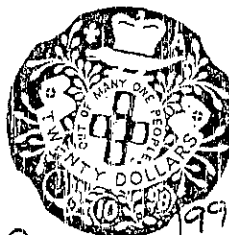


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\$ 10.00
\$ 20.00

AGREEMENT



EC 120/11

This Agreement is made this 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 **CARIBBEAN TRUST MERCHANT BANK LIMITED**, a Merchant Bank duly licensed under the Financial Institutions Act and having its registered office at 2 Holborn Road, Kingston 5 in the parish of Saint Andrew (hereinafter called "CTMB") of the **SECOND PART** and **VINCENT CHEN, HUGH HART, PETER MILLINGEN, CHARLES VENDRYES, HOWARD MITCHELL, MICHAEL MATTHEWS, THALIA LYN**, Principal Shareholders of CTMB of the **THIRD PART**

WHEREAS:

- A. CTMB wishes to reorganise its business by transferring its deposit liabilities to another financial institution;
- B. The shareholders of CTMB 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 National Commercial Bank Jamaica Limited (NCB) for the assumption of the said deposit liabilities of

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GIVEN DATE WHICH BEING ADVISORY STATE
OF TWENTY DOLLARS
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CTMB on terms which require, inter alia, that CTMB 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 CTMB's deposit liabilities by NCB, has agreed to purchase the Promissory Note issued by CTMB to NCB and in consideration therefor to issue a Promissory Note to NCB.

NOW IT IS HEREBY AGREED as follows:

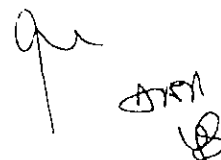
1. In consideration of Finsac requesting that NCB assumes certain deposit liabilities and NCB agreeing that they will assume these deposit liabilities and for other consideration, the receipt and sufficiency of which is hereby acknowledged:
 - (a) CTMB hereby agrees:-
 - (i) that Finsac will be a creditor entitled to prove in a liquidation/winding up of CTMB along with other creditors of CTMB to the extent of the value of the said Promissory Note purchased by Finsac from NCB.
 - (ii) to advise Finsac fully of the terms and conditions under which it held the deposit liabilities.
 - (iii) not to pay, prepay or repay any of its debts without the prior written consent of Finsac.
 - (iv) not to purchase or otherwise acquire any assets without the prior written consent of Finsac.

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- (v) not to make any payment outside of the ordinary course of business and not to make any payment in excess of Ten Thousand Dollars (\$10,000.00) other than for salaries on existing terms and conditions of employment without the prior written consent of Finsac.
- (vi) after consultation with Finsac, to surrender its license to operate as a licensed financial institution to the Bank of Jamaica within fourteen (14) days of the signing of this Agreement.
- (vii) not to make any payment directly or indirectly to any shareholder of any class of shares whatsoever or to any Director of CTMB without the prior written consent of Finsac.
- (viii) not to accept any new deposits without the prior written consent of Finsac.
- (ix) not to grant or enter into any agreement to grant new security to any creditor or enter into any other arrangements with its creditors without the prior written consent of Finsac.
- (x) not to increase the interest, fees or commission rates in favour of any creditors or other third parties without the prior written consent of Finsac.
- (xi) not to sell, transfer or otherwise dispose of its assets to or any part thereof to any connected party without Finsac's prior written approval.

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- (xii) not to sell, lease, transfer or otherwise dispose of any of its assets having a value in excess of \$5,000.00 or any part thereof other than with the prior written consent of Finsac and for full consideration.
- (xiii) not to do or omit to do anything which will or may accelerate the repayment of any loans to it or cause demand to be made against it by any creditor without the prior written consent of Finsac.
- (xiv) to take appropriate steps requested by Finsac in writing to enforce any security interest held in its favour and to call in any guarantees held by it.
- (xv) not to make or attempt to make any alteration in the provisions of its Memorandum or Articles of Association without the prior written consent of Finsac.
- (xvi) to comply with the provisions of any statute or order or regulation thereunder which governs the conduct of its business.
- (xvii) not to give time for payment of any bill or bills of exchange or promissory note or notes or other security or security which it holds without the prior written consent of Finsac.
- (xviii) not to make any loan or advance or give any guarantee for the payment of money or provide any credit without the prior written consent of Finsac.
- (xix) not to assume or incur any additional liabilities whatsoever after the date hereof without the prior written consent of Finsac.

