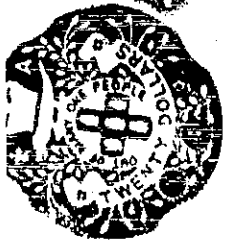


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THIS AGREEMENT is made

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

AND: **CITIZENS MERCHANT BANK LIMITED**, a company incorporated under the laws of Jamaica and having its registered office at Citizens Bank Centre, 17 Dominica Drive, Kingston 5 in the Parish of Saint Andrew (hereinafter called "Citizens")

WHEREAS:

- (1) In exercise of powers contained in section 25(3)(c) and Part D of the Second Schedule to the Financial Institutions Act, the Minister has assumed the temporary management of Caldon Finance Merchant Bank Limited (herein called "CFMB").
- (2) Finsac is an institution established by the Government to provide financial assistance to the financial sector.
- (3) The Temporary Manager of CFMB has requested from Finsac financial assistance in order to protect its Distressed Depositors. In order to provide this assistance, Finsac has formulated a plan to protect Distressed Depositors in CFMB by the transfer of their deposits to Citizens.

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

1. Definitions and Interpretations

1.1 In this Agreement:

- (a) "Banking Day" means a day on which commercial banks are open for business in Jamaica;
- (b) "Caldon Deposit" means a deposit accepted by CFMB;
- (c) "Citizens CD" means a certificate of deposit issued by Citizens to a Distressed Depositor;

*[Handwritten signature]*

- (d) “**Deed of Assignment**” means a deed of assignment pursuant to which a Distressed Depositor shall assign his Caldon Deposit to Finsac;
- (e) “**Distressed Depositor**” means any person to whom CFMB is indebted under a Caldon Deposit;
- (f) “**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;
- (g) “**Issue Deadline**” means, with respect to any Finsac Bond, 4:30 p.m. on the Banking Day on which a Daily List of Citizens CDs is delivered to Finsac, if delivery occurs no later than 10 a.m. on such Banking Day; and if delivery occurs after 10 a.m. on any Banking Day or on any day which is not a Banking Day, then no later than 1 p.m. on the following Banking Day;
- (h) “**Letter of Undertaking**” means a letter of undertaking issued by Finsac to Citizens in the form set out in Schedule 3 hereto; and
- (i) “**Request to Issue Citizens CD**” means a request issued by Finsac to Citizens in the form set out in Schedule 2 hereto.

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

1.3 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 documents being substantially in the relevant form.

1.4 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 “Finsac” or “Citizens” include references to a person who, for the time being, is entitled (by assignment, novation or otherwise) to Finsac’s or Citizens’ rights under this Agreement (or any interest in those rights) or who, as administrator, liquidator or otherwise, is entitled to exercise those rights.

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 Clause headings are for ease of reference and shall not affect the interpretation hereof.


2. Assignment of Caldon Deposits to Finsac

2.1 Finsac shall, with respect to each Distressed Depositor, offer to take a legal assignment of his Caldon Deposit(s). If the offer by Finsac is accepted by a Distressed Depositor, he shall execute a Deed of Assignment assigning his Caldon Deposit(s) to Finsac.

2.2 The sole consideration for the assignment by a Distressed Depositor of his Caldon Deposit(s) to Finsac shall be the issue by Citizens of a Citizens CD. In order to procure the issue of a Citizens CD, Finsac shall deliver to Citizens a duly executed Request to Issue Citizens CD.

2.3 The Citizens CD issued to a Distressed Depositor as consideration for the assignment of his Caldon Deposit(s) to Finsac:

- (a) shall be for a principal sum equivalent to the value of the Caldon Deposit(s) as at the date of assignment to Finsac; and
- (b) shall bear interest at such rate as Citizens may in its absolute discretion elect to offer on such Citizens CD.

2.4 Citizens will use reasonable efforts to encourage Distressed Depositors to assign their Caldon Deposits to Finsac. Citizens shall assist Finsac in obtaining executed Deeds of Assignment from Distressed Depositors and shall deliver such Deeds of Assignment to Finsac.

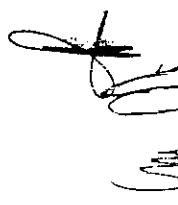
2.5 For the purposes of this clause, the value of a Caldon Deposit shall be the aggregate of the principal value of such Caldon Deposit plus interest accrued thereon up to the date of assignment.

3. Issue of Finsac Bonds

3.1 After Citizens has commenced the issue of Citizens CDs to Distressed Depositors, it shall prepare a list of Citizens CDs issued during the course of each day (herein called "Daily List"). Each Daily List shall be signed on behalf of Citizens and shall be delivered to Finsac within five (5) Banking Days after the end of the day in respect of which the list is prepared.

