



**BANK OF PAPUA NEW GUINEA**

**PRUDENTIAL STANDARD**

**1/2011**

**SINGLE BORROWER and LARGE EXPOSURE LIMITS**

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**PART I: PRELIMINARY**

- 1: **Short Title** – Single borrower limit.
- 2: **Authorization** – The Bank of Papua New Guinea (Bank) is authorized to issue prudential standards under Section 27 of the Banks and Financial Institutions Act 2000 (Act) in relation to prudential matters to be complied with by all Authorized Institutions.
- 3: **Application** – All authorised institutions licensed by the Bank to conduct banking business in Papua New Guinea (PNG).
- 4: **Definitions** – Terms used within this standard are as defined in the Act, as defined below, or as reasonably implied by contextual usage:
  - 1) **“associate”** – has the same meaning as defined in International Accounting Standard IAS-28 (with effect from January 2005) and means an entity, including an unincorporated entity such as a partnership, over which the investor has significant influence and that is neither a subsidiary nor an interest in a joint venture. **Significant influence** is the power to participate in the financial and operating policy decisions of the investee **but is not control** or joint control over those policies. If an investor holds, directly or indirectly through subsidiaries, 20% or more of the voting power of the investee, it is presumed that the investor does have significant influence, unless it can be clearly demonstrated that this is not the case. Conversely, if the investor holds, directly or indirectly through subsidiaries, less than 20% of the voting power of the investee, it is presumed that the investor does not have significant influence, unless such influence can be clearly demonstrated. A substantial or majority ownership by another investor does not necessarily preclude an investor from having significant influence.
  - 2) **“authorized institutions” (AI)** - means all banks and other licensed financial institutions authorized under the Act to carry on banking business.
  - 3) **“bankers' acceptances”** – means drafts or bills of exchange drawn upon an AI and having a term not more than six months, exclusive of days of grace and (i) which arise out of transactions involving the importation or exportation of goods; (ii) which arise out of transactions involving the domestic shipment of goods or financing of operations; or (iii) which are secured at the time of acceptance by a warehouse receipt or other such document conveying or securing title over readily marketable commodities.
  - 4) **“capital base”** – means Total Capital as defined in Prudential Standard 1/2003 Capital Adequacy.
  - 5) **“commercial paper”** – means a short-term, unsecured money market obligation issued by commercial and financial companies, having a term not more than six months; proceeds are used to finance current obligations; commercial paper is a negotiable instrument and may be issued either on a discount basis or as interest-bearing paper.

6) “**common enterprise**” – a common enterprise exists when (i) the expected source of repayment is the same for exposures made to different borrowers, or (ii) exposures are made to persons related by common control, where the persons are engaged in inter-dependent businesses, or where there is substantial financial inter-dependence among them.

For purposes of this paragraph, "control" is presumed to exist when: (a) one or more persons acting together directly or indirectly own, control, or have power to vote 50% or more of any class of voting shares of another person; or (b) one or more persons acting together control, in any manner, the election of a majority of the directors, trustees, or others exercising similar functions over another person; or (c) any other circumstances exist which indicate that one or more persons acting together exercise a controlling influence, directly or indirectly, over the management or policies of another person.

7) “**corporate group**” – means a corporation and its subsidiaries, associate enterprises and joint ventures. An enterprise is a subsidiary or an associate of a corporation which exerts, or has the power to exert, control over a subsidiary or significant influence over an associate as defined by International Accounting Standards IAS-27 and IAS-28, respectively.

8) “**exposure**” – means any direct or indirect advance of funds (including obligations as maker or endorser arising from discounting of commercial/business paper) made to a person on the basis of an obligation to repay the funds advanced, or which is repayable from specific property pledged by or on behalf of a person.

9) “**group of closely related persons**” – means two or more natural persons, companies, corporations, associations, joint ventures, partnerships or other business enterprises which are closely related through common ownership, control, management and/or cross-financial guarantees. The definition also includes persons who are family members that are financially dependent upon one or more persons within the group.

