulars) e.g. Disbursement prior to security in registrable form.	SC1	Dismissal
Disregard for specific Head Office directives/instructions including non-compliance with conditions of sanction	SC1	Dismissal

Please note that these sanctions are immediately effective. As our review progresses, you will be further advised.

D. T. McFARLANE
CHAIRMAN

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EXHIBIT B

NATIONAL COMMERCIAL BANK JAMAICA LIMITED

"THE ATRIUM"
32 Trafalgar Road
Kingston 5

July 14, 1997

TO ALL BRANCHES

CIRCULAR NO. 198 /1997/G

- SIGNING AUTHORITY - GUARANTEES, INDEMNITIES AND LETTERS OF UNDERTAKING
- SCRUTINY OF INWARD AND OUTWARD CABLES REGISTERS
- AUTHORISING OF OUTWARD TELEGRAPHIC TRANSFERS J$1M AND OVER

Effective immediately, the following regulations must be observed by all branches:-

⇒ Signing Authority - Guarantees, Indemnities & Letters of Undertaking

All Guarantees, Indemnities and Letters of Undertaking must be signed by the Manager or Assistant Manager and the Operations Manager or persons acting in any of these capacities.

⇒ Scrutiny of Inward and Outward Cables Registers

Inward and Outward Cables Registers must be scrutinized and signed by the Manager on a daily basis.

⇒ Authorising of Outward Telegraphic Transfers - J$1M and over

All outward telegraphic transfers J$1M and over must be authorised by the Manager or Assistant Manager.

J.C. COBHAM
MANAGING DIRECTOR

RECEIVED DEC 18 1997

NATIONAL COMMERCIAL BANK JAMAICA LIMITED

As copy for ...

EXHIBIT C

Head Office
"The Atrium"
32 Trafalgar Road
Kingston 10

December 16, 1997

TO: ALL BRANCHES

CIRCULAR NO. 36 /1997/P

1. THE CLEAN-UP OF THE CREDIT PORTFOLIO
2. FACILITIES OUTSIDE OF BRANCHES DISCRETIONARY LIMITS
3. BUSINESSES/SECTORS WHICH ARE CONSIDERED HIGH RISK

Despite appeals for more effective monitoring of the Credit Portfolio, signs of significant deterioration continue to be in evidence and this is borne out inter alia by the large number of accounts still being carried on an excess basis, the high level of delinquency in the system and underscored by the Inspection Reports which indicate that generally there needs to be a substantial improvement in the way we lend.

Portfolio maintenance and proper record keeping have been sadly lacking and very basic lending considerations are not being observed on a consistent basis eg.

1) clearly establishing customer's ability to pay, particularly for the larger accounts.

2) being scrupulous about the quality of the security accepted and this is important as it is the secondary source of repayment in the event cash flow is inadequate to service the debt.

3) obtaining current financial data on borrowing customers.

It needs to be understood that it is pointless putting a marginal lending on the books for the sake of portfolio growth if ultimately it proves to be uncollectible.

It is expected that branch managers will make well reasoned lending decisions giving due regard for the cost/benefit of booking the facility, the account/sectorial risks and the general exposure to the Bank.

At this point in time, a clean-up of the portfolio has to take place particularly against a background of more stringent regulations to be enforced by the Bank of Jamaica which includes classification of accounts once 90 days of delinquency is in evidence.

Breaches of Policies, Discretionary Limits and Head Office directives will not be taken lightly and disciplinary action will be effected where deemed necessary.

We now set out below the guidelines concerning portfolio maintenance and policy changes as they relate to Discretionary Limits:-

CLEAN-UP OF THE CREDIT PORTFOLIO

The exercise of cleaning up the portfolio which should have already commenced must be completed by all branches and letters of confirmation sent to Credit Department by January 16, 1998 latest.

Excesses

Effective immediately and in confirmation of information conveyed to branch managers through a series of discussions recently, we are now formally advising branches that they are no longer authorized to approve facilities (neither temporary nor otherwise) outside of their discretionary limits nor extend facilities within their discretionary limits on an excess basis. Therefore, in a nutshell, excesses are no longer to be accommodated.

As a significant percentage of the portfolio is actually being carried on an excess basis, the clean-up exercise should by extension focus on the reviewing of all accounts operating without a marked limit or which are carrying arrears.

There are basically three available courses of action which will arise from the review exercise:-

1) the marking of adequate limits provided the relevant documentation is on file to support.

2) the rescheduling or re-negotiation of accounts where deemed necessary.

3) and where neither options 1 and 2 is feasible, even with the use of low cost funds eg. Commercial Paper, the calling of the debt, pursuit of the customer/realization of the security plus the classification of the account. Head Office must be advised by cable of any account or group of accounts of $5M or over to be classified giving the name of customer, brief details and value of the security held and the amount of provision to be made.

OVERDRAFTS

A) Accounts within the Branch's Discretionary Limit

- Automatic Renewal of Limits

  Overdrafts with limits up to $100,000 may be automatically renewed provided:-

  a) the account has operated consistently within the limit marked during the previous 12 months.

  b) the statistical information on the account reflects a healthy position and there has been no deterioration since the last review.

  c) the financial information held i.e. Statement of Affairs/Balance Sheet and Profit and Loss Statement is not older than 3 years.