3.2 On receipt of a Daily List, Finsac shall, after undertaking such verification as it deems appropriate, issue to Citizens, not later than the Issue Deadline, a Letter of Undertaking to Citizens for the aggregate principal value of all Citizens CDs issued by Citizens on the relevant date and verified by Finsac.

3.3 At the end of the 30-day period after the date on which Citizens CDs are first issued hereunder (or such longer period as may be mutually agreed by the parties), Finsac shall issue to Citizens, as soon as reasonable practicable and in any event within fourteen (14) days after the end of such period:



- (a) a Finsac Bond in favour of Citizens for a principal amount equivalent to the aggregate of the principal amounts of all Citizens CDs issued hereunder during such 30-day period; and
- (b) a Finsac Bond in favour of Citizens for a principal amount equivalent to the interest accrued in accordance with sub-clause 3.4 hereof.

The parties may mutually agree for a single Finsac Bond to be issued in respect of the amounts referred to under sub-paragraphs (a) and (b) above.

3.4 Interest on the aggregate of the principal amounts verified by Finsac in each Daily List pursuant to sub-clause 3.2 shall be deemed to accrue at the Agreed Rate specified in the Finsac Bond from the date in respect of which the Daily List is prepared up to the date on which the Interest Bond is issued and, the reference to “*interest accrued*” in sub-paragraph (b) of sub-clause 3.3 is a reference to the interest so calculated.

3.5 Citizens may at any time request Finsac to cancel two or more Finsac Bonds issued pursuant to sub-clause 3.2 or pursuant to another agreement with Finsac relating to the protection of deposits placed with Fidelity Merchant Bank Limited and to issue *in lieu* thereof one (1) or more consolidated Finsac Bonds, provided that a consolidated Finsac Bond shall not be issued for a principal sum of less than J\$2,000,000.00.

#### 4. Verification of Caldon Deposits

4.1 Citizens shall be entitled to assume that all information received by it from CFMB, the temporary manager or any agent of the temporary manager with respect to each Caldon Deposit including, without limitation:

- (a) the name(s) of depositor(s);
- (b) the principal amount of each Caldon Deposit;
- (c) the rate of interest applicable to each Caldon Deposit;
- (d) the interest accrued up to the date of assignment of such Caldon Deposit;
- (e) the existence or non-existence of any right of set-off, counter-claim or other third party right whatsoever against such Caldon Deposit,

is complete and accurate in all respects.

4.2 On presenting a Request to Issue Citizens CD to Citizens, Finsac shall be deemed to have irrevocably warranted and represented to Citizens as respects each Distressed Depositor who has executed and delivered a Deed of Assignment in favour of Finsac that:

- (a) under the terms of the aforesaid assignment, the Distressed Depositor(s) is entitled to a Citizens CD for the principal sum set out in the Request to Issue Citizens CD;
- (b) Citizens shall be unconditionally authorised to issue an appropriate Citizens CD to such Distressed Depositor(s); and
- (c) subject to Citizens issuing an appropriate Citizens CD to such Distressed Depositor(s), Finsac shall issue an appropriate Finsac Bond in accordance with the terms of this Agreement.

#### 5. Liquidity Support

In recognition of the maturity mismatch of liabilities (represented by the Citizens CDs) and assets (represented by the Finsac Bonds), Finsac agrees to support an application by Citizens to the Minister to designate the Finsac Bonds as liquid assets in exercise of his powers in that regard under paragraph (h) of section 15(2) of the Banking Act.

#### 6. General Representations and Warranties

- 6.1 Each party hereby represents and warrants to the other that:
  - (a) it has been duly authorised by all necessary corporate actions to enter into this Agreement and to undertake the transactions contemplated herein;
  - (b) this Agreement is in proper legal form for its enforcement in Jamaica;
  - (c) the obligations expressed to be assumed by it hereunder are valid, binding and enforceable against it in accordance with the terms hereof;
  - (d) in order for this Agreement to be admissible in evidence and enforceable in a court of law, it is not necessary that it be registered or recorded with any public registry or authority or that any administrative action be taken with respect thereto except that a signed copy thereof shall be impressed with stamp duty in accordance with the Stamp Duty Act.
- 6.2 Finsac hereby represents and warrants to Citizens that:
  - (a) it has full power, authority and legal right to execute and deliver the Finsac Bonds and all other documents and instruments delivered or to be delivered by it hereunder and to perform and observe the terms and provisions of this Agreement, the Finsac Bonds and such other documents and instruments;

- (b) when executed and delivered, each Finsac Bond will (i) constitute legal, valid and binding obligations of Finsac enforceable against it in accordance with its terms, and (ii) be direct, unconditional and general obligations of Finsac;
- (c) each Finsac Bond, when executed and delivered by it will be in proper legal form for the enforcement thereof against Finsac;
- (d) it is subject to civil and commercial law with respect to its obligations under this Agreement and the Finsac Bonds and it has no immunity under the laws of Jamaica.