10) “**large exposure**” – means any exposure to a single borrower or group of related borrowers which, in the aggregate, equals or exceeds 10% of an AI's capital base.

11) “**marketable commodities**” – means agricultural or mining commodities such as agricultural staples, mineral ores, etc. which are traded on established domestic or international markets and for which there are recognized daily price quotations.

12) “**money market instruments**” – means financial instruments which are saleable under ordinary circumstances with reasonable promptness at a fair market value determined by quotations based on actual transactions at an auction or a similarly available daily bid and ask price market. This includes stocks, notes, bonds, and debentures traded on a recognized securities exchange, commercial paper, negotiable certificates of deposit, and bankers' acceptances.

13) “**person**” – means, for purposes of this standard, one or more natural persons, a company, corporation, association, joint venture, partnership or other business enterprise.

14) “**subsidiary**” – has the same meaning as defined in International Accounting Standard IAS-27 and means an enterprise that is controlled by another enterprise (known as the parent). Control for this purpose is the power to govern the financial and operating policies of an enterprise so as to obtain benefits from its activities.

## PART II: STATEMENT OF POLICY

- 1: **Purpose** – This standard is intended to prevent any one person, or a group of closely-related persons, from borrowing an excessive amount of funds relative to a bank's capital base. It is also intended to safeguard an AI's depositors and creditors by spreading credit exposure risks among a larger number of persons engaged in different lines of business.
- 2: **Scope** – This standard applies to all AIs licensed and operating in PNG and to all exposures held or reflected on an AI's balance sheet or otherwise held or reflected as off-balance sheet items.
- 3: **Responsibility** – It is the responsibility of the board of directors of each AI to establish policies and procedures adequate to ensure that (i) all exposures fully comply with the limitations set forth in the Act and in this standard, and (ii) all exposures are made and administered in accordance with prudent lending practices.

## PART III: IMPLEMENTATION AND SPECIFIC REQUIREMENTS

- 1: **Limitations** – The following limitations shall apply:
  - (a) **General**: the total exposure outstanding at any time to a single person, or to a group of closely related persons, shall not exceed 25% of an AI's capital base.
  - (b) **Corporate groups**: notwithstanding the limit set forth in (a) above, the total of all exposures to a corporate group may not exceed 40% of an AI's capital base, provided that no single borrower in the group may exceed 25% of an AI's capital base. However, if loans to the parent and one or more subsidiaries or associates are required to be combined as a single borrower in accordance with ¶3 of Part III, then the maximum limit of 25% shall apply to aggregate of loans to the corporate group.
  - (c) **Total of large exposures**: the total of all large exposures shall not exceed 800% of an AI's capital base at any time.
  - (d) **Compliance with policy**: all exposures shall comply at all times with a sound, written lending policy which has been adopted and approved by the board of directors.
- 2: **Exceptions** - The following exceptions shall apply to the limits in ¶1 above:
  - (a) **Discounted paper**. Exposures arising from the discount of commercial or business paper negotiated with recourse in the ordinary course of business shall not be included in the exposures of the person who discounted the commercial or business paper to the purchasing AI.

(b) **Bankers' acceptances.** The total amount of bankers' acceptances (including participations therein) issued or accepted by another AI shall not exceed more than 200% of the purchasing AI's capital base.

(c) **Marketable commodities.** An AI may lend up to 40% of its capital base to any single borrower provided that any amount which exceeds 25% of the AI's capital base is fully secured by marketable commodities. For this exception to apply, the marketable commodities must: (i) have a value that is at all times at least 125% of the amount that exceeds 25% of the AI's capital base, and (ii) be fully insured against loss or damage whenever it is normal and customary to insure such commodities.

(d) **Government-backed debts.** Loans, or portions thereof, that are fully secured by obligations of the Government of the PNG (Govt.), or which Govt. has unconditionally guaranteed as to payment of both principal and interest, are exempt from the lending limit above.

