

INVESTMENT OPPORTUNITY

COMMERCIAL ASSETS OF THE FORMER COCOA INDUSTRY BOARD

The Development Bank of Jamaica (DBJ), on behalf of the Ministry of Industry, Commerce, Agriculture and Fisheries (MICAFA), is seeking investors with the financial capacity to purchase the commercial assets of the former Cocoa Industry Board (CIB) and to undertake the development, operation and management of these assets.

The commercial assets of the CIB which are being divested include:

- Richmond, St. Mary (fermentary);
- Morgan's Valley, Clarendon (fermentary);
- Haughton Court, Lucea, Hanover (fermentary) and
- Richmond, St. Mary (cocoa farm).



Interested investors are invited to submit detailed offers for any or all the asset packages identified in the Request for Proposal (RFP).

Bids in response to this invitation must be submitted no later than 14 December 2018 by 12:00 noon (Jamaica time) in accordance with the procedures stipulated in the RFP. The RFP is free and can only be collected upon signing and returning the Confidentiality Agreement which may be accessed at <http://www.dbankjm.com>.

The sole point of contact for information and submitting bids regarding the divestment of the assets of former CIB is:

The Manager
Public Private Partnerships & Privatisation
Development Bank of Jamaica Ltd
11A-15 Oxford Road
Kingston 5
Tel: 876-929-4000
Fax: 876-929-6055
E-mail: privatisationmanager@dbankjm.com



DIVESTMENT OF THE COMMERCIAL ASSETS OF THE FORMER COCOA INDUSTRY BOARD

VIRTUAL DATA ROOM RULES AND PROCEDURES

INSTRUCTIONS TO PROSPECTIVE BIDDERS

1. VIRTUAL DATA ROOM

The Government of Jamaica (GOJ) has established a web-based (virtual) data room (the “**Virtual Data Room**”) for the purpose of providing Prospective Bidders with access to certain information and documents related to the proposed divestment of the commercial assets of the former Cocoa Industry Board (the “**Project**”). All capitalized terms used but not defined in this document have the same meaning given in the Request for Proposals (“**RFP**”) dated **14 November 2018** in respect of the Project.

Access to the Virtual Data Room will be restricted after the bid submission deadline.

2. VIRTUAL DATA ROOM (VDR) RULES AND PROCEDURES

2.1 General

These Virtual Data Room rules and procedures (the “**VDR Rules and Procedures**”), as amended by GOJ from time to time, regulate the manner in which the information, data and documentation related to the Project contained in the Virtual Data Room (the “**Information**”) will be made available to each Prospective Bidder that has been provided the RFP and signed a Confidentiality Agreement in respect of the Project (the “**Accessing Party**”). References in these VDR Rules and Procedures to the Accessing Party also include, where applicable, its Nominated Representatives as hereinafter defined.

Each Accessing Party shall use the Information provided in the Virtual Data Room solely for the purpose of assessing the feasibility of or preparing a proposal in relation to the Project.

2.2 Accessing the Virtual Data Room

2.2.1 Access to the Virtual Data Room

Access to the Virtual Data Room will be provided 24 hours per day, 7 days per week except when temporary suspension is required for the maintenance or repair of the server or for any other reasonable reason offered by the GOJ via the following website: **www.dataroomlogin.com**. Any questions of a technical nature in relation to the Virtual Data Room should be addressed directly to:

The Manager, Public Private Partnerships & Privatisation
Development Bank of Jamaica Ltd
11A-15 Oxford Road
Kingston 5
Tel: 876-929-4000
Fax: 876-929-6055
E-mail: privatisationmanager@dbankjm.com

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2.2.2 Required Forms

Each member of the Accessing Party's team for whom the Accessing Party (each a "**Nominated Representative**") wishes to have access to the Virtual Data Room must be identified on a Virtual Data Room Access Form attached hereto as Annex A. The Accessing Party can nominate up to four (4) Nominated Representatives who will be granted access to the Virtual Data Room. One of the Accessing Party's Nominated Representatives should send the completed Virtual Data Room Access Form to DBJ. Once the Accessing Party's completed Virtual Data Room Access Form has been received, each of the Accessing Party's Nominated Representatives will receive an email with the details for accessing the Virtual Data Room and the unique user name and password assigned.. Each username or password issued to an individual user shall be strictly limited to the user to whom it is issued and must not be shared with other team members. If an additional team member needs access to the Virtual Data Room and the maximum number of Nominated Representatives has not yet been reached, the Accessing Party should send an appropriate request to privatisationmanager@dbankjm.com.

