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THIS AGREEMENT is made the 1st day of September 1998 BETWEEN FINSAC LIMITED, a company duly incorporated under the laws of Jamaica and having its registered office situate at 76 Knutsford Boulevard, Kingston 5 in the parish of Saint Andrew, (hereinafter called "Finsac") of the FIRST PART and NATIONAL COMMERCIAL BANK JAMAICA LIMITED (hereinafter called "NCB") of 32 Trafalgar Road, Kingston 10 of the SECOND PART.

WHEREAS:

- A. Buck Securities Merchant Bankers Limited (BSMB) a financial institution licensed under the Financial Institutions Act wishes to reorganise its business by transferring its deposit liabilities to another financial institution.
- B. The shareholders of BSMB have obtained from the Minister of Finance and Planning, the necessary approval pursuant to s.33 (1) (b) of the Financial Institutions Act and have entered into an agreement with NCB for the assumption of the said deposit liabilities of BSMB on terms which require, inter alia, that BSMB issue a Promissory Note to NCB in consideration of the assumption of the said deposit liabilities;
- C. Finsac, acting on behalf of the Government of Jamaica (hereinafter called "Government"), in order to facilitate the assumption of BSMB's deposit liabilities by NCB, has agreed to purchase the Promissory Note, issued by BSMB to NCB and in consideration therefore to issue a Promissory Note to NCB on the terms and conditions hereinafter appearing:

NOW IT IS HEREBY AGREED AS FOLLOWS:

1. DEFINITIONS

For the purpose of this Agreement the following terms shall have the following meanings:

- (i) "Depositor" means a person who is the holder of a Certificate of Deposit issued by BSMB in respect of monies deposited with BSMB, which monies are certified by BSMB to NCB as being included in the deposit liabilities of BSMB being assumed by NCB, and who is not a related party of BSMB.
- (ii) "Deposit Account" means an account opened by NCB in the name of a Depositor subsequent to the Depositor fulfilling the requirements set by NCB for the opening of such account.
- (iii) "Deposit Sum" means the sum which is certified by BSMB to NCB as being due by BSMB to a Depositor at the maturity of a Certificate of Deposit issued by BSMB and which is certified by BSMB as being included among BSMB's deposit liabilities being assumed by NCB.
- (iv) "Designated Branch" means the branch of NCB situated at 124 - 128 Harbour Street, Kingston, Jamaica.
- (v) "Effective Date" means September 1, 1998 on which NCB assumes BSMB's deposit liabilities.
- (vi) "Interim Deposit Account" means an account opened by NCB in respect of a Depositor pending the Depositor fulfilling the requirements set by NCB for the opening of such account.

(vii) “related party” means a person who is a director, shareholder or manager of BSMB, a relative of a director, shareholder or manager of BSMB or any company of which the director, shareholder or manager of BSMB has control directly or indirectly.

2. Provision of Information to Finsac by NCB

2.1 NCB shall provide to Finsac a written report on the establishment and adjustment of Deposit Accounts and Interim Deposit Accounts at the expiry of one month from the date of this Agreement.

Subsequent reports shall be provided by NCB to Finsac at intervals of thirty days during the period of 360 days from the date of this Agreement.

2.2 Finsac shall have the right to audit the reports presented by NCB.

3. Finsac Notes

3.1 Immediately upon receiving the BSMB Note issued in accordance with Clause 3.2 below, the face value of which shall be equivalent to the aggregate of the Deposit Amounts credited by NCB to the Interim Deposit Accounts opened in respect of the Deposits, Finsac shall issue the Finsac Note to NCB, in an amount equivalent to the total opening balances of the Interim Deposit Accounts created for Depositors.

3.2 The BSMB Note shall:

- (a) be issued payable on demand;
- (b) be freely assignable by way of delivery and endorsement:

- (c) be endorsed by NCB in favour of Finsac without recourse to NCB.
- 3.3 The total face value of the Finsac Note shall be equal to the aggregate of the Deposit Amounts.
- 3.4 The Finsac Note shall be on the terms and in the form or substantially in the form set out in the Schedule attached hereto.
- 3.5 In the event that on such date which occurs immediately after the expiry of three hundred and sixty (360) days from the effective date, the aggregate amount of the interim deposit accounts and deposit accounts opened by NCB in accordance with the terms of the Agreement is for any reason less than the face value of the Finsac Note, then NCB shall surrender the Finsac Note and Finsac shall issue a new Finsac Note, the face value of which shall be the actual aggregate amount of the interim deposit accounts and deposit accounts opened by NCB as at the date aforementioned.
- 3.6 Interest will be paid on the Finsac Note on the Principal Amount from September 1st. Such interest will be paid semi-annually each year ("Interest Payment Dates"), the first such payment shall be due and payable on February 28, 1999. Provided that if any interest payment date is not a day on which banks are open for business in Jamaica, then payment shall instead be made on the first day thereafter on which banks are open for business in Jamaica and such payment shall include interest accrued to the actual date of payment.
- 3.7 Interest shall be paid on the Principal Amount of the Finsac Note at a per annum rate of 100 basis points above the weighted average yield rate applicable to the most recent six-month Treasury Bill tender made prior to each interest payment date.