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- (xx) not to repay any of its Directors or Shareholders any moneys lent to it by them.
 - (xxi) not to create any charge, lien, encumbrance or security interest against any of its assets without the prior written consent of Finsac.
 - (xxii) not to declare any dividend or make any distribution to its Shareholders.
 - (xxiii) not to neglect or forebear to enforce payments of any moneys or interest due to it or otherwise vary the terms of any security without Finsac's prior approval in writing.
 - (xxiv) to send notice of all its general meetings and meetings of its Directors to Finsac at the same time as notice of such meetings is sent to the Shareholders or Directors and to enable a representative of Finsac to attend and participate but not vote at such meetings.
 - (xxv) not to employ or engage the services of anyone and not to change the terms of the engagement employment or appointment of any persons engaged, employed or appointed by it.
 - (xxvi) to grant Finsac and its agents full access to the books and records of CTMB in order to ensure compliance with the terms of this agreement.
- (b) The Principal Shareholders agree not to take any steps or to cause to take any steps to materially impair the business operations or fortune of CTMB including violation of the terms of this Agreement.

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- (c) CTMB hereby represents and warrants that:-
- (i) its financial conditions as represented by the financial statements attached hereto as Exhibit I (hereinafter called "the Financial Statements") are true and correct in all material respects at the date specified therein.
 - (ii) the list of certificates of deposit attached hereto as Exhibit II (hereinafter called "the List") is true and correct in all material respects and does not include deposit liabilities due and owing to related parties and is the same list that has been submitted to National Commercial Bank Jamaica Limited. A related party means a person who is a director, shareholder or manager of CTMB, a relative of a director, shareholder or manager of CTMB or any company of which the director, shareholder or manager of CTMB has control directly or indirectly, and includes Buck Securities Merchant Bankers Limited.
 - (iii) the List has been certified by the auditors, KPMG Peat Marwick as true and correct in all material respects and a copy of this certification is attached hereto as Exhibit III.
 - (iv) each person executing this Agreement on its behalf is duly authorised to do so, and this Agreement constitutes a valid binding agreement of CTMB enforceable against it in accordance with its terms.

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- (v) no resolution has been passed to wind it up nor has any petition been filed or presented in any Court of Jamaica for its winding up.
- (vi) no material transactions or contracts have been entered into by it since the date of the Financial Statements except in the ordinary course of business and it has not since that date mortgaged charged or pledged or parted with any of its assets tangible or intangible.
- (vii) there is no pending or threatened litigation or claim against it which might result in any material adverse change in the financial position, business, assets, property or operations except as notified in writing to Finsac.
- (viii) it has filed all Income Tax and other Statutory Returns required to be filed by the laws of Jamaica in respect of all periods up to and including the period ending _____ and has paid all assessments shown to be due or claimed to be due thereon or has made adequate provision for the payment of such taxes which have become due pursuant to such Returns or Declarations or pursuant to any such assessment received by the Company and no claims or additional assessments other than those reflected in the accounts provided to Finsac have been made and so far as known to it there is no basis for any such claim or additional assessment.
- (ix) there is no outstanding amount owed in respect of taxation (whether by way of taxes on property, profits or otherwise) by it except for such sums as are disclosed by its Financial Statements.

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- (x) except as shown in its Financial Statements there are no debts or contingent liabilities owing to it by any of its Directors or Shareholders nor by it to any of its Directors or Shareholders.
- (xi) it has no mortgages, charges, liens or other encumbrances secured over any of its assets, save as disclosed by the financial statements.
- (xii) its books of account, minute books and records have been duly entered up and contain a true and accurate record of the matters to which they relate.
- (xiii) its present Directors are **Vincent Chen** and **Howard Mitchell** and its Secretary is **Veritat Corporation..**

2. **Costs**

Each party shall pay their own costs and expenses incurred in relation to the negotiation, preparation and execution of this Agreement.