2.2.3 Revocation of Access to the Virtual Data Room

In the event that the Accessing Party either (i) fails to become a Bidder by the Submission Deadline, or (ii) being a Bidder, at any time withdraws its bid, or (iii) being a Bidder, after the evaluation of the bids is not selected as the Preferred Bidder, or (iv) violates the VDR Rules and Procedures, , the Accessing Party's access privileges to the Virtual Data Room shall be revoked.

3. NO REPRESENTATIONS OR WARRANTIES

3.1 By disclosing the Information, no representation or warranty, express or implied, is, or will be, made and no responsibility or liability will be accepted by the GOJ, or by its employees, directors, officers, agents, or advisors with regard to the Information, in particular with respect to the accuracy, completeness or truth.

3.2 To the extent that the Information includes any appraisals, forecasts or evaluating conclusions or reports of a similar nature, each such document shall be considered as informative only and neither the GOJ, nor its respective employees, directors, officers, agents, or advisors

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makes any representation or gives any warranty or assumes any liability with respect to the accuracy, completeness or truth thereof.

4. INFORMATION

4.1 The GOJ reserves the right at any time to add Information to the Virtual Data Room. Equally, all rights are reserved with respect to the removal of Information.

4.2 The GOJ reserves the right to amend these VDR Rules and Procedures at any time; such amendment shall be effective as of the time of delivery thereof to the Accessing Party.

5. CONFIDENTIALITY

The Accessing Party acknowledges and agrees that Information in the Virtual Data Room and all other information that may be made available to the Accessing Party by the GOJ or its employees, directors, officers, agents or advisors in connection with the Project constitutes Confidential Information as defined in the Confidentiality Agreement executed by the Accessing Party in respect of the Project. The Accessing Party therefore warrants and undertakes that it will fulfil all its obligations contained in the Confidentiality Agreement as applied to the Information in the Virtual Data Room.

