



In the Matter of The Securities Act Chap. 83:02 (“Act”) and the Securities Industry (Take-Over) By-Laws, 2005 (“By-Laws”)

And

In the Matter of Rule 61 and Rule 62 of Securities Industry (Hearings and Settlements) Practice Rules, 2008 (“Rules”)

And

In the Matter of NCB Global Holdings Limited’s along with the National Commercial Bank of Jamaica (“NCBJ”) and National Commercial Bank Financial Holdings Limited (collectively referred to as (“Offeror”) Offer and Take-Over Bid Circular (“Bid Circular”) dated December 8, 2017 (and amended on January 12, 2018 and February 2, 2018), to acquire 74,230,750 ordinary shares (“Targeted Shares”) in Guardian Holdings Limited “Offeree Issuer”) so as to result in the Offeror holding not more than 62% of the issued and outstanding ordinary shares of Offeree Issuer and other related transactions leading up to the issuance of same (“Matter”).

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SETTLEMENT AGREEMENT

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THIS SETTLEMENT AGREEMENT (including the schedule hereto, this “Settlement Agreement”) is made in duplicate the 30 day of October Two Thousand and Eighteen Between the staff of the **TRINIDAD AND TOBAGO SECURITIES AND EXCHANGE COMMISSION**, a body corporate established under the Securities Act, Chap. 83:02 of the laws of the Republic of Trinidad and Tobago and having its principal place of business at numbers 57-59 Dundonald Street, in the City of Port of Spain, in the Republic of Trinidad and Tobago (“**Staff**”) of the One Part and the Offeree Issuer, a publicly listed company duly incorporated and validly

existing under the Companies Act, Chap. 81:01 of the Laws of the Republic of Trinidad and Tobago of the Other Part.

PART 1 - INTRODUCTION

1. By Notice of Hearing dated February 22, 2018 (“**Notice of Hearing**”) as amended by Notice of Hearing dated March 8, 2018 (“**Amended Notice of Hearing**”), the **TRINIDAD AND TOBAGO SECURITIES AND EXCHANGE COMMISSION** (“**Commission**”), announced that it proposed to hold a hearing (“**Proceedings**”) to consider whether, pursuant to Sections 155(1) and 156(1) of the Act and By-Law 24 of the By-Laws, in the opinion of the Commission, it is in the public interest for the Commission to order:
 - (a) That the Offeror comply with the Act and By-Laws, particularly to require the Offeror to issue a formal take-over bid in accordance with By-Laws 11 and 13(2) of the By-Laws;
 - (b) That certain omissions from the Offeror’s Bid Circular dated December 8, 2017 amounted to contraventions of the By-Laws;
 - (c) That certain omissions from the Offeree Issuer’s Directors’ Circular dated December 29, 2017 (“**Directors’ Circular**”) filed in response to the Bid Circular amounted to contraventions of the By-Laws; and
 - (d) Such further and other orders as the Commission considers appropriate.
2. The respondents in the Proceedings are the Offeror, the Offeree Issuer, Arthur Lok Jack, Imtiaz Ahamad and certain companies owned and controlled by Arthur Lok Jack and/or Imtiaz Ahamad, Reyaz Ahamad and Shiraz Ahamad (“**Key Shareholders**”) who were at the material time the holders of shares in the Offeree Issuer amounting to 21.84% of the Offeree Issuer’s outstanding shares (“**Key Shareholders’ Shares**”).



3. Arthur Lok Jack and Imtiaz Ahamad were at all material times, directors of the Offeree Issuer.
4. Peter Permell (“Second-Named Applicant” formerly referred to in the Matter as “Co-Applicant”), a minority shareholder of the Offeree Issuer appears in the Proceeding as the Second-Named Applicant pursuant to his application to the Commission as an interested party under By-Law 24 of the By-Laws.
5. Pursuant to the Orders for Procedural Directions dated February 26, 2018 and March 26, 2018 issued by the Hearing Panel, the Staff, Second-Named Applicant, Offeror, Offeree Issuer and Key Shareholders in the Proceedings filed with the Commission Evidence and Arguments, preliminary applications, affidavit evidence and certain replies thereto (as applicable).

