

LAW NO. (41)/1993

on

**State Purchase of Select Debts and Collection Procedures
with Appendices and
Explanatory Note**

In the name of God, most Gracious, most Merciful
Law No. 41/1993 – State Purchase of Select Debts and Collection
Procedures

Having reviewed:

- The Constitution;
- Commercial Companies Act issued under Law 15 of 1960;
- Law No. 16 of 1960 promulgating the Penal Code and amending laws;
- Law No. 17 of 1960 promulgating the Procedural and Penal Trials Law and related amendments;
- Law No. 30 of 1964 on Establishing the Audit Commission;
- Law No. 32 of 1968 on Currency, the Central Bank and the Banking profession;
- Law No. 72 of 1977 Licensing the Establishment of a Kuwaiti Shareholding Company named the Kuwait Finance House;
- Law No. 38 of 1980 promulgating the Civil and Commercial Pleadings Law and the related amending laws;
- Decree-Law No. 67 of 1980 promulgating the Civil Law;
- Decree-Law No. 68 of 1980 promulgating the Commercial Law and amending laws;
- Decree-Law No. 57 of 1982 on Companies Forward Share Transactions;
- Law No. 59 of 1982 on Companies Forward Share Transactions as well as Guarantees of Related Creditors' Rights;
- Law No. 75 of 1983 Organising the Settlement of Companies Forward Share Transactions;
- Law No. 100 of 1983 Concerning Certain Provisions Related to the Settlement of Companies Forward Share Transactions;
- Decree-Law No. 23 of 1990 on Organising the Judicature;

- Decree-Law No. 32 of 1992, on Dealing with the Status of the Banking and Financial Sectors;
- Law No. 1 of 1993 on the Protection of Public Funds;

And

Pursuant to the foregoing, the National Assembly approved the following which we hereby ratify and promulgate:

PREAMBLE

DEFINITIONS

Article (1)

While applying this law the following terms shall have the meanings specified below:

1. Purchased debt:

The cash credit facilities purchased by the State on 31-12-1991 from the local banks, the investment companies being under the control of the Central Bank of Kuwait, and from the Kuwait Finance House.

Further, the non-cash facilities outstanding on 1-8-1990 with Kuwaiti clients whenever transferred into cash facilities, and any other facilities that could be purchased pursuant to this law.

2. Realty portfolio:

The domestic realty portfolio held by the Kuwait Finance House and purchased by the State on 21.12.1991.

3. Selling parties:

The local banks and investment companies being under the control of the Central Bank of Kuwait as well as the Kuwait Finance House, which sold to the State the purchased debts and the realty portfolio, referred to in paragraphs (1,2) of this article.

4. Bonds

Bonds whether already issued or would be issued by the Central Bank of Kuwait and due form or secured by the State, against the purchase of the debts referred to in para (1) or against the purchase of the realty portfolio referred to in para (2) of this article.

5. The Clearance debts:

Balance of debts entailing from loans forwarded to Kuwait Investment Company, the Kuwait Foreign Trading, Contracting and Investment Company, or through them, to finance borrower requirements for the settlement of this obligations entailing from forward cheques issued against forward shares sale transactions duly recorded in the register of the Kuwaiti Clearance Company pursuant to the provisions of Decree-Law No. 57 of 1982 referred to earlier.

6. Client:

Indebted for the purchased debts or debtor for clearance debts guarantor of both. This includes the clients of the difficult debts (credit facilities) settlement program issued in 1986.

7. Administrator:

The bank sold to the State, the major part of the client's debts. Should Kuwait Finance House or any investment company be seller of the major part of indebtedness, the administrator shall be the bank acquiring the major part of the banks indebtedness. But if the indebtedness is restricted to the Kuwait Finance House or to the investment companies or both, then the Industrial Bank shall be the administrator. The Central Bank of Kuwait may appoint another administrator for the

indebtedness should the interest so dictate, pursuant to the approval of the bank proposed for administering as well as that of the client.

PART ONE PURCHASE OF DEBTS

Article (2)

In addition to the debts purchased in accordance with Decree-Law No. 32 of 1992 indicated above, the Central Bank of Kuwait shall, on behalf of the state, purchase the gross cash facilities forwarded to the following by the local banks and the investment companies being under control of the Central Bank of Kuwait, as well as the Kuwait Finance House prior 2.8.1990.

1. Natural persons, citizens of the Gulf Cooperation Council, within the scope of the balance outstanding plus interests, until the validity date of this law.
2. Kuwaiti clients, within the scope of amounts settled out of these facilities after 1.8.1990, and prior to the validity of this law. Such amounts shall be reconciled as spot cash settlements in accordance with the rates and brackets included in the schedule attached herewith besides refunding the settlement over the required level.

The purchase of facilities stipulated in the above two paragraphs shall be concluded after excluding the available provisions assigned thereto by the selling parties, against treasury bonds or against secured bonds, with some due during a maximum twenty year period starting on 31.12.1991.

The selling parties shall receive the returns due on the bonds issued, in accordance with para (1) of this article and effective from the validity date of this law, and also the returns due on the bonds issued in accordance to para (2) starting from 1.1.1992.

Article (3)

The purchased debts with all in kind and personal guarantees shall be transferred to the State. The provisions governing the promissory note as stipulated in the Civil Law shall apply thereto but without prejudice to either the provisions of this Law or the provisions of Decree-Law No. 32 of 1992 referred to hereinabove.

The promissory note shall be due from the debtor or from third party either starting from the date of the validity of this law or from the date of its acceptance by the debtor or the date of notifying him therewith, whichever date occurs earlier.

Further, the realty portfolio including all mortgages or securities due to third party on 31-12-1991 shall be transferred to the State. The Kuwait Finance House shall manage the portfolio gratis in favour of the State.

Article (4)

The Central Bank of Kuwait may offer annual returns on bonds. In this case the Central Bank shall be guided by the average cost of

funds at the local banks, provided that the return shall be the same for all bonds irrespective of the holder.

PART TWO COLLECTION OF DEBTS

Article (5)

Interests due on debts purchased for the period from 2-8-1990 to 31-12-1991, shall be written off. This applies to any client who abides by the settlement of his debt through one or more of the following settlement procedures.

1. Spot cash settlement of the debt within two years from the validity date of this law and in accordance with the rates and brackets shown in the schedule attached herewith.
2. Debt settlement on the basis of a maximum 12 years scheduling after the lapse of the grace period.

In all cases, the client must determine his preferred settlement procedure prior to 31-3-1994.

Article (6)

Pursuant to the provisions of the preceding article, debt scheduling shall be made in equal installments. Scheduling shall start from 1-4-1994, preceded by a grace period which expires on the day preceding the said date.

The installments shall be settled on the dates set by the Central Bank of Kuwait for all groups of debtors according to the scheduling conditions and taking into consideration debt precedence. Installment due dates shall be fixed according to the manner determined by the Central Bank of Kuwait during the first year of scheduling.

An annual discount rate of 8% shall be applicable to installments settled prior to their corresponding due dates during the scheduling period, should the scheduling be finalized according to para (2) of the preceding article.

Article (7)

In exception to the clearance provisions stipulated in the Civil Law, the compensations due to the client or to any of his minor children against detriments inflicted to his funds by the Iraqi invasion against the State of Kuwait and also the valuation moneys entailing from the expropriation of any realty owned by the client or any of those related to him, even if the expropriation had occurred prior to the enactment of this Law shall be considered as spot cash settlement of the debt besides the application discount rate on these amounts.

Excluded from the provisions of the above paragraph, shall be the funds that entail to minors whether through inheritance, will, or bequest by anyone not subject to the provisions of this law.

Article (8)

The client willing to schedule his debt in accordance with the provisions stipulated in articles five and six of this law, shall personally authenticate before Kuwait's Notary Public, not later than 31-3-1994, an official declaration to be considered as an enforceable deed according to the form attached with this law.

By virtue of such declaration, the client shall be committed to the following:

1. Settle his debt according to the provisions of this law.
2. Accept beforehand the settlement of his indebtedness out of any of his dues, in accordance with the provisions of the previous article.
3. Mortgage all client's assets whether in Kuwait or overseas, if not yet mortgaged, against his indebtedness provided that all mortgages should not exceed the total debt balance. The cash money mortgaged balances in favour of the selling parties, shall be accorded the same treatment as other mortgaged assets.
4. The shortage in the value of securities referred to in para (3) of this article shall be compensated by any moneys entailing to him through any means including inheritance. He will undertake to cover the shortage of such securities whenever they are revalued annually, within three months from the date of notifying him by a registered letter.
5. Opening an account with the Administrator for scheduling purposes.
6. To employ his manageable credit balances due from banks in a way that serves the debt.
7. To manage his mortgaged assets or the would be mortgaged assets in accordance with the rules and procedures stipulated in the Executive Bill.