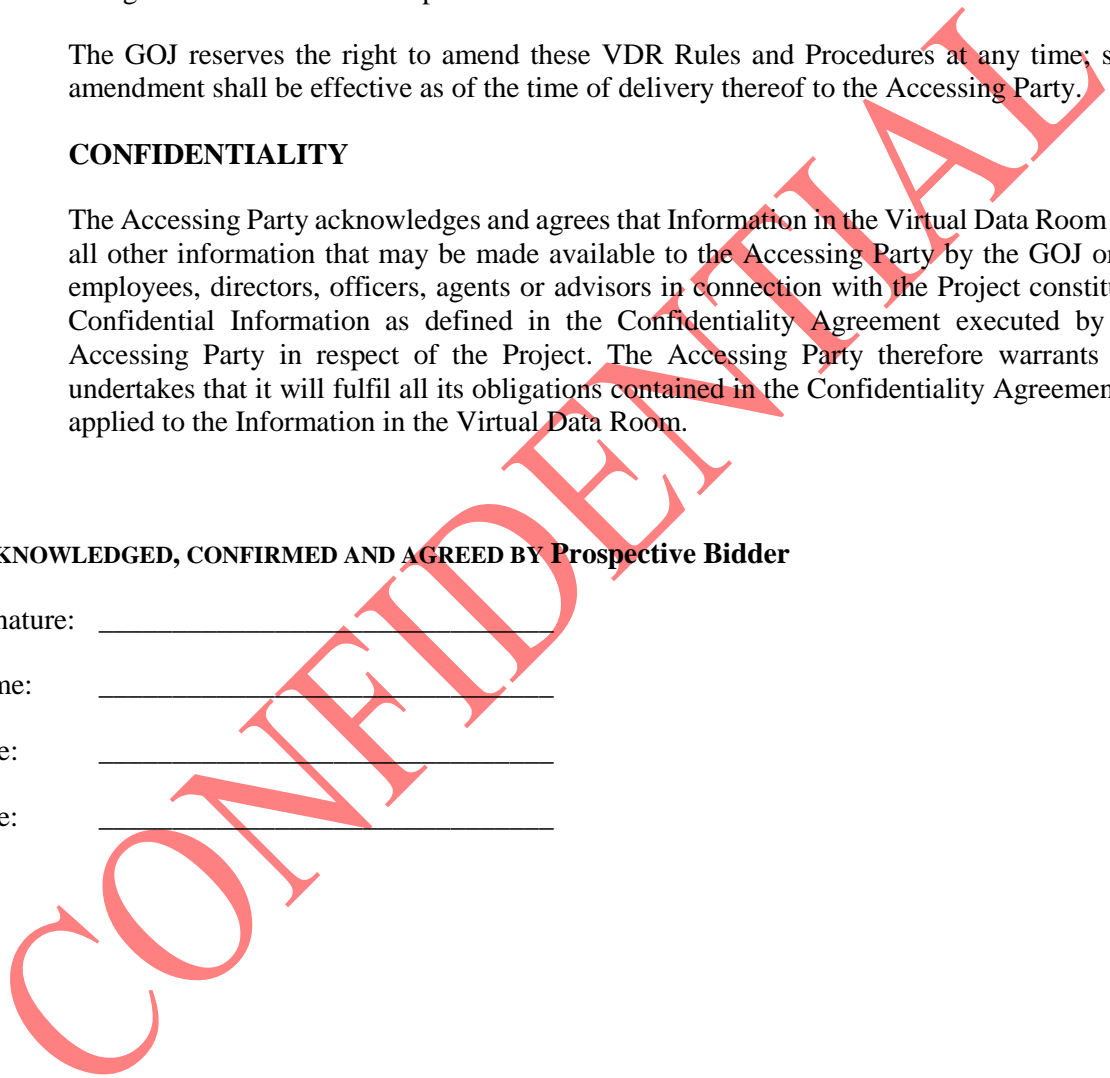
ACKNOWLEDGED, CONFIRMED AND AGREED BY Prospective Bidder

Signature: _____

Name: _____

Title: _____

Date: _____



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Annex A

Virtual Data Room Access Form

Please list the names of the persons from the Accessing Party's team who will require access to the Virtual Data Room. Once completed, please e-mail the form to privatisationmanager@dbankjm.com with the caption "Cocoa Industry Board Divestment Opportunity – Virtual Data Room Access Form"

1.	
Name (first and last)	
Company name	
Company address	
Phone number	
Email address	

2.	
Name (first and last)	
Company name	
Company address	
Phone number	
Email address	

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3.	
Name (first and last)	
Company name	
Company address	
Phone number	
Email address	

4.	
Name (first and last)	
Company name	
Company address	
Phone number	
Email address	

CONFIDENTIAL

CONFIDENTIALITY AGREEMENT

THIS AGREEMENT is made on the _____ day of _____, 2018

BETWEEN: DEVELOPMENT BANK OF JAMAICA LIMITED, a company duly incorporated under the laws of Jamaica and having its registered office at 11a-15 Oxford Road, Kingston 5 in the parish of Saint Andrew, Jamaica (hereinafter called "**DBJ**")

AND: _____
(hereinafter called the "**Prospective Bidder**" and defined in the Schedule hereto).

The entities named above may also be referred to herein individually as "**a Party**" or collectively as "**the Parties**".

WHEREAS:

- (1) DBJ, which is wholly owned by the Government of Jamaica and is responsible for implementing the privatisation activities of the Jamaican Government, provides a coordinating role as the Transaction Manager and Privatisation Secretariat to the Cocoa Industry Board Project Team.
- (2) DBJ intends to divest the commercial assets (hereinafter called "**the Assets**" and defined in the Schedule hereto) of the former Cocoa Industry Board.
- (3) In connection with the evaluation and the possible acquisition by the Prospective Bidder of the Government-owned assets of the former Cocoa Industry Board, DBJ is willing, in accordance with the terms and conditions of this Agreement, to disclose (either through itself or its representatives) to the Prospective Bidder (or its representatives), certain Confidential Information (as defined in the Schedule) relating to the Assets, on a nonexclusive basis, as well as allow for the Prospective Bidder to have access to the virtual data room provided for the purpose of providing information relating to the divestment.