#### 7. Communication to the Press

Before issuing any press release or making any pre-arranged communication to the press pertaining to this Agreement or the arrangements contemplated herein, each party to this Agreement shall give to the other party a reasonable opportunity to review and comment on such press release or communication and shall take into account any reasonable concerns raised by the other party.

#### 8. Miscellaneous

8.1 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.

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

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

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

8.5 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.

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

Handwritten signature and initials in the bottom right corner of the page.

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

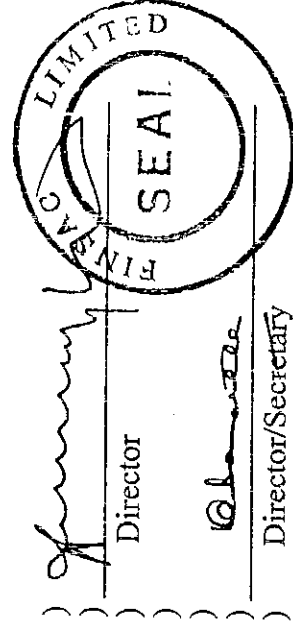
8.8 No failure to exercise and no delay in exercising on the part of either party hereto any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof or the exercise of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

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

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

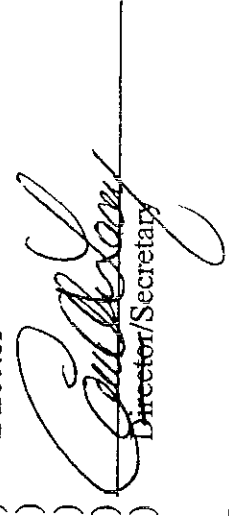
IN WITNESS whereof this Agreement was duly executed and delivered by the parties on the day and year first hereinbefore written.

EXECUTED under the common seal of )  
FINSAC LIMITED and delivered as and )  
for its proper act and deed by )  
, Director, and )  
Director/Secretary in the presence of: )



\_\_\_\_\_  
WITNESS

EXECUTED under the common seal of )  
CITIZENS MERCHANT BANK LIMITED )  
and delivered as and for its proper act and )  
deed by )  
Director, and )  
Director/Secretary in the presence of: )



\_\_\_\_\_  
WITNESS

**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 CITIZENS MERCHANT BANK LIMITED 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:

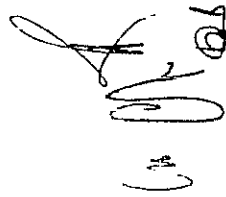
- (a) "Agreed Rate" means the aggregate of the weighted average yield rate applicable to the latest 6-month Treasury Bill tender ("WAYR") (expressed as a percentage per annum) plus 100 basis points. The Agreed Rate shall be reset on each Interest Payment Date commencing on \_\_\_\_\_ based on the latest 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.

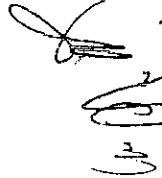
This Undertaking shall constitute an endorsement of the Promissory Note by GOJ with GOJ an endorser with full recourse against it.

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  
REQUEST TO ISSUE CITIZENS CD

, 1998

Citizens Merchant Bank Limited  
17 Dominica Drive  
Kingston 5

Dear Sirs

Reference is made to the Agreement between us dated the 20th day of March, 1998 pertaining to Caldon Finance Merchant Bank Limited. Terms defined in that Agreement shall have the same meanings herein.

In accordance with clause 3 of the said Agreement, we hereby request you to issue Citizens CDs to the persons listed on the attached list (provided such persons provide customary depositor identification) in the amount(s) set forth in the Agreement.

Yours truly,  
FINSAC LIMITED

Per: \_\_\_\_\_

Per: \_\_\_\_\_

Attach

*[Handwritten signature]*  
C. J. V. /

**SCHEDULE 3**  
**LETTER OF UNDERTAKING**

, 1998

Citizens Merchant Bank Limited  
17 Dominica Drive  
Kingston 5

Dear Sirs

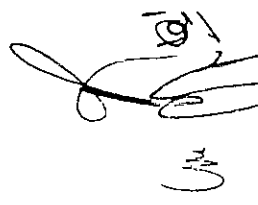
Reference is made to the Agreement between us dated March 20, 1998 pertaining to Caldon Finance Merchant Bank Limited. Terms defined in that Agreement shall have the same meanings herein.

We hereby irrevocably and unconditionally undertake to issue to you, in accordance with clause 3 of the aforesaid Agreement, a Finsac Bond which shall include a principal sum of J\$ \_\_\_\_\_ in consideration for your issuing the Citizens CDs set out in the Daily List dated the \_\_\_\_\_ day of \_\_\_\_\_, 1998.

Yours truly,  
FINSAC LIMITED

Per: \_\_\_\_\_

Per: \_\_\_\_\_



Handwritten signature in black ink, appearing to be 'W. H. ...' with a stylized flourish.