PART II -- JOINT SETTLEMENT RECOMMENDATION

6. On May 15, 2018 the Proceedings were adjourned for the Staff and Offeror to explore a possible settlement of the Proceedings against the Parties based on an indicative agreement arrived at between the Staff and the Offeror.
7. Having regard to the agreement arrived at in principle between the Staff and the Offeror, the Offeree Issuer, by correspondence dated May 18, 2018, communicated to the Staff that it was prepared to make representations in relation to any settlement agreement proposed to be entered in relation to the Proceedings.
8. The Staff and the Offeree Issuer have arrived at a proposed settlement agreement, and have agreed to a resolution and disposition of the Proceedings against the Offeree Issuer in the interest of all stakeholders including the public, in accordance with the terms and conditions set out in this Settlement Agreement.
9. Pursuant to such resolution and disposition, the Staff recommends withdrawal of all claims or disputes arising out of or in connection with the subject matter of the Proceedings against the Offeree Issuer on such date subsequent to the approval of this Settlement Agreement as shall



be agreed between the parties hereto and such withdrawal shall be a full and final settlement of the Proceedings against the Offeree Issuer upon the terms and conditions set out in this Settlement Agreement being satisfied by the parties hereto, which terms have been arrived at without any admission of wrongdoing or guilt on the part of the Offeree Issuer.

10. The Second-Named Applicant has agreed to the terms of this Settlement Agreement and to withdraw all and any claims or disputes arising out of and in connection with the subject matter of the Proceedings amongst the Offeree Issuer as evidenced by the undertaking provided by the Second-Named Applicant as set out in the terms of Schedule A thereto annexed.
11. The Staff and the Offeree Issuer agree that the terms of this Settlement Agreement will, subject to Part X of this Settlement Agreement, be released to the public only if and when the Settlement Agreement is approved by the Commission.

PART III - ACKNOWLEDGEMENT

12. Both the Staff and the Offeree Issuer agree with the facts set out in Part IV herein for the purposes of the matters contained in this Settlement Agreement.
13. Notwithstanding any other provision herein, if this Settlement Agreement is approved by the Commission and any party hereto fails to comply with any of the terms of this Settlement Agreement (the '**Non-Compliant Party**'), the Staff and the Offeree Issuer reserve the right to bring proceedings against such Non-Compliant Party for breach of the relevant terms of this Settlement Agreement and every waiver of claim contained herein in favour of such Non-Compliant Party shall be deemed null and void in relation to the Non-Compliant Party only.

PART IV - FACTS

14. The Offeror is a limited liability private company, duly incorporated and validly existing under the Companies Act, Chap. 81:01 of the Laws of the Republic of Trinidad and Tobago



and a wholly-owned direct subsidiary of NCB Financial Group Limited (“NCBFG”) and an affiliate of the National Commercial Bank of Jamaica (“NCBJ”). NCBFG is a publicly traded company incorporated and existing under the laws of Jamaica. NCBFG is registered with the Commission as a reporting issuer and is listed on the Trinidad and Tobago Stock Exchange (“TTSE”).

15. The Offeree Issuer is a limited liability, publicly listed company duly incorporated and validly existing under the Companies Act, Chap. 81:01 of the Laws of the Republic of Trinidad and Tobago. It is registered with the Commission as a reporting issuer and its ordinary shares (“GHL Shares”) are listed on the TTSE.
16. The Key Shareholders have been defined in Clause 2 above.
17. By its Annual Report for 2016, the Offeree Issuer notified its shareholders of certain share transfer transactions in 2016 whereby NCBFG became one of its substantial shareholders. By that Annual Report, the Offeree Issuer also indicated that an agreement for an additional transaction existed whereby NCBFG would, in the future deepen its shareholding in the Offeree Issuer “through a public offer for a percentage of every existing shareholder’s shares”. The Offeree Issuer also indicated in the said Report that as of the date of such Report, it had no notice of the extent and timing of such public offer.
18. By letter dated May 5th 2017 the Offeree Issuer informed the Commission that the information contained in the said Report, which was publicly posted on its website, reflects all the information known to the board of the Offeree Issuer with respect to a possible offer. In response to a request for guidance by the Offeree Issuer, the Staff indicated, *inter alia*, that the Offeree Issuer was not required to make any additional disclosures to the public in respect of an agreement for NCBJ to acquire an additional shareholding in the Offeree Issuer at that time. This guidance was based on the information provided to the Staff by the Offeree Issuer at that material time.
19. On December 8, 2017 the Offeror issued a Bid Circular by which it made an offer to acquire the Targeted Shares (“Offer”) amounting to 62% of the issued and outstanding shares in the