NOW THEREFORE in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt whereof is hereby irrevocably acknowledged by the Parties, it is mutually agreed between DBJ and the Prospective Bidder as follows:

1. The Prospective Bidder agrees that the Confidential Information shall be kept strictly confidential and shall not be sold, traded, published or otherwise disclosed to anyone in any manner whatsoever, including by means of photocopy, reproduction or electronic media, without DBJ's prior written consent, except as provided in this Agreement.
2. The Prospective Bidder may disclose the Confidential Information without DBJ's prior written consent only to the extent such information:
 - (a) is already known to the Prospective Bidder as of the date of disclosure hereunder;
 - (b) is already in possession of the public or becomes available to the public other than through the act or omission of the Prospective Bidder or of any other person to whom the Confidential Information is disclosed pursuant to this Agreement;
 - (c) is required to be disclosed under applicable law, stock exchange regulations or by a government order, decree, regulation or rule (provided that the Prospective Bidder shall make all reasonable efforts to give prompt written notice to the DBJ prior to such disclosure);

- (d) is acquired independently from a third party that represents that it has the right to disseminate such information at the time it is acquired by the Prospective Bidder; or
 - (e) is developed by the Prospective Bidder independently of the Confidential Information received from DBJ.
3. The Prospective Bidder may disclose the Confidential Information without DBJ's prior written consent to an Affiliated Company (as hereinafter defined), provided that the Prospective Bidder guarantees the adherence of such Affiliated Company to the terms of this Agreement. "Affiliated Company" shall mean any company or legal entity which controls, or is controlled by, or which is controlled by an entity which controls, a Party. "Control" means the ownership directly or indirectly of more than fifty percent (50%) of the voting rights in a company or other legal entity.
 4. The Prospective Bidder shall be entitled to disclose the Confidential Information without DBJ's prior written consent to such of the following persons to the extent that they have a clear need to know in order to evaluate the Assets:
 - (a) employees, officers and directors of the Prospective Bidder;
 - (b) employees, officers and directors of an Affiliated Company;
 - (c) any consultant or agent retained by the Prospective Bidder or its Affiliated Company; or
 - (d) any bank or other financial institution or entity funding or proposing to fund the Prospective Bidder's participation in the purchase of the Assets, including any consultant retained by such bank or other financial institution or entity.
 5. Prior to making any such disclosures to persons under subparagraphs 4(c) and 4(d) above however, the Prospective Bidder shall obtain an undertaking of confidentiality, enforceable by both the DBJ and the Prospective Bidder, substantially in the same form and content as this Agreement, from each such person; provided, however, that in the case of outside legal counsel, the Prospective Bidder shall only be required to procure that such legal counsel is bound by an obligation of confidentiality.
 6. The Prospective Bidder and its Affiliated Company, if any, shall only use or permit the use of the Confidential Information disclosed under this Agreement to evaluate the Assets and determine whether to enter into negotiations concerning the acquisition of all or part of the Assets; provided however, that the Prospective Bidder may use its own analyses of the Confidential Information in its evaluation of properties outside the Assets.
 7. The Prospective Bidder shall be responsible for ensuring that all persons to whom the Confidential Information is disclosed under this Agreement shall keep such information confidential and shall not disclose or divulge the same to any unauthorized person. Neither Party shall be liable in an action initiated by one against the other for special, indirect or consequential damages resulting from or arising out of this Agreement, including, without limitation, loss of profit or business interruptions, however same may be caused.
 8. The Prospective Bidder shall acquire no proprietary interest in or right to the Confidential Information, and DBJ may demand the return thereof at any time upon giving written notice to the Prospective Bidder. Within thirty (30) days of receipt of such notice, the Prospective Bidder shall return all of the original Confidential Information and shall destroy or cause to be destroyed all copies and reproductions (in whatever form, including but not limited to, electronic media) in its possession and in the possession of persons to whom it was disclosed pursuant to this Agreement.
 9. If the Prospective Bidder acquires any of the Assets, then this Agreement shall terminate automatically on the date the Prospective Bidder enters into a further agreement which contains provisions which supersede this Agreement and cover the confidentiality of the

Confidential Information relating to the Assets. Unless earlier terminated under the preceding sentence, the confidentiality obligations and limitations on use set forth in this Agreement shall terminate on the later of two (2) years after the date of this Agreement or the date on which disclosure is no longer restricted either under the laws of Jamaica or under any other agreement made between the Prospective Bidder and the GOJ relating to the purchase of the Asset.