With regard to the client favouring spot cash settlement in accordance with the provision of article 5 hereof, he must personally authenticate before Kuwait's Notary Public, not later than 31.3.1994, an official declaration accompanied with the self-execution formula, according to the form attached with this law, by virtue of which the client shall be committed to the following, unless he settles his debt within the aforesaid period:

1. Spot cash settlement of the debt within two years from the validity date of this law, in accordance with the rates and brackets shown in the attached schedule.
2. Accepting beforehand, the settlement of his debt out of any of his dues in accordance with the provisions of the preceding article. This will be made on the basis of the bracket denoted in the schedule attached herewith, as applicable to his debt.

Article (9)

The provisions of this law shall be applicable to the client who is required to settle his debt through court procedures or who litigates over the debt origin and value. If the client adheres to the book balance according to the selling party's register, the competent court shall consider the plaintiff relieving his lawsuit and the appellant relieving his appeal, provided that the appellee assign to the government and entrusts it with the execution of the stipulation of the verdict ruled in his favour.

Further, the client may request to benefit from the provisions of this law, even if a final judicial ruling was issued in his favour, provided that he abides by the book balance shown in the selling party's register.

Article (10)

The Administrator acting in legal capacity for the State shall carry out the following gratis:

1. Compute and review clients balances related to the purchased debts.
2. Evaluate and re-evaluate the annually mortgaged assets, and notify clients about the need to complete any shortages therein. The client shall be borne with the burdens ensuing therefrom.
3. Carry out the cash spot settlement of the debts or scheduling the same, in accordance with the provisions of this law.
4. Collecting his indebtedness out of the value of mortgaged assets if the client violates the scheduling terms or obligations stipulated in this law.
5. Carrying out all legal and judicial procedures against the clients who violate their commitments stipulated by the law.
6. Any other acts stipulated by this law and the Executive Bill.

Article (11)

The client shall notify the Administrator about any lawsuit to which the client is a party, even if filed in courts abroad. The Administrator shall interfere in the lawsuit if the ruling issued in connection therewith obligates the client thus weakening the creditors' public guarantee, or if the ruling affects his financial position thus leading to his failure in settling the debt, or if the ruling was issued without

the Administrator interfering in the lawsuit filed with the national judicature, but being entitled, in his capacity as extraneous to the suit, to raise objection to the verdict without abiding by the terms stipulated in article (158) of the Civil and Commercial Pleadings Law.

Article (12)

All the client's funds shall guarantee debt settlement. The State shall have the priority right above all ordinary creditors, if their debt dates were not fixed prior to 2.8.1990.

The client's acts shall not be valid before the State after the aforesaid date if they are issued to any relatives up to the second degree.

Article (13)

In case the client fails to select a debt settlement procedure during the period stipulated in article (5) hereof, or fails to make a spot cash settlement of his debt within two years starting from the enactment date hereof or delays settlement of any installment for more than thirty days, or violates any of his commitments stipulated by this law or by the Executive Bill, the debt shall be due and the client shall be obliged to settle the debt and its attributes as well as any debt clearance until the settlement date.

PART THREE
PROVISIONS GOVERNING DECLARATION OF
BANKRUPTCY OF THE CLIENT IN DEFAULT OF
PAYMENT

Article (14)

The Public Prosecution may request the declaration of the bankruptcy of a client in default of settlement in accordance with the provisions of this law. The Public Prosecution's request shall imply urgency as stipulated by article (559) of the Commercial Law.

The bankruptcy declaration application shall be forwarded with a petition to the President of the Court of the First Instance. The Court shall adopt, as to procedure, the summoning of the litigants to appear before the Court, and as to ruling issued thereon, the provisions of the preceding paragraph.

The Court of First Instance shall assign one or more special circuit to declare the bankruptcy of clients being subject to the provisions of this law. The special circuit shall consist of three judges and the Court in its bankruptcy verdict shall appoint Kuwait Investment Authority as official receiver. For the declaration of bankruptcy, the provisions of Book Four of the Commercial Law shall be applicable by the Court as to any matter not covered by a stipulation in this law. The application for the declaration of the client's bankruptcy shall entail banning him from travelling abroad, unless the Court orders lifting of such ban.

Article (15)

The Public Prosecution shall report on the financial position of the client under the declaration of bankruptcy procedures which report shall include in particular the evaluation of the following:

1. His assets whether in realities or movables being within or outside the country.
2. His credit balances and collection possibilities thereof.
3. Other debts including debts due to forward share transactions.
4. His privileged or priority debts.