(e) **Cash security or segregated deposits.** Loans, or portions thereof, that are fully secured at all times by cash security or a segregated deposit held in the lending bank shall be exempt from the 25% limit set forth in ¶1(a) above. However, for this exception to apply, the AI must have the legal right to set-off against the deposit. Further, if the cash security or deposit is in a currency different than the loan, then the security must be re-valued to existing exchange rates at least weekly, and if the value of the security declines and results in any loan/s in excess of the 25% limit, then the loan must be brought into conformity within five (5) business days.

(f) **Bank debts.** [see Part III-Prudential Standard 5/2003 Inter-bank Placements]

(g) **Excess loans covered by agreements of protection -** If, on the effective date of this standard, an AI holds any exposure that exceeds 25% of the AI's capital base and such exposure was permissible prior to the effective date of this standard by virtue of an existing Agreement of Protection, or other document of a similar nature, the AI must bring the exposure into compliance with the requirements of this standard not later than 36 months from the effective date of this standard.

(h) **Transitional Arrangements -** As long as Agreements of Protection (AoP), or documents of similar nature are within the effective date of this standard, and where these AoPs held by banks from parent companies are considered as capital, the Bank can grant other authorised institutions not holding any AoPs some exemptions from the prudential standard on a case by case basis.

**3: Combining loans to separate borrowers - (a) **Combination:**** Except for state-owned enterprises (SOE) where there is no written guarantee provided, and where the SOE is independently managed and funded, loans to one person will be combined with loans to another person and will be subject to the maximum borrowing limit of 25% when (i) the loan proceeds are used for the direct benefit of the other person ('use' test), or (ii) a common enterprise exists between the persons ('source' test). The facts and circumstances of each particular situation will determine whether a common enterprise exists.

- (b) **Determination:** For purposes of this standard, the AI will decide, based upon the facts and circumstances of the particular situation, when a loan nominally made to one person will be combined with loans to another person.
- 4: **Loans to partnerships, joint ventures, and associations** - (a) **To the group:** For purposes of this standard, loans to a partnership, joint venture, or association (generally referred to as 'partnership') will be considered loans to each member of the partnership.
- (b) **To members:** For purposes of this standard, loans to members of a partnership will be combined with exposures to the partnership whenever either of the 'source' or 'use' test in ¶3(b) above applies.
- (c) **For purchasing interests:** For purposes of this standard, loans to members of a partnership for the purpose of purchasing an interest in the partnership will be combined with loans made to the partnership.
- (d) **Limited interests:** In the case of limited partnerships where the partnership agreement specifies that limited members are not liable for the debts of the partnership, the rules set forth in paragraphs (a), (b) and (c) above will apply to all general partners or members but not to limited partners or members. However, if the partnership agreement specifies that limited members shall be individually liable for a portion of the obligations to the same extent of their proportionate interests in the partnership, such limited obligations shall be combined with other loans to those members for purposes of determining their individual total obligations to the AI.
- 5: **Loans written off** – The lending limits in ¶1(a) above apply to all loans, including any loans, or portions thereof, which have been written off in whole or in part. However, loans which have been discharged by a court in bankruptcy or which are no longer legally enforceable in a court are not included in the borrower's total debt for lending limit purposes.
- 6: **Loan participations** – When an AI sells a participation in a loan, the portion that has been sold will not count against the lending limits in ¶1. However, to be excluded, the participation agreement must require that when a default occurs, all participants will share pro rata in recoveries realized through repayment and/or sale of collateral security according to their respective participation percentages at the time of default. See Appendix A for standardised Loan Participation Agreement.
- 7: **Loan syndications** – When two or more AIs collectively make a single loan to a one borrower (i.e. a syndicated loan), only the funds provided by each AI and representing that AI's pro rata share of the total loan will count against the limits in ¶1 above.
- 8: **Interest or discount on loans** – The lending limits set forth in ¶1 above shall not apply to any portion of a loan which represents accrued interest unless such accrued interest has been capitalized or in any other manner converted to loan principal.

