

**ONLY FOR USE WITH MEDIUM TERM GUARANTEE TRANSACTIONS**

FORM OF FLOATING RATE SERIAL NOTE

[BORROWER]

PROMISSORY NOTE<sup>1</sup>

Number \_\_\_\_ of \_\_\_\_\_ Notes For U.S. DOLLARS \$[Amount in Numbers: This amount should only be the Fractional Amount], plus interest.

MATURITY DATE [Date: This date should be the due date of one installment only].

FOR VALUE RECEIVED, [name and address of the Borrower] (the “Maker”) by this promissory note (this “Note”) hereby unconditionally promises to pay on the Maturity Date to the order of [Lender] (the “Lender”) at [name and address of a banking institution in United States that is authorized to accept deposits] the full principal sum of \_\_\_\_\_ United States Dollars [and \_\_\_\_\_ cents] (US\$\_\_\_\_\_) and to pay interest on the principal hereof from time to time outstanding, as hereinafter provided, at the rate of \_\_\_\_\_ percent (\_\_\_ %) per annum (the “Margin”) above LIBOR<sup>2</sup> (as hereinafter defined); *provided* that, beginning on the [first]<sup>3</sup> Ex-Im Bank Claim Payment Date (hereinafter defined)[to occur after a Full Assignment (as hereinafter defined)]<sup>4</sup>, the definition of Special LIBOR shall apply for all purposes, including, without limitation, the [sixth] paragraph hereof, in place of the definition of LIBOR and the Maker shall pay interest on the principal balance hereof from time to time outstanding at a rate equal to the greater of (i) Special LIBOR or (ii) Special LIBOR plus the Margin.<sup>5</sup>

For purposes of this Note, (a) “LIBOR” shall mean, in relation to any Interest Period (as hereinafter defined), the rate of interest per annum (rounded upward, if necessary, to the nearest one-sixteenth of one percent (1/16 of 1%)) quoted by the principal London office of the Lender or an affiliate of the Lender designated by the Lender at approximately 11:00 a.m. (London time) two Business Days (as hereinafter defined) prior to the first day of such Interest Period for the offering to leading banks in the London interbank market of United States Dollar deposits for a period and in an amount comparable to such Interest Period and the principal amount upon which interest is to be paid during such Interest Period;<sup>6</sup> (b) “Special LIBOR” shall mean, with

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<sup>1</sup> Do not consolidate or otherwise move around the paragraphs in this Note. Specific provisions of this Note are identified in the Agreement by the paragraphs in which such provisions appear.

<sup>2</sup> If the relevant Ex-Im Bank Approval provides for the use of an alternative Reference Rate (*i.e.*, “Treasury”, “Prime”, etc.) in place of a rate based on the London Interbank Offered Rate then all references to LIBOR in this Note should instead refer to such alternative Reference Rate and the second paragraph of the Note should be modified to define the alternative interest rate basis term.

<sup>3</sup> The bracketed text is only to be used for Political Risk Guarantee transactions.

<sup>4</sup> The bracketed text is only to be used for Political Risk Guarantee transactions.

<sup>5</sup> The Special LIBOR definition should not be amended or deleted.

<sup>6</sup> If the relevant Ex-Im Bank Approval provides for the use of an alternative LIBOR definition, then this paragraph should be modified accordingly.

respect to any Interest Period, the rate of interest per annum specified as the “\$ Libor BBA Fixing – Interbank Fixing” rate (or any successor title) in the Financial Times under the table entitled “World Interest Rates – Domestic Money Rates” (or any successor title) in effect on the day two Business Days prior to the first day of the relevant Interest Period for a term similar to the term of such Interest Period; *provided*, that if no rate is specified for such day, the applicable rate shall be the rate specified for the immediately preceding day for which a rate is specified, and if more than one rate is specified, the applicable rate shall be the highest of all such rates; *provided further*, that in the event the Financial Times either completely ceases publication or discontinues publication of the Dollar LIBOR Interbank fixing rate, then Ex-Im Bank shall determine Special LIBOR by reference to a financial publication with similar international or U.S. circulation, which publication shall be selected by Ex-Im Bank in its sole discretion; (c) “Interest Period” shall mean (i) the period commencing on \_\_\_\_\_ (the “Disbursement Date”) and extending up to, but not including, the next Payment Date (as hereinafter defined); *provided*, however, that if the Disbursement Date is within sixty (60) days of such Payment Date<sup>7</sup>, the Interest Period shall end on the next succeeding Payment Date; and (ii) thereafter the period commencing on each Payment Date and extending up to, but not including, the next Payment Date; [and] (d) [“Full Assignment” shall mean the date on which this Note is assigned to Ex-Im Bank (as hereinafter defined) and (e)]<sup>8</sup> “Business Day” shall mean any day [on which dealings in Dollar deposits are carried on in the London interbank market and] on which commercial banks in London and New York City are open for domestic and foreign exchange business.<sup>9</sup>