The Public Prosecution, as soon it concludes its report, shall submit a copy thereof to the Court, and shall publish a notice thereon in the Official Gazette and at least in two other daily newspapers. The concerned party being subject of the report, his creditors and debtors shall have the right to review the report or obtain a copy thereof.

Article (16)

The Public Prosecution, while writing referred to in the preceding article, shall carry out the investigations required to ensure whether the debtor referred to the Prosecution has concealed or transferred any funds overseas.

Article (17)

In exception to the provisions, stipulations and procedures relating to bankruptcy composition provided for by the Commercial Law, the concerned subject of bankruptcy declaration procedures or Kuwait Investment Authority may make proposals to the competent Court regarding bankruptcy conciliation composition.

After hearing the statements of the concerned, Kuwait Investment Authority, or any of his creditors, the Court shall decide whether to pursue the consideration of the bankruptcy application, or agree to

the bankruptcy conciliation composition, if convinced that the terms proposed by the concerned were appropriate, provided that it obtains the approval of one quarter of his creditors acquiring fifty percent of the due debts.

This ruling shall represent a signature by all creditors on the minutes of the composition as well as a Court ratification thereto.

The procedures and rulings stipulated in the Commercial Law, being subsequent to the Court's ratification of the bankruptcy composition, shall apply to the remaining composition procedures effected by the Court.

Article (18)

The Kuwait Investment Authority shall report to the competent court considering the bankruptcy on the procedures taken with regard to making a list of the debtor's funds, receiving and administering the same.

The report referred to in the aforesaid article (15) hereof shall be considered as a list of debts pursuant to article (658) of the Commercial Law.

The court issuing the bankruptcy declaration ruling shall decide on the litigated debts instead of the bankruptcy judge.

Article (19)

Judicial conciliation and conciliation after relinquishment of funds shall be effective upon a ruling by the Court declaring the bankruptcy after the approval of Kuwait Investment Authority, and after hearing the statements of the bankrupt or any of his creditors.

This shall not require the adoption of special procedures relating to the conciliation committee denoted in the Commercial Law.

The debtor shall be deemed solvent according to article (699) of the Commercial Law if his assets were equal to his due debts.

Article (20)

The Kuwait Investment Authority shall assume the capacities of Official Receiver, and Bankruptcy Controller and the Director of Creditors' Committee, in accordance with the provisions of the Commercial Law, which capacities shall apply to all bankruptcies indicated in this Law. Further, Kuwait Investment Authority shall assume the capacity of composition controller as stipulated in the Commercial Law, concerning any composition ruled in accordance with the provisions of this law.

The sums collected after selling the bankrupt's funds shall be deposited with the receiver's treasury, in exclusion to article (725) of the Commercial Law.

Article (21)

If the bankruptcy is closed due to the inadequacy of funds, or if temporary distributions were made, or if amounts were collected due to judicial composition or due to composition after relieving funds, and upon the end of bankruptcy and in all cases of temporary or final distributions in accordance with the provisions of Commercial Law, the receiver shall take receipt of such funds. Then the funds shall be distributed to creditors each pro-rata to his share of the bankruptcy

but without prejudice to their rights stipulated in articles (666) and (732) of the Commercial Law, with due consideration to the provisions of article (12) hereof.

Article (22)

Irrespective of the reasons lying behind their debts, all creditors and debtors shall be notified with all sessions, dates, settlement procedures, bankruptcy declaration procedures and bankruptcy composition. Such shall be made in accordance with the provisions hereof and through all procedures and lawsuits ensuing from the bankruptcy and inquisition of the debt by publication in the Official Gazette and at least two daily newspapers.

**PART FOUR
PENALTIES AND PROTECTIVE MEASURES**

Article (23)

Without procedure to any greater penalty stipulated by the law, anyone who withholds a fact, or manipulates a fact, or invents either a debenture or an act not supported by factual evidence, or withholds a debenture or the untrue act or that wherein the facts were manipulated in order to evade debt settlement, shall be jailed for a period not exceeding five years and fined a maximum sum of five thousand Kuwaiti Dinars.

Article (24)

Anyone who submits or divulges to any judicial authority or any other official party incorrect statements or data or commits forgery or falsification of a certificate or declaration intended to enable the culprit to evade penalty due to committing any crime stipulated in this law, shall be penalized as stipulated in article (23) of this Law.

