

BETWEEN: FIRSTCARIBBEAN INTERNATIONAL BANK (CAYMAN) PLAINTIFF  
LIMITED

AND: (1) HERBERT PEINTNER  
(2) COAST HILL DEVELOPMENT INTERNATIONAL CO LTD  
(3) PEACE BAY PALACE LTD  
(4) PRIME HOUSE LOTS LTD  
(5) CENTRUM CORPORATION  
(6) JMB LTD  
(7) ISLAND WASTE CARRIERS LTD  
(8) MICHAEL BROWN



**WRIT OF SUMMONS**

TO: Herbert Peintner  
PO Box 866 GT  
George Town  
Grand Cayman KY1-1103  
Cayman Islands

AND TO: Coast Hill Development International Co Ltd  
H&J Corporate Services (Cayman) Ltd  
PO Box 866  
George Town  
Grand Cayman KY1-1103  
Cayman Islands

AND TO: Peace Bay Palace Ltd  
H&J Corporate Services (Cayman) Ltd  
PO Box 866  
George Town  
Grand Cayman KY1-1103  
Cayman Islands

AND TO: Prime House Lots Ltd  
H&J Corporate Services (Cayman) Ltd  
PO Box 866  
George Town  
Grand Cayman KY1-1103  
Cayman Islands

AND TO: Centrum Corporation  
H&J Corporate Services (Cayman) Ltd  
PO Box 866  
George Town  
Grand Cayman KY1-1103  
Cayman Islands

AND TO: JMB Ltd  
PO Box 10598  
George Town  
Grand Cayman KY1-1005  
Cayman Islands

AND TO: Island Waste Carriers Ltd  
PO Box 10598  
George Town  
Grand Cayman KY1-1005  
Cayman Islands

AND TO: Michael Brown  
PO Box 10598  
George Town  
Grand Cayman KY1-1005  
Cayman Islands

THIS WRIT OF SUMMONS has been issued against you by the above-named Plaintiff in respect of the claim set out on the next page.

Within after the service of this Writ on you, counting the day of service, you must either satisfy the claim or return to the Court Office, PO Box 495GT, George Town, Grand Cayman, the accompanying Acknowledgment of Service stating therein whether you intend to contest these proceedings.

If you fail to satisfy the claim or to return the Acknowledgment within the time stated, or if you return the Acknowledgment without stating therein an intention to contest the proceedings, the Plaintiff may proceed with the action and judgment may be entered against you forthwith without further notice.

Issued this 6 day of May, 2011

NOTE – This Writ may not be served later than 4 months beginning with the date of issue unless renewed by order of the Court.

### IMPORTANT

Directions for Acknowledgment of Service are given with the accompanying form.

## STATEMENT OF CLAIM

1. The Plaintiff is a bank carrying on business at FirstCaribbean House, 25 Main Street, P.O. Box 1321GT, George Town, Grand Cayman, Cayman Islands.
2. The First Defendant is and was at all material times a customer of the Plaintiff and a Director of the Second to Fifth Defendants, which are companies registered in the Cayman Islands.
3. The Sixth and Seventh Defendant are also companies registered in the Cayman Islands, of which the Eighth Defendant was at all material times a Director.
4. On or about 15 December 2005 the Plaintiff made available four separate loan facilities to the First Defendant comprised as follows:

Credit A: Operating Line in the amount of US\$1,500,000.00 ("Credit A");

Credit B: Demand Instalment Loan in the amount of US\$5,000,000.00;

Credit C: Demand Instalment Loan in the amount of US\$600,000.00; and

Credit D: Demand Instalment Loan in the amount of US\$2,000,000.00 ("Credit D").
5. The terms of the loans are set out in the original facility letter and Credit Agreement dated 15 December 2005, as amended on 3 April 2006 ("the Credit Agreement"). The Plaintiff will rely upon the terms of the Credit Agreement for their full meaning and effect.
6. Credit D, was described as a Demand Instalment Loan and was stated to be provided in order to assist with additional capital expenditures required by a company styled "e-Technologies Cayman Islands Ltd", doing business as "caymanone", in relation to the establishment of telephone and internet services to Grand Cayman. The credit limit was reduced to US\$1,000,000 following the amendment of the Credit Agreement.
7. The Credit Agreement provided, *inter alia*, that Credit D facility was to be repayable by monthly instalments of US\$ 12,135.00 commencing 30 days following the advance of the loan.
8. As part of the security package for the loans, the Plaintiff took a First Charge over various parcels of land located in Bodden Town: Block 43 D, Parcels 141 and 142, Block

48E, Parcel 90 (undeveloped land owned by the Second Defendant) and Block 48E, Parcels 2, 3 and 4 (developed land owned by the Third Defendant). The terms of Credit D provided that it was to be liquidated and/or cash secured at the earlier of i) sale of the Bodden Town property(ies) or ii) 30 November 2006.