This promissory note is one of a series of [total number of Notes in letters] promissory notes numbered 1 to [number of highest numbered Note in numbers] inclusive, in the aggregate principal amount of \_\_\_\_\_ United States Dollars [and \_\_\_\_\_ cents] (US\$\_\_\_\_\_) and maturing semiannually in the order in which numbered from [first due date] to [last due date].

Interest on this Note is due and payable on \_\_\_\_\_ and \_\_\_\_\_ of each year (each, a “Payment Date”), beginning on \_\_\_\_\_, \_\_\_\_\_. Interest will be calculated on the basis of the actual number of days elapsed (including the first day, but excluding the last day) over a year of 360 days.<sup>10</sup>

[In the event that any amount of the principal hereof or accrued interest on this Note is not paid in full when due (whether at stated maturity, by acceleration or otherwise), the Maker shall pay to the Lender on demand interest on such unpaid amount (to the extent permitted by applicable law) for the period from the date such amount was due until such amount shall have been paid in full at an interest rate per annum equal to (x) \_\_\_\_\_ percent (\_\_\_%) per annum

<sup>7</sup> If the Lender and a Borrower agree on a longer or shorter billing cycle and this is agreed to by Ex-Im Bank and specified in the relevant Ex-Im Bank Approval, then such alternative billing cycle period should be specified here.

<sup>8</sup> The bracketed text (and the previously bracketed word “and”) is only to be used for Political Risk Guarantee transactions.

<sup>9</sup> The bracketed text is only to be used if the Reference Rate is a “LIBOR” based rate. The Lender is permitted to use an alternative definition of Business Day if Ex-Im Bank accepts it in writing.

<sup>10</sup> If the relevant Ex-Im Bank Approval provides for a day count basis of actual/365 days or 30/360 days instead of actual/360 days (as permitted by Section 10.03 of the Agreement), modify this reference.

above the interest rate then applicable under first paragraph hereof until the end of the then current Interest Period, and (y) thereafter \_\_\_\_\_ percent (\_\_\_%) per annum above the [the Lender to specify rate].]<sup>11</sup>

[Notwithstanding the fifth paragraph hereof,] beginning on the date (the “Ex-Im Bank Claim Payment Date”) on which the Export-Import Bank of the United States (“Ex-Im Bank”) shall have made a claim payment to the Lender under the Master Guarantee Agreement (Medium Term Credits – Electronic Compliance Program), dated as of \_\_\_\_\_, 20\_\_ between the Lender and Ex-Im Bank and identified as MGA No. \_\_\_\_-M (as amended and supplemented, the “MGA”)[as supplemented by the Master Guarantee Agreement Supplement (Political Risk Guarantees), dated as of \_\_\_\_\_, 20\_\_ between the Lender and Ex-Im Bank]<sup>12</sup> in the event any amount of principal of or accrued interest on this Note owing to Ex-Im Bank is not paid in full when due (whether at stated maturity, by acceleration or otherwise), the Maker shall pay to Ex-Im Bank on demand interest on such unpaid amount (to the extent permitted by applicable law) for the period from the date such amount was due until such amount shall have been paid in full, at an interest rate per annum equal to one percent (1%) per annum above the interest rate otherwise then applicable under the first paragraph hereof.

All payments received hereunder shall be applied in the manner and order of priority determined by the Lender in its sole discretion.