Offeree Issuer (inclusive of its 29.99% shareholding in the Offeree Issuer) at a price of US\$2.35 (“**Offer Price**”) per GHL Share. The initial closing date of the Offer was January 12, 2018 (“**Closing Date**”).

20. The Offer was purportedly made by the Offeror pursuant to the terms of a Shareholders Agreement dated May 12th 2016 among the Key Shareholders, NCBJ and NCBFG (“**2016 SA**”).
21. The Offeree Issuer dated and issued the Directors’ Circular on December 29, 2017 pursuant to Section 15 of the By-Laws in response to the Offer.
22. Item 17 of the Directors’ Circular stated that the contents of the Directors’ Circular was approved by the “Independent Directors” (as defined therein) of Offeree Issuer and the delivery of the Directors’ Circular was authorized by the directors of the Offeree Issuer. At page 10 of the Directors’ Circular under the rubric “Background”, it was stated that in considering the Offer the directors took into account the composition of the board. In particular, the independence criteria of the directors, as defined in the Offeree Issuer’s by-laws, were examined. The “Independent Directors” were identified therein, as well as, the procedure used to determine the independence of a Director by the Offeree Issuer.
23. The Directors’ Circular relied upon the disclosures made in the Bid Circular in relation to the 2016 SA.
24. Section 3.1 of the Bid Circular was subsequently amended by a Disclosure of Additional Information and Notice of Extension of Closing Date dated January 12, 2018 to provide additional information in respect of certain lock-up arrangement and tender offer contained in the 2016 SA.
25. On January 12, 2018, the Offeree Issuer issued a Notice to Shareholders advising of the publication of the Offeror’s Disclosure of Additional Information and Notice of Extension of Closing Date.



26. The Offeror extended the Closing Date on two (2) occasions, firstly to February 2, 2018 and secondly to February 23, 2018 (“**Further Extended Closing Dates**”).
27. On February 23, 2018, the Offeror issued a press release indicating that the Closing Date would not be extended given Condition 2.4.5 of the Bid Circular (by which the Offer was conditional upon no governmental or regulatory body having instituted any action or making any decision that may result in a delay in the Offeror’s ability to acquire some or any of the GHL Shares subject to the Offer) remained unsatisfied and that the Offer had accordingly lapsed. The Offeror also disclosed that there was a subscription by holders of GHL Shares in respect of the Tender Offer sufficient to enable the Offeror to reach a 70% holding of shares in GHL.
28. By the Notice of Hearing issued on February 23, 2018 the Commission notified the public of its commencement of a hearing in the public interest on a date to be announced for the purposes of considering whether to make an order pursuant to Section 155(1) of the Act and By-Law 24 of the By-Laws with respect to the facts and circumstances surrounding the Offeror’s equity interest in the Offeree Issuer and the issuance of the Bid Circular and convened a procedural hearing on February 26, 2018.
29. Pursuant to the directions given at the procedural hearing, the Staff and the Respondents each filed their respective submissions setting out their respective evidence and arguments in relation to the claims made by Staff.