- 3.7 The Finsac Note will be supported by an undertaking by Government.
- 3.8 The Finsac Note shall be exempt from Stamp Duty and Transfer Tax.
- 4.0 Conditions Precedent
- 4.1 This Agreement shall come into force on the effective Date provided that the following shall all have occurred on or before that date:
- 4.1.1 All parties to this Agreement shall have executed this Agreement.
- 4.1.2 The Bank of Jamaica shall have indicated in writing that the Finsac Note is designed so that for so long as it is in existence when held by a licensed commercial bank and designated by the Minister pursuant to his powers under section 15(2)(h) of the Banking Act, it will go towards the determination of “liquid assets” as that term is used in section 15 of the Banking Act.
- 5 Resolution of Disputes
- 5.1 NCB shall use its best efforts to settle any dispute arising in respect of a Deposit or Interim Deposit. In the event that such dispute is not settled within 30 days then a report thereof shall be made to Finsac and Finsac will provide the Depositor(s) with all relevant information about the Deposit or Interim Deposit and will use its best efforts to settle the dispute. In the event of any suit or legal proceeding being initiated against NCB in respect of such Deposit or Interim Deposit, NCB shall notify Finsac of such suit or legal proceeding and Finsac shall be obliged to take over the conduct of such proceedings at its own cost.
- 6 Representations and Warranties
- 6.1 NCB and Finsac each warrant as follows:

- 6.1.1 It has the corporate and legal power to enter into this Agreement and to perform the obligations set out herein and the appropriate resolutions have been passed to that effect:
- 6.1.2 Neither the execution of this Agreement, the exercise of its rights nor the performance of its obligations hereunder contravenes any law, agreement or debenture binding on it nor results in the creation of an encumbrance under any other agreement:
- 6.1.3 The latest audited accounts show a true and fair view of its business and there has been no adverse material change in its business, assets or financial condition reasonably likely materially to affect its ability to perform its obligations hereunder, except as disclosed in quarterly unaudited interim financial statements supplied to the BOJ.
- 6.1.4 It is not aware of any event and/or fact currently giving rise to a situation which makes it doubtful that it will be able to discharge its obligations under this Agreement: and
- 6.1.5 It is not engaged in any litigation or arbitration proceedings or know of the threat thereof which may materially affect its ability to perform its obligations hereunder.
- 6.2 The warranties set out in Clauses 6.1.4 and 6.1.5 shall survive the execution of this Agreement and shall be deemed to be repeated by the warrantors as being true with reference to the facts and circumstances subsisting as at the date upon which the Finsac Note referred to in Clause 3 is issued, and on each subsequent anniversary date for so long as the Finsac Note referred to in Clause 3, are outstanding.

7. Indemnity

7.1 Finsac hereby indemnifies NCB against any claims for losses, damages or other injury, by the Depositors relating to NCB's creation of Interim Deposit and Deposit Accounts, for a period of six years after the effective Date, except where such losses, damages or other injury are caused by NCB or its agents.

8. Confidentiality

8.1 Except as may be otherwise agreed among the parties hereto, each party agrees to treat the terms of this Agreement as confidential.

9. Miscellaneous

9.1 If any provision of this agreement is or becomes illegal, invalid or unenforceable, or if any person bound or intended to be bound by it is not or ceases to be bound by its terms, the validity or unenforceability of any other provision of this Agreement shall not be affected.

9.2 No failure to exercise and no delay on the part of any person in exercising any right, power or privilege under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any such right power or privilege preclude any other or further exercise thereof, or the exercise of any other right, power or privilege.

9.3 Unless otherwise provided herein, no party shall assign, transfer, alienate or encumber in any way its rights and/or delegate its obligations under this Agreement.

9.4 Any amendments or modifications to this Agreement shall not take effect unless and until agreed to in writing by all parties hereto.

10. Notices

10.1 All notices, request, demands, directions and other communications to be sent or furnished under or with reference to this Agreement shall, unless otherwise stated herein, be in writing, and mailed or hand-delivered or sent by telegram or facsimile transmission, as to each party hereto, at the address for such party set forth below, marked for the attention of the person indicated below or any other person as may be designated by the party in writing.

10.2 If to Finsac
76 Knutsford Boulevard
Kingston 5

For the attention of the Managing Director
Fax number: 906-1813

10.3 If to NCB
32 Trafalgar Road
Kingston 5

For the attention of the Managing Director
Fax number 929-8344

10.4 Any party may change its abovementioned address (including fax number) and the person for whose attention notices should be sent, by written notice given to any other party in accordance with the above sub-clause.


10.5 All notices, requests, demands, directions and other communications shall, in the case of hand delivery, be effective when received; in case of facsimile transmission, when received ; and in the case of mail, on the fifth calendar day following posting thereof in a post office.


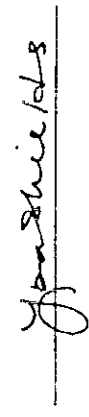
11. Governing Law and Jurisdiction

11.1 This Agreement shall be governed by and construed in accordance with the laws of Jamaica and may be enforced exclusively in Jamaica.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed in four originals by them through their duly authorised representatives in a manner binding upon the parties the day and year first above written.

The Common Seal of FINSAC LIMITED)
was hereunto affixed and this document)
signed by PATRICK HYLTON, Director)
and LISA SHIELDS, Secretary)
in the presence of.


SHARON EVANS
ATTORNEY-AT-LAW

The Common Seal of NATIONAL COMMERCIAL)
BANK JAMAICA LIMITED was hereunto affixed)
and this document signed by:

in the presence of:
