

# Central Bank of The Bahamas Non-Disclosure Agreement



COMMONWEALTH OF THE BAHAMAS

New Providence

## CONFIDENTIALITY AGREEMENT Central Bank New Premises Project

This **AGREEMENT** is made and entered into, effective as of

(the "Effective Date")

by and between the Central Bank of The Bahamas, a body corporate established under section 3 of the Central Bank of The Bahamas Act, 2000, with its principal place of business at Frederick Street and Market Street, Nassau, New Providence Island, Bahamas, and

with a principal place of business/residence at

(each of which may be referred to herein as the "Disclosing Party" and/or the "Recipient", as the case may be, of information). **WHEREAS;**

- A. The parties, for their mutual benefit, desire to enter into a business relationship for

and to further this end, a Disclosing Party may disclose to a Recipient certain of the Disclosing Party's Confidential Information (as defined herein).

- B. The parties wish to define their rights with respect to the said information and to protect the confidentiality thereof and proprietary features contained therein.
- C. The parties mutually agree that the Disclosing Party's information is the confidential property of the Disclosing Party.

**NOW THEREFORE**, in consideration of the mutual covenants contained herein, each of the parties hereto, intending to be legally bound, does hereby agree as follows:

**1. Confidential Information.**

“Confidential Information” shall mean all information or data of a confidential or proprietary nature relating to a party’s business or affairs, that is disclosed (whether in writing, orally or by any other means) to the Recipient by the Disclosing Party and shall include but not be limited to:

- a. Information relating to the Disclosing Party's business (including information relating to prospective or actual employees and to agents of the Disclosing Party) which is identified by the Disclosing Party to be confidential and proprietary and provided in written or other tangible form. Information that is disclosed visually and/or orally shall constitute Confidential Information if it is identified as being confidential at the time of disclosure.
- b. Information about the business or affairs of a licensee of, or other entity that is supervised by, the Disclosing Party; or information about the identity, assets, liabilities, transactions or accounts of a customer of a licensee of the Disclosing Party, or of a customer of an entity that is supervised by the Disclosing Party.
- c. Such above information shall be referred to hereinafter as "Confidential Information" provided, however, that the following information shall not be deemed Confidential Information: (i) information which is publicly available at the time of disclosure, (ii) information which has become publicly available after disclosure without breach hereunder by the Recipient, (iii) information which was rightfully received by the Recipient from a source not under obligation of confidentiality to the Disclosing Party, (iv) information in the possession of the Recipient, in written or other recorded form, prior to disclosure by the Disclosing Party, (v) information which is developed by the Recipient independent of any Confidential Information, (vi) information which an authorized representative of Disclosing Party has approved in writing for release by the Recipient without restriction, and (vii) information disclosed pursuant to an administrative or judicial order provided that the Recipient prior to such compliance shall notify the Disclosing Party of the order as soon as possible after receipt to provide the Disclosing Party a reasonable opportunity to protect its Confidential Information by protective order or other means.

- d. CONFIDENTIAL INFORMATION IS PROVIDED “AS IS.” Neither party makes any warranties regarding the accuracy of Confidential Information disclosed under this Agreement, nor represents that any products shall be developed, manufactured, purchased or marketed. Neither party has any obligation under or by virtue of this Agreement to purchase or furnish to the other party any products or services, or to enter into any other agreement.

## 2. Non-Use and Non-Disclosure

- a. Save to the limited extent set out in clause 3 below, the parties shall not use Confidential Information received under this Agreement for any purpose other than for the purpose of carrying out the duties described in the Statement of Works and each shall hold the Confidential Information received under this Agreement in confidence with at least the same degree of care it uses to protect its own confidential information of similar sensitivity and importance, and in any event not less than a reasonable degree of care. Access to the Confidential Information shall be on a “need to know” basis and shall be limited to those persons who are directly participating in the works described in the Statement of Works and who, in addition, require such Confidential Information in the performance of their duties if such persons are bound in writing to Recipient by confidentiality obligations at a minimum as restrictive as the terms of this Agreement, in order to permit those people to assist the Recipient to carry out their functions in accordance with the Statement of Works. A Recipient shall not copy or reproduce, in whole or in part, any Confidential Information except as is necessary to fulfill the purposes of this Agreement. The Recipient shall not disclose Confidential Information received under this Agreement without the prior written consent of the Disclosing Party.
- b. As between the parties, title to and ownership of all Confidential Information shall remain the exclusive property of the Disclosing Party and nothing in this Agreement, or any course of conduct between the parties shall be deemed to grant to the Recipient any rights in or to the Confidential Information of the Disclosing Party, or any part thereof, other than as expressly granted herein. Recipient shall not remove any proprietary, copyright, trade secret, or other proprietary rights legends from any form of received Confidential Information.

**3. Term and Termination.**

This Agreement shall continue in force from the Effective Date until terminated by mutual consent or by either party upon one month's written notice to the other party. The provisions of clauses 1 and 2 shall survive any such termination. Upon termination of this Agreement all Confidential Information received by the Recipient, including copies, reproductions or other media containing such Confidential Information shall either be promptly returned by the Recipient to the Disclosing Party or, at the Disclosing Party's option, be destroyed and the Recipient shall certify to the Disclosing Party in writing that it has fully complied with the obligations under this Agreement. No return, destruction or deletion of confidential information will affect or eliminate the obligation of either party to this Agreement all of which shall continue in effect.

**4. Remedies.**

It is specifically understood and agreed that any breach of this Agreement is likely to result in irreparable injury to the Disclosing Party and that the monetary damages will be an inadequate remedy for such breach, and that in addition to any other remedy it may have, the Disclosing Party shall be entitled to seek the specific performance of this Agreement by the Recipient and to seek both temporary and permanent injunctive relief (to the extent permitted by law).

**5. Waiver of Breach.**

The waiver by either party of a breach or a default of any provision of this Agreement by the other party shall not be construed as a waiver of any succeeding breach of the same or any other provision, nor shall any delay or omission on the part of either party to exercise or avail itself of any right, power or privilege that it has, or may have hereunder, operate as a waiver of any right, power or privilege by such party. No waiver of any provision of this Agreement shall be effective unless in writing and executed by the party waiving the right.

**6. Severability.**

If any provision of this Agreement, or the application thereof to any person or circumstance shall, for any reason or to any extent, be invalid or unenforceable, the remainder of this Agreement and the application of such provision to other persons or circumstances shall not be affected thereby, but rather shall be enforced to the fullest extent permitted by law.

**7. Non-assignment**

This Agreement is personal to the parties and shall not be assigned or otherwise transferred in whole or in part by either party without the proper written consent of the other party.

**8. Entire Agreement.**

This Agreement represents the entire and exclusive agreement between the parties with respect to the subject matter addressed herein, and supersedes all prior and contemporaneous oral and written proposals and communications to the extent that they affect such subject matter. This Agreement shall not be modified or changed in any manner except in another writing signed by both parties.

**9. Governing Law.**

This Agreement shall be governed by and interpreted in accordance with the laws of the Commonwealth of The Bahamas. Each party hereby consents to the exclusive jurisdiction of the Supreme Court of the Commonwealth of The Bahamas to resolve any dispute arising out of this Agreement.

**IN WITNESS WHEREOF**, an authorized representative of each party has executed this Agreement as of the date first above written.

_____ Signature	_____ Signature
_____ Name	_____ Name
_____ Title	_____ Title
Central Bank of The Bahamas _____ Project Owner	_____ CBOB New Premises Project Consultancy