PART V - THE BALANCING FACTORS INFLUENCING THE PARTIES’ AGREEMENT TO SETTLE

30. The parties have each filed submissions and have divergent views as to whether there has been a breach of the Act or the By-Laws. After reviewing each other’s submissions, the Staff and the Offeree Issuer entered into discussions to settle the Matter having regard to the following factors:



- (a) differing positions could be and were argued in respect of the interpretation of the disclosure requirements for the Directors' Circular and the obligations of the directors of the Offeree Issuer with respect thereto under the By-Laws;
 - (b) Notwithstanding the Offeree Issuer's contentions that the (a) Directors' Circular complied with the By-Laws and (b) Offeree Issuer has fully complied with its statutory and regulatory obligations but having regard to the position adopted by the Staff in the Matter, it has agreed to receive guidance from the Commission in respect of the protocols to be adopted in relation to the requirements for the Directors' Circular in the circumstances of the Matter;
 - (c) the continuation of the Proceedings without certainty as to the timeframe for its completion was likely to create uncertainty in the capital markets in Trinidad and Tobago and adversely impact the interests of those shareholders of the Offeree Issuer desiring to tender their shares and also the interests of other stakeholders in the Offeree Issuer;
 - (d) the fact that the Offeree Issuer does not have any prior record of regulatory non-compliance as a Reporting Issuer with the Commission; and
 - (e) based on the foregoing factors, the interests of the public would be protected in accordance with the mandate of the Commission.
31. Despite the Offeree Issuer's insistence that it was in compliance with the Act and By-Laws and its resistance to the imposition of a fine upon it in the circumstances described above, the Staff has imposed the administrative fine pursuant to the provisions of section 156 of the Act contained herein upon the Offeree Issuer.

PART VI – THE OFFEREE ISSUER'S REPRESENTATIONS AND UNDERTAKINGS



32. The Offeree Issuer warrants and represents to the Staff and the Commission that there are no facts, circumstances, matters or information concerning the Matter other than the Disclosed Facts (as defined hereinafter) which are within the Offeree Issuer's knowledge.
33. Subject to the approval of this Settlement Agreement by the Settlement Panel and Board of Commissioners, the Offeree Issuer undertakes:
- (a) That it shall, without any admission as to liability whatsoever, pay to the Commission an administrative fine in the amount of **THREE HUNDRED THOUSAND TRINIDAD AND TOBAGO DOLLARS (TT\$300,000.00)** in full and final settlement of the matters raised against the Offeree Issuer in the Proceedings.
 - (b) To at all times keep confidential all the contents of this Settlement Agreement and all matters and information not publicly disclosed relative to the Proceedings and disclose only matters contained in the agreed script and release attached hereto as Schedule B ("**Release**") with respect to all and any public disclosure in respect of the Proceedings and the Matter save as required to be disclosed by compulsion of law or otherwise in accordance with applicable law, regulations, rules or standards for accounting and/or financial reporting.
 - (c) In the event that the Offeror makes any offers for the Offeree Issuer's Shares in the future, to comply with the provisions of the Act, By-Laws and any process and/or guidelines issued by the Commission for the issuance of a directors' circular in response to an insider bid or in circumstances where a director has a conflict of interest or is a party to a material contract with the Offeror.
 - (d) To comply with all other applicable terms, conditions, covenants, obligations and stipulations contained in this Settlement Agreement.

PART VII – TERMS OF SETTLEMENT



34. The Offeree Issuer agrees to the terms of the settlement set forth below and consents to the Order in substantially the form attached hereto as Schedule A, provided that this Settlement Agreement is approved.

PART VIII – THE STAFF’S COMMITMENTS

35. To provide guidance and make recommendations to the Offeree Issuer with respect to the Staff’s requirements of any Directors’ Circular by the Offeree Issuer in response to any bid circular made by the Offeror in the future for the acquisition of any shares in the Offeree Issuer in satisfaction of the provisions of the By-Laws.
36. To procure a written undertaking from any other party to the Proceedings that such other party shall not make any public adverse comment about the Proceedings or Offeree Issuer’s role or positions adopted in these Proceedings save and except in accordance with the Release.
37. If this Settlement Agreement is approved by the Commission, the Staff will not proceed against the Offeree Issuer in the Proceedings or initiate any further civil or administrative proceeding in respect of any conduct or alleged conduct of the Offeree Issuer in relation to the facts as disclosed in the Proceedings by the Staff and the Offeree Issuer as set out in Parts IV of this Settlement Agreement or contained in the Proceedings relative to the Matter (“**Disclosed Facts**”). The approval of this Settlement Agreement by the Commission shall be signified by the making of the Order and such Order shall represent the complete and final resolution of the Proceedings against the Offeree Issuer for violations arising as a result of or in connection with the Disclosed Facts.
38. Provided always, that if this Settlement Agreement is approved by the Commission and the Offeree Issuer fails to comply with any of the terms of this Settlement Agreement, the Staff reserves the right to bring proceedings under the Act, By-Laws or other applicable law against the Offeree Issuer based on, but not limited to, the Disclosed Facts, as well as the breach of the Settlement Agreement.



39. Notwithstanding anything contained in this Part, the Staff and the Commission hereby reserve the right to take any action and institute any proceeding against the Offeree Issuer for any fact, circumstance, information and matter which do not comprise the Disclosed Facts and which has come to the attention or is disclosed to the Staff or Commission in any manner whatsoever and howsoever subsequent to the date of this Settlement Agreement.
40. No other person or agency may rely upon the terms of this Settlement Agreement or any agreement to the facts stated herein whether or not this Settlement Agreement is approved by the Commission.
41. Subject to the approval of this Settlement Agreement by the Commission, the Staff agrees:
- (a) To comply with all other applicable terms, conditions, covenants, obligations and stipulations contained in the Settlement Agreement.
 - (b) To recommend to the Commission that any and all claims made against the Offeree Issuer in the Proceedings be withdrawn and/or settled in accordance with the provisions of the Rules and this Settlement Agreement.

PART IX - PROCEDURE FOR APPROVAL OF SETTLEMENT AND EFFECT OF ORDER

42. Pursuant to Rule 63(1) of the Rules, the parties hereto will seek approval of this Settlement Agreement by the Settlement Panel of the Commission.
43. If necessary, the Offeree Issuer will attend in person and/or be represented by Counsel, at a settlement hearing or other meeting, convened *in camera*, by the Settlement Panel.
44. The Staff and the Offeree Issuer, each agree that:



Settlement Agreement Between the Staff of the Commission and Guardian Holdings Limited/In The Matter of Rule 61 and Rule 62 of Securities Industry (Hearings and Settlements) Practice Rules, 2008

- (a) this Settlement Agreement together with the fillings in the Proceedings shall constitute the entirety of the evidence to be submitted to the Settlement Panel of the Commission;
 - (b) the Offeree Issuer irrevocably agrees to waive all rights to a full hearing, judicial review or appeal of this Matter under the Act;
 - (c) it will not make any public statement that is inconsistent with the Settlement Agreement and the Release; and
 - (d) they will not make any adverse public comment about any other party and/or the role of or positions adopted by any other party to these Proceedings.
45. If for any reason whatsoever, this Settlement Agreement is not approved by the Commission, this Settlement Agreement and all discussions and negotiations between the Staff and the Offeree Issuer will be without prejudice and inadmissible against any of the parties hereto, so that any waivers of any rights, claims, actions or proceedings contained herein shall be null and void and each party shall be entitled without restrictions to pursue all available proceedings, remedies and challenges, including proceeding to continue the hearing of the allegations in the Notice of Hearing and submissions thereunder as though this Settlement Agreement had not been made.
46. An Order made by the Commission approving this Settlement Agreement shall release and forever discharge the Offeree Issuer from, and represent the complete and final resolution of, any and all claims, demands, actions and causes of action (of every nature and kind whatsoever, whether asserted or unasserted, known or unknown) by the Commission against the Offeree Issuer arising as a result of or in connection with the Disclosed Facts.
47. No person or agency other than the parties hereto, may rely upon the terms of this Settlement Agreement. If this Settlement Agreement is not approved by the Commission then no person or agency (including any of the Parties hereto) may rely on any statement, representation or agreement contained or set out in this Settlement Agreement.