- 9: **Nonconforming exposures** – (a) If an exposure complies with the lending limits in ¶1 above when it is made but later fails to comply because (i) the AI's capital base declines, (ii) the borrower merges or forms a common enterprise with another borrower, (iii) the bank merges with another AI which is also lending to the borrower, (iv) the lending limit or capital base rules change, or (v) collateral securing the exposure fails to qualify as an exception under ¶2, then the exposure will be treated as 'nonconforming'.
- (b) If an exposure becomes 'nonconforming' for any of the reasons (i-iv) in paragraph 9(a) above, then the AI must promptly take all reasonable efforts to bring the exposure into compliance with lending limits at the earliest possible date unless doing so would be inconsistent with safe and sound banking practices.
- (c) If an exposure is 'nonconforming' for reason (v) in paragraph 9(a) above, then the AI must bring the exposure into compliance within 30 calendar days from the date the exposure became nonconforming, unless judicial proceedings, regulatory actions, or other circumstances beyond the AI's control prevent the bank from taking action.
- 10: **Reporting Requirements.** Each AI shall submit to the AI such returns as the AI may require and in the form and frequency as the AI may prescribe.

#### **PART IV: CORRECTIVE MEASURES**

**Remedial measures and sanctions** - If an AI breaches any provision of this prudential standard in a flagrant manner which results, or threatens to result, in an unsafe or unsound condition, or fails to comply with the instructions and reporting requirements, or if there is risk that the existing capital base will be impaired and result in a condition that threatens the interests of depositors or the general public, the AI may pursue appropriate corrective actions and sanctions by imposing or varying conditions on the AI's licence as provided in Section 14 of the Act.

Such conditions imposed on a AI's licence under Section 14 may include, but are not limited to, the following –

- a) Require the AI to take certain steps or to refrain from adopting or pursuing a particular course of action or to restrict the scope of its business in a particular way, including a prohibition from engaging in any further foreign exchange activities for a specified period of time;
- b) Impose limitations on the acceptance of deposits, the borrowing of money, the granting of credit or the making of investments;
- c) Prohibit the AI from soliciting deposits, either generally or from persons who are not already depositors;
- d) Prohibit the AI from entering into any other transaction or class of transactions;
- e) Suspend access to the credit facilities of the AI; or
- f) Suspend or require the removal of any directors, managers or chief executives.

**PART V: EFFECTIVE DATE**

- 1: **Effective date** – The effective date of this prudential standard shall be **31<sup>st</sup> January 2011**.
  
- 2: **Supersedence** – This standard supersedes and replaces Prudential Standard 3/2000 - Large Exposures and Supplementary Notes which were issued in September 2000.

**Questions relating to this prudential standard should be addressed to The Manager, Banking Supervision Department, Bank of PNG, Tel: 322-7200.**

Loi M. Bakani  
Governor

**APPENDIX A**

**(The following standardised form should be used for Part III, paragraph 6 “Loan participations”).**

**LOAN PARTICIPATION AGREEMENT**

This Loan Participation Agreement (“Agreement”) between \_\_\_\_\_ (“Seller”) and \_\_\_\_\_ (“Participant”) is dated \_\_\_\_\_, 20\_\_\_\_. The Seller and Participant agree as follow:

1. **RECITALS.** Seller owns a Promissory Note dated \_\_\_\_\_, 20\_\_\_\_, (“Note”) issued by \_\_\_\_\_ (“Borrower”). Seller desires to sell and Participant desires to purchase PGK\_\_\_\_\_, of said Note representing a \_\_\_\_\_% undivided interest in said Note.
2. **AGREEMENT TO PARTICIPATE.** Subject to the terms of this Agreement, Seller agrees to sell to Participant, without recourse, and Participant agrees to purchase from Seller, without recourse, the undivided interest indicated above in the Note (the “Participation” and the portion which the Participation bears to the outstanding principal amount of the Note at the time of the sale is hereafter called the “Percentage”).
3. **FUNDING OF PARTICIPATION.** Seller shall execute and deliver to Participant a completed Participation Certificate substantially in the form of Schedule I attached hereto and made a part hereof. The Participation Certificate shall be evidence of the Participation hereunder. In payment for the Participation, the Participant shall pay to Seller an amount equal to PGK\_\_\_\_\_. Payment shall be made by transmitting such amount, in immediately available funds, through the [national payments] system to account number \_\_\_\_\_ at \_\_\_\_\_, which funds shall be received by Seller no later than noon (\_\_\_\_\_time) on the date specified in the Seller’s notice to Participant.
4. **PAYMENTS AND RISK.** The principal and interest payable under the Note are due and payable by Borrower from time to time as specified in the Note, and on the Maturity Date(s) as identified in the Note. Participant shall be entitled to its Percentage of payments of principal and interest on the Note actually received by Seller and interest on its Participation calculated at the interest rate specified in the Note. Participant shall share in the risk of nonpayment of such amounts and all other risks associated with the Note to the extent of its Percentage or other interest therein. Upon receipt by Seller, and on the Maturity Date(s), Participant shall receive payment of principal and interest (i) from payments made by Borrower to Seller of such principal of and interest on such Note, or (ii) from funds received and applied by Seller to payment of such Note; provided, however, that Seller shall have no obligation to make any such payment of principal or interest to Participant until Seller has actually received and applied good funds for such purpose. If, as a result of a default by Borrower, the rate of interest payable on the Note is increased and such increased amount of interest is received by Seller, then the interest distributable to Participant in respect of the Note shall be raised by a corresponding amount.

If, for any reason, any payment with respect to the Note is made by Seller to Participant before Seller has received the corresponding payment from Borrower (it being understood that Seller is under no obligation to make any such payment to Participant), and such corresponding payment is not received by Seller, Participant will promptly return such payment to Seller, together with interest thereon for each day from and including the date such amount is distributed to Participant to, but excluding, the date of repayment thereof at a rate per annum equal to the [official discount rate of the central bank] for each such day.

At the time Seller receives any amount which is applied to the Note, whether through payment by Borrower, offset or guaranty, counterclaim or otherwise, Seller will pay Participant the portion thereof due and payable to Participant hereunder as its Percentage share of such amount in the same type of funds received by Seller by transmitting the same to Participant through the [national payments] system, addressed to \_\_\_\_\_ . If Seller is required for any reason to refund any such payment, Participant agrees to pay to Seller promptly upon request of Seller its Percentage share of the principal amount of such refund, together with interest thereon, and Participant's Percentage share of penalties or other amounts payable, if any, payable by Seller in connection with any such refund made by Seller.

5 ADMINISTRATION OF THE NOTE. Except as specifically provided herein, it is understood and agreed that Seller may, in its sole discretion and without prior notice to Participant, agree to modification, waiver, or release of any terms of the Note and of any other documents delivered in connection with the Note (collectively, the "Note Documents"), and Seller shall have and may use its sole discretion with respect to exercising or refraining from exercising any rights or taking or refraining from taking any actions which may be vested in Seller or which Seller may be entitled to take or assert under Note Documents; provided, however, that without the prior written consent of Participant (which shall not be unreasonably withheld), Seller will not do any of the following: (a) reduce the principal of, or interest on, the Note or other amounts payable thereunder, or (b) postpone any date fixed for any payment of principal of, or interest on, the Note or any fees or other amounts payable by Borrower. If Seller requests that Participant consent to any such waiver or amendment and shall not have received a denial thereof from Participant within five (5) calendar days after making such request, the Participant shall be deemed to have given consent.