9. In consideration of the Plaintiff making the loans to the First Defendant, the Second to Eighth Defendants agreed with the Plaintiff to guarantee the First Defendant's indebtedness as follows:
  - (a) On 26 May 2005, the Second and Third Defendants agreed in writing with the Plaintiff to guarantee all of the debts of the First Defendant to the Plaintiff. The amount of the guarantees was unlimited.
  - (b) On 5 January 2006, the Fourth and Fifth Defendants agreed in writing with the Plaintiff to guarantee all of the debts of the First Defendant to the Plaintiff. The amount of the guarantees was unlimited.
  - (c) On 12 April 2006 the Sixth, Seventh and Eight Defendants agreed in writing with the Plaintiff to guarantee the debts of the First Defendant to the Plaintiff insofar as they related to Credit D. The amount of the guarantee was unlimited.
10. On 12 April 2006, the Sixth and Seventh Defendant provided a Letter of Undertaking to the Plaintiff to provide for any debt service shortfall that might occur in regards to Credit D within 15 days following the due date for such payment.
11. On the same day, the Seventh Defendant made a fixed deposit of US\$75,000 as further security for the debts of the First Defendant to the Plaintiff ("the Fixed Deposit"). This was to be held as a Debt Service Reserve Fund, upon which the Plaintiff was entitled to draw for the purposes of making any stipulated loan payment where such payment was 25 days or more overdue.
12. By 23 February 2007 all of the loan facilities were in default. At this time the loans were restructured by agreement between the Plaintiff and the First Defendant, by virtue of which agreement the liquidation date for Credit D was extended until 31 May 2007. Aside from the extension in the liquidation date there was no material alteration to the terms of Credit D consequent upon the restructuring.

13. On 9 May 2008 one of the properties at Bodden Town, Block 48E Parcel 4 was sold for US\$963,162.30. By this stage the loans had matured and were once again in default. By virtue of Clause 1.8 of the Schedule to the Credit Agreement, the Plaintiff was at liberty to elect how to apply the monies received in its discretion and accordingly applied the proceeds of sale against Credit A.
14. Subsequent to the restructuring, the First Defendant has failed to service the loans in accordance with the agreed terms and in consequence all of the facilities, including Credit D, have fallen into arrears. On 12 July 2010 the Plaintiff applied US\$ 75,000.00 from the Fixed Deposit against Credit D, and the last payment to the Plaintiff in respect of Credit D was made on 23 March 2011 in the amount of US\$2,734.52.
15. By letter dated 16 July 2010, the Plaintiff's attorneys made a written demand to the Second to Eighth Defendants, pursuant to the Guarantees, for repayment of the various sums owed (including under Credit D) within 14 days. Notwithstanding this demand the outstanding balance has not been paid by any of the Defendants and Credit D remains outstanding and in arrears.
16. As at 28 March 2011 the First Defendant and, pursuant to the guarantees, the Second to Eighth Defendants, were indebted to the Plaintiff in respect of Credit D in the total sum of US\$ 620,317.81. Furthermore, the Plaintiff is entitled to and claims contractual interest at the rate of 5.51% per annum pursuant to the terms of the loan amounting to US\$ 139,895.29 respectively until the date of issue of the Writ herein. Interest continues to accrue from the date of issue of the Writ herein until judgment or sooner settlement at a rate of US\$ 81.24 per day.

**AND THE PLAINTIFF CLAIMS:**

- (a) Payment of the said sum US\$620,317.81;
- (b) Interest as aforesaid;
- (c) Costs;
- (d) Further or other relief as the Court shall think fit.

DATED this 6 day of May 2011

*Walkers*

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**WALKERS**

Attorneys at Law for the Plaintiff

This Writ is issued by Walkers, Attorneys at Law, Walker House, 87 Mary Street, George Town, Grand Cayman KY1-9001, for the Plaintiff whose address for service is care of their said Attorneys at Law.

BETWEEN: FIRSTCARIBBEAN INTERNATIONAL BANK (CAYMAN) PLAINTIFF  
LIMITED

AND: (1) HERBERT PEINTNER  
(2) COAST HILL DEVELOPMENT INTERNATIONAL CO LTD  
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(8) MICHAEL BROWN

DEFENDANTS

**ACKNOWLEDGEMENT OF SERVICE  
OF WRIT OF SUMMONS**

If you intend to instruct an Attorney to act for you, give him this form **IMMEDIATELY**.

**Important.** Read the accompanying Delay may result in judgment being entered  
directions and notes for guidance carefully against a Defendant whereby he may have to  
before completing this form. If any information pay the costs of applying to set it aside.  
required is omitted or given wrongly, THIS  
FORM MAY HAVE TO BE RETURNED.

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1. State the full name of the Defendant by whom or on whose behalf the service of the Writ  
is being acknowledged.

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2. State whether the Defendant intends to contest the proceedings (*tick appropriate box*)

yes

no

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3. If the claim against the Defendant is for a debt or liquidated demand, AND he does not  
intend to contest the proceedings, state if the Defendant intends to apply for a stay of  
execution against any judgment entered by the Plaintiff (*tick box*)

yes

no

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Service of the Writ is acknowledged accordingly

(Signed) \_\_\_\_\_

[Attorney] for

[Defendant in person]

Address for service:

**Please complete overleaf**

**Notes on address for Service**

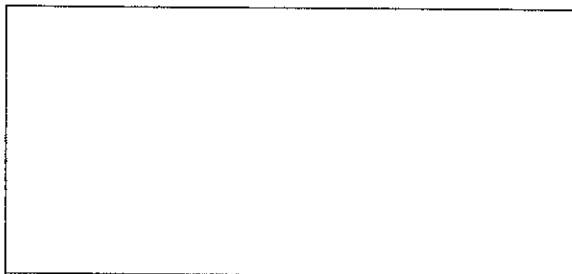
Attorney: where the Defendant is represented by an attorney, state the attorney's place of business in the Cayman Islands. A Defendant may not act by a foreign attorney.

Defendant in person: where the Defendant is acting in person, he must give his post office box number and the physical address of his residence or, if he does not reside in the Cayman Islands, he must give an address in Grand Cayman where communications for him should be sent. In the case of a limited company, "residence" means its registered or principal office.

Indorsement by plaintiff's Attorney (or by plaintiff if suing in person) of his name, address and reference, if any, in the box below.

Walkers  
Attorneys at Law  
Walker House  
87 Mary Street  
George Town  
Grand Cayman KY1-9001  
  
Ref: LME/km/F1757-80911

Indorsement by defendant's Attorney (or by defendant if suing in person) of his name, address and reference, if any, in the box below.



**DIRECTIONS FOR ACKNOWLEDGMENT OF SERVICE OF  
WRIT OF SUMMONS**

1. The accompanying form of *Acknowledgment of Service* should be completed by an Attorney acting on behalf of the Defendant or by the Defendant if acting in person.

After completion it must be delivered or sent by post to the Courts Office, PO Box 495GT, George Town, Grand Cayman.

2. A Defendant who states in his Acknowledgment of Service that he intends to contest the proceedings *must also serve a defence* on the Attorney for the Plaintiff (or on the Plaintiff if acting in person).

If a Statement of Claim is indorsed on the Writ (i.e. the words "Statement of Claim" appear on the top of page 2), the Defence must be served within 14 days after the time for acknowledging service of the Writ, unless in the meantime a summons for judgment is served on the Defendant.

If the Statement of Claim is not indorsed on the Writ, the Defence need not be served until 14 days after a Statement of Claim has been served on the Defendant.

If the Defendant fails to serve his defence within the appropriate time, the Plaintiff may enter judgment against him without further notice.

3. A *Stay of Execution* against the Defendant's goods may be applied for where the Defendant is unable to pay the money for which any judgment is entered. If a Defendant to an action for a debt or liquidated demand (i.e. a fixed sum) who does not intend to contest the proceedings states, in answer to Question 3 in the Acknowledgment of Service, that he intends to apply for a stay, execution will be stayed for 14 days after his Acknowledgment, but he must, within that time, *issue a Summons* for a stay of execution, supported by an affidavit of his means. The affidavit should state any offer which the Defendant desires to make for payment of the money by instalments or otherwise.

**See over for notes for guidance**

**Please complete overleaf**

## Notes for Guidance

1. Each Defendant (if there are more than one) is required to complete an Acknowledgment of Service and return it to the Court's office.
2. For the purpose of calculating the period of 14 days for acknowledging service, a writ served on the Defendant personally is treated as having been served on the day it was delivered to him.
3. Where the Defendant is sued in a name different from his own, the form must be completed by him with the addition in paragraph 1 of the words "sued as (*the name stated on the Writ of Summons*)".
4. Where the Defendant is a FIRM and an attorney is not instructed, the form must be completed by a PARTNER by name, with the addition in paragraph 1 of the description "Partner in the firm of (.....)" after his name.
5. Where the Defendant is sued as an individual TRADING IN A NAME OTHER THAN HIS OWN, the form must be completed by him with the addition in paragraph 1 of the description "trading as (.....)" after his name.
6. Where the Defendant is a LIMITED COMPANY the form must be completed by an Attorney or by someone authorised to act on behalf of the Company, but the Company can take no further step in the proceedings without an Attorney acting on its behalf.
7. Where the Defendant is a MINOR or a MENTAL PATIENT, the form must be completed by an Attorney acting for a guardian *ad litem*.
8. A Defendant acting in person may obtain help in completing the form at the Court's office.