Article (25)

Without prejudice to any greater penalty stipulated by law, any of the administrator's staff members of any party concerned with implementing this Law found in default while carrying out his duties imposed by this Law, in a way that entails the loss of the State's right in collecting its debts or obtaining the adequate guarantees therefor, or if such default causes the same, shall be imprisoned for maximum one year and fined a maximum KD 5,000 or punished by either of the said penalties.

Article (26)

Anyone having knowledge of a plan for committing a crime prescribed by this Law, or having knowledge of the actual occurrence thereof, and refrains from notifying the public authorities or administrator, shall be imprisoned for maximum one year and fined KD 5,000 or punished by either of the said penalties. This provision shall not apply to spouse, close or distant relatives.

Article (27)

Any behavior by the convict whether concerning the funds subject of crimes stipulated by this Law or concerning those to whom such funds were transferred, shall be considered null and void if they aim at the loss of the State's right to collect the debt, even if such

behavior occurs prior to the enforcement of the provisions of this Law.

The nullification stipulated in the foregoing paragraph shall not be applicable to compensations made to persons having good intentions. A person shall not be considered having good intentions if he had knowledge or could have had known about the crime or the motive behind the behaviour.

Article (28)

Any client who fails to settle his indebtedness or his commitments and obligations whether stipulated in this Law or in the official declaration indicated in article Eight, or any client submitting incorrect statements in the said declaration, shall be referred to the Public Prosecution.

The Public Prosecution shall take the following measures, in case of adequate evidence that the client had committed any of the crimes prescribed by this Law:

1. Reservation order on any papers or documents deemed necessary for uncovering the truth.
2. Request for the statements and data required for performing its tasks from the Central Bank of Kuwait or from the parties indicated in article One hereof or from the Audit Commission or any other party.
3. Entrusting law officers to collect evidence about the debtor, the assets he holds and the securities he withheld.

The Public Prosecutor shall notify the competent authorities to investigate any matter committed by any of those entrusted to

implement this Law and found in breach of their duties or investigate on any default in carrying out their work.

The Public Prosecutor may request disciplinary measures against the violator, without prejudice to penal inquiry in cases requiring the same.

Article (29)

The Attorney General or any Advocate General acting on his behalf, shall have the authority to take the measures stipulated in article (24) of Law No. (1) of 1993 concerning the Protection of Public Funds in regard to those accused of committing the crime stipulated in Article (23) hereof, their spouse or their adult or minor children or others.

In this case, the provisions of articles (25) and (26) of the said Law No. (1) of 1993 shall be effective. The Kuwait Investment Authority shall administer these funds; for this purpose, it shall enjoy the powers stipulated for the receiver provided in the Civil Law.

Any acts by the aforementioned concerning the funds administered by the Kuwait Investment Authority following the issuance of a ban on disposal shall be deemed null and void. The ban on disposal or administration shall not be lifted except after collection by the State of its stipulated rights in this concern in conformity with this Law, unless an order is issued by the Attorney General to leave the case or to acquit the concerned, without prejudice to the bankruptcy declaration rules.

Article (30)

In all cases, Kuwait Investment Authority shall not, in its capacity as a receiver, be responsible for the debts of the concerned except within the limit of funds subject to receivership. The creditors of the

subject shall notify Kuwait Investment Authority about his debt as to value and justification thereof, as well as submit his debenture within thirty days from the date of publishing the said order imposing ban on disposal in the Official Gazette and in one daily newspaper. Otherwise, his right to submit a claim to the receiver shall lapse.

Article (31)

No measure taken against the client pursuant to those stipulated in article (29) above shall prevent levying an execution on such funds and having obligatory execution thereon to enable collection by the state of its debt stipulated in this Law.

Levying execution on debtor's funds and sale thereof shall be made pursuant to the execution procedures stipulated by the Civil and Commercial Pleadings Law.

**PART FIVE
GENERAL AND FINAL PROVISIONS**

Article (32)

The Administrator shall follow up any funds received by the client through any mean including inheritance. The competent authorities of the Ministry of Justice and the parties concerned with enforcing this Law shall supply the administrator with any data in their possession in this regard.

Article (33)

If any holder of the joint account with any of the selling parties becomes subject to the provisions of this Law, the debit position shall be segregated and the account balance shall be distributed equally among them, unless agreement was made to otherwise prior

to the indebtedness purchase date. None of them shall be deemed as guarantor of the other or responsible for the debt in the course of applying the provisions of this Law.