6. PARTICIPANT'S CREDIT DETERMINATION; LIMITATIONS ON SELLER LIABILITY. Seller has furnished to Participant a copy of the Note, and such other information as Participant has requested. Seller shall hold the original of the Note and of all documents furnished to Seller under the Note and Seller shall, upon Participant's request, furnish to Participant copies of any other note documents in its possession. It is understood and agreed that Participant has made its own credit determinations and analysis based upon such information as Participant deemed sufficient to enter into the transactions contemplated hereby and not based on any statements or representations by Seller. It is understood and agreed that the sale of the Participation hereunder is made without recourse to Seller and that Seller makes no representation or warranty of any kind and shall not be responsible for (i) the due execution, legality, validity, enforceability, genuineness, sufficiency, or collectability of any of the Note Documents, (ii) any representation, warranty or statement made in or in connection with any of the Note Documents, (iii) the financial condition or creditworthiness of Borrower or any guarantor,

(iv) the performance of or compliance with any of the terms or provisions of any of the Note Documents, (v) inspecting any of the property, books, or records of Borrower, of (vi) the validity, enforceability, perfection, priority, condition, value or sufficiency of any collateral or guaranty securing or purporting to secure the Note. Participant acknowledges that the Note is subject to an inter-creditor agreement between Seller and [name of another lending bank if loan is syndicated].

Neither Seller nor any of its officers, directors, employees, agents, or attorneys shall be liable for any mistake, error of judgment, or action taken or omitted to be taken (whether negligently or otherwise) in connection with the Note or any other Note Documents, except for its or their own bad faith or willful misconduct. Seller may consult with legal counsel, independent public accountants, and other experts selected by it and shall not be liable for any action taken or omitted to be taken by it (i) in accordance with the advice of such counsel, accountants, or experts, or (ii) in connection with the Note or any other Note Documents pursuant to any notice, consent, certificate, or other writing received by Seller and believed by Seller in good faith to be genuine. Seller and any of its subsidiaries and affiliates may engage in any kind of business (banking, trust, or otherwise) with any obligor under the Note or other Note Documents without liability or obligation to account to Participant except as specifically provided herein.

7. PROPERTY INTERESTS. Participant shall have no interest in any property taken as collateral for any other loans or extensions of credit made to or for Borrower or any guarantor of the Note by Seller, or in any property in Seller's possession or control, or in any deposit held or other indebtedness owing by Seller, which may be or become collateral for or otherwise available for payment or the Note by reason of the general description of secured obligations contained in any security agreement or other agreement or instrument held by Seller or by reasons of the right of set-off, counterclaim, or otherwise. Seller shall have no obligation to make any claim on, or assert any lien upon, or assert any offset against, any such property, deposit, or indebtedness, except that if such property, deposit or indebtedness or the proceeds thereof shall actually be applied in reduction of amounts outstanding under the Note subject to the Participation, then Participant shall be entitled to receive its Percentage share thereof pursuant to the terms of paragraph 3 above.

8. INDEMNIFICATION AND EXPENSES. Participant agrees to indemnify Seller to the extent of its Percentage share for any and all liabilities, obligations, damages, penalties, actions, judgments, suits, costs, expenses, or disbursements of any kind and nature which may be imposed on, incurred by, or asserted against Seller in any way relating to or arising out of the Note or any other Note Documents or the transactions contemplated thereby or the enforcement of any of the terms thereof and whether or not arising out of a negligent act or omission or any misconduct of Seller; provided, that Participant shall not be liable for any of the foregoing to the extent they arise from gross negligence or willful misconduct of Seller. Participant further agrees to indemnify and hold Seller harmless from and against any and all losses, liabilities, costs, and expenses (including, without limitation, reasonable attorneys' fees) incurred by Seller in connection with Participant's failure for any reason to advance all or any part of any funds as required by the terms of this agreement. It is the intention of Participant to indemnify Seller for any of the foregoing to the extent they arise from Seller's own negligence. Participant will pay to Seller Participant's Percentage share of all costs and expenses (including, without limitation,

reasonable attorneys' fees) which are incurred by Seller either directly or as a result of any sharing arrangement in connection with enforcement of the Note or any collateral securing the Note at any time, and which are not promptly reimbursed by Borrower. In the event Seller later receives reimbursements from Borrower or another source for such costs and expenses, Seller shall pay to Participant its Percentage share of such reimbursement.