PART X-DISCLOSURE OF THE AGREEMENT

48. The terms of this Settlement Agreement will be treated as confidential by all parties hereto until approved by the Commission, and forever if, for any reason whatsoever, this Settlement Agreement is not approved by the Commission, except as may be required by law, provided that the Offeree Issuer informs the Staff in writing of the request prior to the disclosing of same. Each of the parties hereto undertakes and agrees that any statements that are to be made in relation to this Settlement Agreement and the Proceedings shall be made in accordance with and subsequent to the publication of the Release by the Commission.


PART XI - APPLICABLE LAW

49. This Settlement Agreement shall be governed, construed and interpreted in accordance with the Laws of the Republic of Trinidad and Tobago.

PART XII – EXECUTION OF SETTLEMENT AGREEMENT

IN WITNESS whereof the duly authorized representative of the Staff on behalf of the Staff and the duly authorized representative of the Offeree Issuer on behalf of the Offeree Issuer have hereunto set their hands the day and year first hereinabove written.

SIGNED by **Mr. Hadyn Gittens** as **Chief Executive Officer** for and on behalf of the Staff of the Trinidad and Tobago Securities and Exchange Commission in the presence of *MARSHA RICHARDS* as *Executive Assistant* 57-59 DUNDONALD STREET Port of Spain *M Richards*



SIGNED by *HENRY P. GANTEAUME* as **Director** for and on behalf of the Guardian Holdings Limited in the presence of *[Signature]* as *Attorney-at-law for the Offeree Issuer* 115A Alexander Street Port of Spain *[Signature]*

All remain to come

SCHEDULE A



In the Matter of The Securities Act Chap. 83:02 (“Act”) and the Securities Industry (Take-Over) By-Laws, 2005 (“By-Laws”)

And

In the Matter of Rule 61 and Rule 62 of Securities Industry (Hearings and Settlements) Practice Rules, 2008 (“Hearing Rules”)

And

In the Matter of NCB Global Holdings Limited’s along with the National Commercial Bank of Jamaica (“NCBJ”) and National Commercial Bank Financial Holdings Limited (collectively referred to as “Offeror”) Offer and Take-Over Bid Circular (“Bid Circular”) dated December 8, 2017 (and amended on January 12, 2018 and February 2, 2018), to acquire 74,230,750 ordinary shares (“Targeted Shares”) in Guardian Holdings Limited (“GHL” or “Offeree Issuer”) so as to result in the Offeror holding not more than 62% of the issued and outstanding ordinary shares of Offeree Issuer and other related transactions leading up to the issuance of same (“the Matter”).

ORDER OF THE COMMISSION

Dated this day of , 2018

WHEREAS on February 26, 2018 the Commission issued an amended Notice of Hearing (the “Notice of Hearing”) pursuant to Section 159 of the Act, in respect of the Offeror, the Offeree

Issuer and certain individuals and entities who are or were at the material time shareholders of the Offeree Issuer (collectively referred to as the “**Key Shareholders**”).

AND WHEREAS the Offeree Issuer entered into a Settlement Agreement with the Staff dated 30 October, 2018 (“**Settlement Agreement**”) in which the Offeree Issuer agreed to the proposed settlement of the proceeding commenced by the Notice of Hearing (the “**Proceedings**”), subject to the approval of the Commission;

AND WHEREAS the Second-Named Applicant has agreed to withdraw from the Proceedings against the Offeree Issuer upon the approval of the Settlement Agreement by the Commission;

AND WHEREAS the Offeree Issuer has accepted the imposition upon it of an administrative fine pursuant to the provisions of section 156 of the Act in the amount of **THREE HUNDRED THOUSAND TRINIDAD AND TOBAGO DOLLARS (TT\$300,000.00)** to be paid to the Commission in full and final settlement of the matters raised against the Offeree Issuer in the Proceedings.

AND WHEREAS the Settlement Panel of the Commission approved the Settlement Agreement and agreed to submit the Settlement Agreement to the Commission for its approval;

AND UPON the Board of Commissioners reviewing the Notice of Hearing and the Settlement Agreement dated 30 October, 2018 and considering the submissions and undertakings contained therein; and

AND UPON the Board of Commissioners being satisfied that it is in the public interest to make this Order and that the making of this Order is essentially procedural and does not require a Hearing pursuant to Section 159(10)(a) of the Act.

IT IS HEREBY ORDERED THAT:

1. The Settlement Agreement dated 30 October, 2018 is hereby approved; and



2. This Order shall be published in the Trinidad and Tobago Gazette and posted on the Commission's website. A notice of the posting shall be published in two (2) daily newspapers of general circulation in Trinidad and Tobago.

(Chairman)

(Deputy Chairman)

(Commissioner)

(Commissioner)

(Commissioner)



SCHEDULE B



In the Matter of The Securities Act Chap. 83:02 (“Act”) and the Securities Industry (Take-Over) By-Laws, 2005 (“By-Laws”)

And

In the Matter of Rule 61 and Rule 62 of Securities Industry (Hearings and Settlements) Practice Rules, 2008 (“Hearing Rules”)

And

In the Matter of NCB Global Holdings Limited’s along with the National Commercial Bank Jamaica Limited (“NCBJ”) and NCB Financial Group Limited (collectively referred to as (“Offeror”) Offer and Take-Over Bid Circular (“Bid Circular”) dated December 8, 2017 (and amended on January 12, 2018 and February 2, 2018), to acquire 74,230,750 ordinary shares (“Targeted Shares”) in Guardian Holdings Limited (“GHL” or “Offeree Issuer”) so as to result in the Offeror holding not more than 62% of the issued and outstanding ordinary shares of Offeree Issuer and other related transactions leading up to the issuance of same (“the Matter”).

RELEASE

1. On December 8, 2017, NCB Global Holdings Limited (“NCBGH”), a wholly owned subsidiary of NCB Financial Group Limited (“NCBFG”) made an offer to all shareholders of Guardian Holdings Limited (“GHL”) to acquire the outstanding shares in GHL, up to a

maximum of 62% of the outstanding shares, at and for a price per share of US\$2.35. The offer and the terms and conditions applicable thereto were set out in a Bid Circular issued on the said date by NCBGH.

2. Following complaints lodged with the Trinidad and Tobago Securities & Exchange Commission (“**Commission**”) by a group of minority shareholders of GHL headed by Mr. Peter Permell (a minority shareholder activist and GHL shareholder) and pursuant to the Commission’s regulatory oversight of take-overs and upon review of the Bid Circular, the Staff of the Commission (“**Staff**”) determined that there were matters relating to the acquisition of NCBFG’s shareholding in GHL, on May 12, 2016 and the above offer on December 8, 2017 which the Staff required further explanation in order to determine whether NCBFG complied with the requirements of the Securities Industry (Take-Over) By-Laws, 2005 (“**By-Laws**”).
3. In this regard, the Staff, inter alia, recommended to the Board of Commissioners of the Commission that a hearing be convened for the purpose of considering the issues raised by the said group of minority shareholders. Such Hearing was subsequently convened with the Staff and Mr. Permell as applicants and NCBGH, GHL and the Key Shareholders, represented by Messrs. Arthur Lok Jack, Imtiaz Ahamad, Shiraz Ahamad and Reyaz Ahamad, as respondents.
4. Upon such Hearing being convened, the parties thereto each filed various submissions in respect of the subject transactions, as well as established learning and practice applicable to take-over transactions.
5. Prior to any finding being made by the Hearing Panel, but following the review of each other’s submissions, the Staff and GHL agreed to enter into settlement discussions pursuant to section 61(1) of the Hearing and Settlement Rules. Such discussions were entered into on the basis that an appropriate settlement of the matters which were the subject of the hearing could be arrived at that would be in the public interest. Both the Staff and GHL recognised that the particular circumstances of the transactions under consideration by the Hearing Panel and the language of the By-Laws had led to differing views (and arguments) on how the By-Laws should be applied to these types of transactions. There was also a significant concern that the on-going proceedings, while unresolved, would create uncertainty in the capital markets.
6. Having considered such factors, while neither the Staff nor GHL has admitted either party’s claim, and despite GHL’s insistence that it was in compliance with the By-Laws and its resistance to the imposition of a fine, the Staff has imposed the following administrative fine pursuant to the provisions of section 156 of the Act on GHL and the following have been accepted by GHL:



- (i) Without any admission as to liability whatsoever, GHL has accepted the imposition upon it of an administrative fine in the amount of **THREE HUNDRED THOUSAND TRINIDAD AND TOBAGO DOLLARS (TT\$300,000.00)** to be paid to the Commission in full and final settlement of the matters raised against the Offeree Issuer in the Proceedings; and
 - (ii) The terms of the settlement will be in the best interests of the public and the shareholders of GHL and will bring certainty to the local capital market.
7. Mr. Permell has been represented throughout the hearing of the Matter and settlement discussions by his own independent legal counsel. He has indicated to the Staff based on the totality of the documentary and oral submissions made by the relevant parties during the course of the Hearing and the advice of his independent legal counsel that the settlement arrived at is just and equitable.



Schedule C



In the Matter of The Securities Act Chap. 83:02 ("Act") and the Securities Industry (Take-Over) By-Laws, 2005 ("By-Laws")

And

In the Matter of Rule 61 and Rule 62 of Securities Industry (Hearings and Settlements) Practice Rules, 2008 ("Hearing Rules")

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In the Matter of NCB Global Holdings Limited's along with the National Commercial Bank of Jamaica ("NCBJ") and National Commercial Bank Financial Holdings Limited (collectively referred to as "Offeror") Offer and Take-Over Bid Circular ("Bid Circular") dated December 8, 2017 (and amended on January 12, 2018 and February 2, 2018), to acquire 74,230,750 ordinary shares ("Targeted Shares") in Guardian Holdings Limited ("GHL" or "Offeree Issuer") so as to result in the Offeror holding not more than 62% of the issued and outstanding ordinary shares of Offeree Issuer and other related transactions leading up to the issuance of same ("the Matter").

**UNDERTAKING TO THE TRINIDAD AND TOBAGO
SECURITIES AND EXCHANGE COMMISSION**

Dated this 30th day of OCTOBER, 2018.

1. This undertaking is given in connection with the Settlement Agreement dated 30th October 2018 between the Staff and the Offeree Issuer ("Settlement Agreement").

2. I, **PETER PERMELL** of No. 3 Nigella Drive, La Florissante D'Abadie in the Island of Trinidad in the Republic of Trinidad and Tobago ("**Second-Named Applicant**" formerly referred to in the Matter as "Co-Applicant") undertake to the Commission and the Offeree Issuer to:
- a. Withdraw from the Proceedings (as defined in the Settlement Agreement) against the Offeree Issuer upon the approval of the Settlement Agreement by the Commission;
 - b. Subject to the approval of this Settlement Agreement by the Commission, the Second-Named Applicant undertakes:
 - (i) Not to initiate any further civil or administrative proceeding in respect of any conduct or alleged conduct of the Offeree Issuer in relation to the Disclosed Facts (as defined in the Settlement Agreement).
 - (ii) Not to make any adverse comment in respect of the Offeree Issuer and/or the Offeree Issuer's role in the Matter save and except in accordance with and as contained in the Release (as defined in the Settlement Agreement).
 - (iii) Not to make any disclosure relative to the Proceedings, Disclosed Facts and the Settlement Agreement prior to publication and disclosure of the Release (as defined in the Settlement Agreement) by the Commission, and thereafter, save and except in accordance with and as contained in the Release.
3. For the avoidance of doubt, the Second-Named Applicant hereby acknowledges and agrees that the terms of the Settlement Agreement will, subject to Part X of thereof, be released to the public only if and when the Settlement Agreement is approved by the Commission.

Settlement Agreement Between staff of the Commission and NCB Global Holdings Limited / In The Matter of Rule 61 and Rule 62 of Securities Industry (Hearings and Settlements) Practice Rules, 2008

4. Words and expressions defined in the Settlement Agreement shall have the same meanings when used in this Undertaking, unless otherwise defined herein.

Signed and delivered as a Deed by:



.....
PETER PERMELL

in the presence of

ANDRÉ VIALVA

LAW CLERK

11A Gordon Street

San Fernando

André Vialva