3. **Notices**

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 in accordance with the provisions of this clause. Any such notice may be delivered personally or by first class prepaid letter, and shall be deemed to have been served if by personal delivery when delivered if by first class post 96 hours after posting.

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4. **Successors Bound**

This Agreement shall be binding on and shall enure for the benefit of the successors and assigns and personal representatives (as the case may be) of each of the parties hereto.

5. **Assignment**

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

6. **Good Faith**

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

7. **Further Assurance**

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

8. **Entire Agreement**

This Agreement constitutes the entire agreement between the parties hereto with respect to the matters dealt with therein and supersedes any previous agreement between the parties hereto in relation to such matters. The parties hereto hereby acknowledge that in entering into this Agreement they have not relied on any representation or warranty save as expressly set out herein or in any document

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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.

9. **Law**

This Agreement shall be governed by and construed in accordance with Jamaican law and the parties hereto irrevocably submit to the non-exclusive jurisdiction of the Jamaican Courts in respect of any dispute or matter arising out of or connected with this Agreement.

10. **No Partnership**

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

11. **Duration**

The terms of this Agreement shall remain in full force and effect for so long as Finsac or its assignee or transferee continues to hold any of the Deposits or until Finsac or its assignee or transferee has proved and Finsac has received payment from a liquidator in respect of such debts.

12. **Termination**

The termination of this Agreement however caused and the ceasing of Finsac or its assignee or transferee to hold the Deposits herein mentioned shall be without prejudice to any obligations or rights of either of the parties hereto which have accrued prior to such termination or cesser and shall not affect any provision of

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this Agreement which is expressly or by implication provided to come into effect on or to continue in effect after such termination or cesser.

13. **Severability**

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

14. **References**

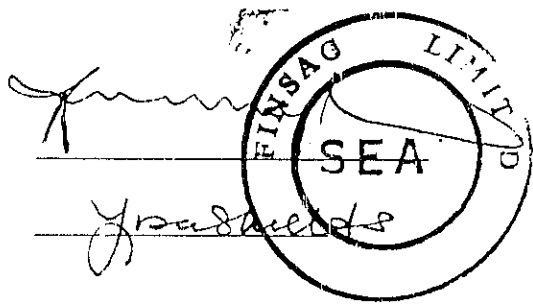
In this Agreement, the singular includes the plural and vice versa, and references to any gender include any other gender and words importing bodies corporate and unincorporate include persons and vice versa. The clause headings are inserted for convenience only and shall be ignored in construing this Agreement. References to clauses, sub-clauses and schedules are references to clauses and sub-clauses hereof and schedules hereto.

IN WITNESS WHEREOF the parties have executed this Agreement the day and year first hereinbefore written.

Executed under the Common Seal)
Of FINSAC LIMITED)
by PATRICK HYLTON)
Director and LISA SHIELDS)
Secretary)
in the presence of:

[Handwritten signature]

Witness



[Handwritten initials/signature]

Executed under the Common Seal of
**CARIBBEAN TRUST MERCHANT
BANK LIMITED**

by H. HITCHELL
Director and V. CHEN
Director/Secretary

in the presence of:

L. White
Witness

[Signature]
V. Chen

Executed by **VINCENT CHEN**
In the presence of:

L. White

Vincent Chen

Executed by **HUGH HART**
In the presence of:

[Signature]

H. Hart

Executed by **PETER MILLINGEN**
In the presence of:

Henry C. Bessie

[Signature]

Executed by **CHARLES VENDRYES**
In the presence of:

Executed by **HOWARD MITCHELL**
In the presence of:

[Signature]

[Signature]

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Executed by **THALIA LYN**
In the presence of:

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Executed by **MICHAEL MATTHEWS**
In the presence of:

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