9. ASSIGNMENTS. Participant agrees not to sell, assign, transfer, or grant a sub-participation in all or any part of the Participation without Seller's prior written consent. Except as may be required by law or upon request of any regulatory authority having jurisdiction over Participant, Participant will not, without prior written consent of Seller, disclose the existence of the Participation or any term thereof or of this Agreement to any person or entity.

10. OTHER PARTICIPATIONS. Seller may grant to persons or entities other than Participant additional participations in the Note on such terms as Seller and such other participant(s) may agree.

11. NOTICES. All notices and other communications hereunder shall be in writing and shall be either (i) personally delivered, (ii) transmitted by postage prepaid registered mail, or (iii) transmitted by telex or facsimile, in each case addressed to the party to whom notice is being given at its address as set forth below or at such other address as may hereafter be designated in writing by either party hereto. All such notices or other communications shall be deemed to have been given on (a) the date received if delivered personally, (b) the date of posting if transmitted by mail, (c) the date of transmission with confirmation answerback if transmitted by telex, of (d) the date of transmission with telephonic confirmation if transmitted by facsimile. All notices and other communications will be directed to:

Seller:

Participant:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attention: \_\_\_\_\_

Attention: \_\_\_\_\_

12. ENTIRE AGREEMENT. This Agreement embodies the entire agreement and understanding between the parties hereto and supersedes all prior agreements and understandings between the parties hereto relating to the subject matter hereof. This Agreement shall not be construed to create a partnership or joint venture between the parties hereto.

13. GOVERNING LAW. This Agreement shall be governed by and construed in accordance with the laws of \_\_\_\_\_.

14. TERMINATION; AMENDMENTS. This Agreement shall continue in full force and effect so long as the Note shall remain outstanding; provided, however, the obligations of the Participant under paragraph 7 of this Agreement and the rights of Seller and its officers, directors, employees, agents, and attorneys under paragraph 5 of this Agreement shall survive the termination of this Agreement. This Agreement may not be amended, modified, waived, or changed except in writing signed by both parties hereto.

15. TAXES. All taxes due and payable on any payments to be made to Participant hereunder or under any Participation Certificate are Participant's sole responsibility. All payments will be made net of and after deduction for any taxes, charges, levies, or withholdings which are imposed by means of withholdings by the country of incorporation of Borrower and any other applicable taxing authority. Participant hereby agrees to provide to Seller from time to time all applicable forms, completed and signed, that may be required by the [applicable taxing authority] in order to certify Participant's exemption from withholding taxes with respect to any and all payments to be made to Participant hereunder or under any Participation Certificate.

IN WITNESS WHEREOF, the Parties hereto have executed this Participation Agreement by their duly authorized officers or agents as of the date noted at the beginning of this Agreement.

SELLER:

By: \_\_\_\_\_

Title: \_\_\_\_\_

PARTICIPANT:

By: \_\_\_\_\_

Title: \_\_\_\_\_

**Schedule I**

NON-NEGOTIABLE LOAN PARTICIPATION CERTIFICATE

Amount \_\_\_\_\_

Date \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attention: \_\_\_\_\_

Pursuant to this Loan Participation Agreement ("Participation Agreement") between \_\_\_\_\_ ("Seller") and \_\_\_\_\_ ("Participant") dated as of \_\_\_\_\_, \_\_\_\_\_, Seller hereby confirms that Seller has on this date sold to Participant, without recourse, a participation of PGK\_\_\_\_\_, representing a \_\_\_\_\_% undivided interest in a Note evidenced by a promissory note of \_\_\_\_\_ in the original principal amount of PGK\_\_\_\_\_ dated \_\_\_\_\_, \_\_\_\_\_, payable to the order of Seller, such Participation not to exceed PGK\_\_\_\_\_ in aggregate principal amount at any time outstanding. Interest shall be payable to Participant at the rate(s) specified in the Participation Agreement.

SELLER:

By: \_\_\_\_\_

Title: \_\_\_\_\_

Participation Agrmnt