Whenever any payment falls due on a day that is not a Business Day, the due date for payment shall be extended to the next following Business Day.

All payments to be made by the Maker under this Note shall be made in United States Dollars in immediately available and freely transferable funds no later than 11:00 A.M. (New York City time) on the date on which due, without set-off, counterclaim, deduction, withholding on account of taxes levied or imposed under the laws of the Government of [the Borrower's Country], restrictions or conditions of whatever nature.

The Maker may from time to time prepay on any Payment Date all or part of the principal amount of this Note, *provided* that: (a) any partial prepayment shall be in a minimum principal amount of [the Lender to specify amount in US\$]; (b) the Maker shall have given the Lender and Ex-Im Bank at least ten (10) days' prior written notice of the prepayment (which notice shall be irrevocable); and (c) the Maker shall have paid in full all amounts due under this Note as of the date of such prepayment, including interest on the amount prepaid which has accrued to the date of prepayment. Prepayments shall be applied to the installments of principal of this Note in the inverse order of their maturity, and, in cases where more than one promissory note of the Maker is outstanding, pro rata to each such promissory note.

Upon default in the prompt and full payment of any installment of principal hereof or the interest on this Note, the entire outstanding principal amount hereof and interest on the Note to

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<sup>11</sup> The Lender has the option to either delete this paragraph or to provide alternative language.

<sup>12</sup> The bracketed text is only to be used for Political Risk Guarantee transactions.

the date of payment shall immediately become due and payable at the option and upon the demand of [Ex-Im Bank][the holder hereof].<sup>13</sup>

The Maker hereby waives demand, diligence, presentment, protest and notice of every kind, and warrants to the holder that all action and approvals required for the execution and delivery hereof as a legal, valid and binding obligation of the undersigned, enforceable in accordance with the terms hereof, have been duly taken and obtained. The failure of the holder hereof or of Ex-Im Bank to exercise any of its rights hereunder in any instance shall not constitute a waiver thereof in that or any other instance.

To the maximum extent permitted by law, the Maker agrees to pay on demand all costs and expenses of the Lender or Ex-Im Bank that are incurred in connection with the enforcement of this Note, including, but not limited to, reasonable attorneys' fees and expenses related thereto.

THIS NOTE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK, U.S.A.

[BORROWER]

By \_\_\_\_\_  
(Signature)<sup>14</sup>

Name \_\_\_\_\_  
(Print)

Title \_\_\_\_\_  
(Print)

Promissory Note No. \_\_\_\_\_

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<sup>13</sup> If the Guarantee of is Comprehensive, then Ex-Im Bank has the sole right to accelerate. If the Guarantee is a Political Risk Guarantee, then the holder of the Note has the sole right to accelerate.

<sup>14</sup> Personal makers should sign in their personal capacities only. Corporate makers should sign only in their corporate capacities with proper reference to their corporate titles.

[GUARANTEE]

FOR VALUE RECEIVED, the undersigned, as primary obligor, hereby unconditionally and irrevocably guarantees the full, prompt and complete payment when due (whether at scheduled maturity, by reason of acceleration or otherwise) of the principal of and interest on the foregoing promissory note, and hereby waives acceptance, diligence, presentment, demand, protest or notice of any kind whatsoever (including notice of default or non-payment), as well as any requirement that the holder exhaust any right or take any action against the maker of the foregoing promissory note, and hereby consents to any extension of time or renewal or other modification thereof. This is a continuing, absolute and unconditional guarantee of payment and not merely of collection[, for which the full faith and credit of \_\_\_\_\_ is pledged]<sup>15</sup>. To the maximum extent permitted by applicable law, the undersigned hereby waives all defenses of a surety or guarantor to which it might be entitled by statute or otherwise.

[GUARANTOR]

By \_\_\_\_\_  
(Signature)<sup>16</sup>

Name \_\_\_\_\_  
(Print)

Title \_\_\_\_\_  
(Print)

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<sup>15</sup> Only use if the Guarantor is a sovereign entity.

<sup>16</sup> Personal makers should sign in their personal capacities only. Corporate makers should sign only in their corporate capacities with proper reference to their corporate titles.