10. DBJ hereby represents and warrants that it has the right and authority to disclose the Confidential Information to the Prospective Bidder (or its representatives). DBJ, HOWEVER, MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, AS TO THE QUALITY, ACCURACY AND COMPLETENESS OF THE CONFIDENTIAL INFORMATION DISCLOSED HEREUNDER, AND THE PROSPECTIVE BIDDER (ON BEHALF OF ITSELF AND ITS REPRESENTATIVES) EXPRESSLY ACKNOWLEDGES THE INHERENT RISK OF ERROR IN THE ACQUISITION, PROCESSING AND INTERPRETATION OF DATA. DBJ, ITS AFFILIATED COMPANIES, THEIR OFFICERS, DIRECTORS AND EMPLOYEES SHALL HAVE NO LIABILITY WHATSOEVER WITH RESPECT TO THE USE OF OR RELIANCE UPON THE CONFIDENTIAL INFORMATION BY THE PROSPECTIVE BIDDER (OR ITS REPRESENTATIVES).
11. This Agreement shall be governed by and interpreted in accordance with the laws of Jamaica.
12. If any dispute shall arise between the Parties hereto concerning the construction of this Agreement or their respective rights or liabilities arising hereunder it shall first be referred to the authorized representative of the Parties. If the dispute is not resolved by these persons then the matter shall be referred to the Dispute Resolution Foundation and if still not resolved, the matter shall be referred to a single arbitrator to be appointed by the President of the Jamaica Bar Association. The decision of such arbitrator shall be final and binding on the Parties and such arbitration shall in all respects be subject to the provisions of the Arbitration Act or any statutory modification or amendment thereof for the time being in force.
13. No amendments, changes or modifications to this Agreement shall be valid except if same are in writing and signed by a duly authorized representative of each of the Parties hereto.
14. This Agreement comprises the full and complete agreement of the Parties hereto with respect to the disclosure of the Confidential Information and supersedes and cancels all prior communications, understandings and agreements between the Parties hereto relating to the Confidential Information, whether written or oral, expressed or implied.
15. The Prospective Bidder may only assign this Agreement to an Affiliated Company; provided however, the Prospective Bidder shall remain liable for all obligations, whether expressed or implied, under this Agreement. Without limiting the foregoing, this Agreement shall bind and inure to the benefit of the Parties and their respective successors and assigns.

THE SCHEDULE

Unless the context otherwise requires, the following terms whenever used in this Agreement have the following meanings:

“Assets” The fermentaries at Richmond, St. Mary; Morgan’s Valley, Clarendon; Haughton Court, Hanover and farm at Montrose, St. Mary.

“Confidential Information” means information provided in the Virtual Data Room, the Request for Proposal and all other information that may be made available to the Prospective Bidder(s) by the GOJ or its employees, directors, officers, agents or advisors in connection with this divestment constitutes Confidential Information. The information may not be disclosed to third parties without the prior written consent of the GOJ/DBJ/MICAF/PT.

“Prospective Bidder” A person or entity that intends to submit a bid for one of the packaging options at Item 4.2 of the Request for Proposals.

“Request for Proposals” The document issued by DBJ/ Ministry of Agriculture and Fisheries (MICAF) to Prospective Bidders inviting proposals in relation to the Project and includes any addendum or clarification issued in respect thereof by DBJ/ MICAF.

IN WITNESS WHEREOF this Agreement was duly executed by the Parties on the day and year first hereinbefore written.

SIGNED for and on behalf of)
DEVELOPMENT BANK OF)
JAMAICA LIMITED) _____
by)
Director and)
Director/Secretary) _____
in the presence of)

Witness

SIGNED for and on behalf of)
)
)
by) _____
Director and)
Director/Secretary) _____
in the presence of)

Witness