- All other accounts operating without limits are to be reviewed and where justified, appropriate limits are to be marked and the basis for doing so properly documented. However, if the required up-to-date financial information is not on hand, eg. audited results/current in-house profit and loss/income and expenditure statements, an interim limit should be marked for a period of six months. It is expected that this will give the customer sufficient time to submit the necessary financial information and provided the financial indicators are positive, the expiry date of the facility should be extended for a further six months.

Internal Limits

There are instances where customers avail of facilities on an occasional and temporary basis but are insistent that a limit is not required perhaps to avoid the payment of fees or providing security.

Where the customer is undoubted and usually avail of facilities within the branch's unsecured discretionary limit, to tidy up these accounts, an Internal Limit should be marked and interest charged at Normal Rate plus 5 percentage points.

Such customers which cannot be accommodated within this arrangement (based on the level of past encroachments), must make appropriate arrangements for their occasional and temporary requirements.

- Internal Form ADV. 1

Internal form ADV. 1 must be completed for all accounts over $0.5M and up to the Branch's Discretionary Limit.

B) ACCOUNTS OUTSIDE OF BRANCHES DISCRETIONARY LIMIT

Essentially the review process for accounts with Head Office limits will be similar and forms ADV. 1 are to be submitted to formalize requirements with whatever information is on hand to support. If the relevant up-to-date financial information is absent, again only an interim limit for six months will be approved and thereafter extended for an additional six months on receipt of the required information.

In the event, it is not possible to submit all the required forms ADV. 1 by January 16, 1998 deadline, then a listing should be submitted to Credit Department by December 31, 1997 with the proposed schedule for the submissions.

Urgent Requests

As is now the case, where an urgent response is needed, the credit application should be submitted via cable or at the very minimum, a telephone approval should be sought and the relevant documentation should follow.

We wish to make this point very clear as approval extended by the branch without the authority of Credit Department will not be ratified.

Annual Renewal

Generally, the required annual review of accounts must be completed within sufficient time to ensure that limits are renewed by expiry. Where it might be necessary to obtain an extension to the old expiry date for a Head Office account, then a suitable request should be made and where approved, a maximum extension of 3 months will be allowed. In other words, the maximum possible review period for a Head Office Account is 15 months. All forms ADV. 1 for renewal facilities should be submitted a clear 6 weeks before the expiry of the Letter of Sanction.

GENERAL

Temporary Increases in Limits

As it is a requirement that all accounts must operate within marked limits, when a temporary increase in facility is required, the records should be updated, Head Office approval obtained where necessary and there should be suitable amendments to the limit and the expiry date. A diary note should also be raised to reinstate the old limit and expiry date at the appropriate time. Even in these instances, a facility letter should be sent to the customer and the relevant fees collected.

Connected Accounts

Where there are related/connected accounts, all such accounts are to be grouped both for control and reporting purposes so that the level of exposure to the particular connection can be clearly established.

In instances where the branch is aware of double borrowing, efforts should be made to consolidate the facilities at the branch of customer's choice. Where the customer needs to maintain separate accounts, for example, because of the geographic locations of the businesses, one branch is to assume the role of lead branch and sub-limit (s) is/are to be assigned as appropriate.

LOANS - DEMAND AND INSTALMENT

Normally when a loan customer has a current account it has been the practice to simply debit this account for the payments whether or not the account can accommodate. This practice must cease immediately when it simply translates to a transfer of the delinquency from the loan to the overdraft.

The general rule is as follows:-

Unless the operating account can be regularized within 30 days, a loan payment (both principal and interest) should not be debited to an operating account if by doing so:-

- the account which normally operates in credit would be placed in debit.
- it will increase the debit balance on an account with an expired limit.
- it will increase the overdraft balance over the limit.

ACCOUNTS/FACILITIES OUTSIDE OF BRANCHES DISCRETIONARY LIMITS

Irrespective of amount, there are certain facilities/customers which branches have no authority to accommodate without referral to Head Office, Credit Department, and where necessary requests for facilities are to be formalised by submission of ADV. 1.

The following are instances where referral to Head Office Is mandatory:-

1) Credit Facilities where the interest rate being considered is below Normal Rates except fully cash secured facilities.

2) Credit Facilities to delinquent accounts on the Watch List or to Classified Debtors.

3) Loans to pay out another financial institution.

4) Loans to contractors on an unsecured or partially unsecured basis.

5) Facilities secured by hypothecation of cash at a financial institution outside the Group.

6) Facilities secured by guarantees or Letters of Credit from another financial institution whether local or foreign.

7) Issuance of guarantee as security for a facility at another financial institution (outside the Group) eg. Commercial Paper.

8) Loans for speculative purposes, eg. trading on the stock market.

9) Loans for campaign purposes to political candidates, parties and associations.

10) Credit Facilities to "Connected Parties" eg. a director of the Bank, NCB Group Limited and its subsidiaries.

11) Loans with terms exceeding 5 years except approved under a special scheme.

12) Loans to finance boats and ships.

13) Loans to finance restaurants, night clubs and discotheques.

14) Overdrafts on foreign currency accounts.

<u>BUSINESSES/SECTORS WHICH ARE CONSIDERED HIGH RISK</u>

Effective immediately, the Bank will no longer finance <u>used vehicles</u> for the public transport sector eg. mini buses and taxis.

Additionally, all sectors require close monitoring at this time but special attention must be paid to Construction, Tourism, Transport and the Manufacturing Sectors.

MANAGING DIRECTOR

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