In case of more than one guarantor per single debt, the indebtedness deficit shall be distributed among them after the debtor's settlement in accordance with the provisions of the foregoing article.

Article (34)

Evaluation sum in case of expropriation or sums of compensation for the damages caused by the Iraqi invasion shall not be disbursed before the presentation of a certificate of clearance from the purchased debt by the beneficiary.

Article (35)

The period from 2-8-1990 until the enforcement date of this law, shall not be included in the periods, which if they lapse, would prevent a hearing for government claim regarding the debt stipulated in this Law.

Article (36)

The Central Bank of Kuwait shall submit an annual report to the government, on the debt positions. This shall include the debts settled through spot cash settlement, statement of scheduled debts, annual amounts collected against such debts, returns paid on bonds issued, bonds recovered, and the legal measures taken against clients not abiding by the provisions of this Law.

Article (37)

The government shall submit to the National Assembly together with the State Budget, a report including the following:

1. Debts collected.
2. Measures taken against clients in default of their obligations and the number of these clients. Further, such report shall

include the number of those against whom verdicts were issued, or judicial or penal measures were taken.

3. Outstanding debt balance and the distribution thereof according to relative brackets.
4. Efforts made for collection by Administrators.

Article (38)

The financial provisions required for implementing this law shall be derived from the State General Reserve. A special account shall be set up wherein the debts collected shall be deposited. The account will be employed for implementing this Law.

Article (39)

Maximum limit for the original value against bonds issued, including bonds issued according to this Law shall be KD 5,750 Million (Five Thousand Seven Hundred and Fifty Million Kuwaiti Dinars).

Article (40)

The provisions of the Civil and Commercial Pleadings Law, as well as the Penal and Procedural Act shall prevail in case they are consistent herewith.

Article (41)

The Executive Bill of this Law shall be issued by a Council of Ministers' order. The bill shall include the rules and procedures required for the purchase of debts and issue of bonds. Further, it will include the rules and procedures for debt scheduling, and management of assets whether mortgaged or subject to receivership or owned by a debtor banned from disposing thereof. It will also include rules, principles and arrangements for returning the real estate portfolio to the Kuwait Finance House, as well as other ruled, principles, and conditions which according to this Law should be

included in the Executive Bill or those required by the provisions included herein.

Article (42)

The Prime Minister and the Ministers, each within his competence, shall implement this Law which will be published in the Official Gazette.

The Law will be effective from the date of publishing thereof in the Official Gazette.

AMIR OF KUWAIT

Jabber Al-Ahmad Al-Sabah

Issued at Bayan Palace

On 20 Rabi Al-Awal 1414 A.H.

Corresponding to 6th September 1993 A.D.

Spot Cash Settlement Brackets and Ratios Table

Bracket	Ratio of Settlement at the end of the Defined Settlement Period
Zero – 50,000	25%
50,000 – 100,000	30%
100,000 – 250,000	35%
250,000 – 500,000	40%
Over 500,000	45.64%

1. In cases where the debt falls within more than one bracket the ratio pertaining to each bracket shall be applicable.
2. The ratios stipulated herein, shall be reduced by 0.5% for each 3-month advance settlement.

OFFICIAL DECLARATION BY

Client willing to make a spot cash settlement of his debt

According to Article 8 of the Law No. 41 of 1993 on the State Purchase of Select Debts and of Collection Procedures:

On this dayin Kuwait City

Corresponding to

Before me,

In presence of

1.

2.

Both witnesses acquiring all legal characteristics and attesting the identity of the client.....

In the presence of

Mr.(debtor/guarantor)

Messrs.(debtor/guarantor)

PREAMBLE

Pursuant to Article 8 of Law No. 41 of 1993 on the Purchase by the State of Select Debts and Collection Procedures which stipulates that in order to benefit from the provisions stipulated by articles 5 and 6 of this Law "the client shall personally authenticate before Kuwait Notary Public and within a maximum period of six months from the date of promulgating this Law, an official declaration in self-execution form committing himself to the settlement of his debt in accordance with the provisions of this law".

Article (1)

I hereby declare that all statements, data, certificates and papers submitted by me to the Administrator for settling my debt in accordance with this Law are correct and conform to the facts.

Article (2)

I acknowledge that my indebtedness to the State is valued atas at 199....., and I agree to settle the said debt in accordance with Law No. 41 of 1993.

Article (3)

I acknowledge my commitment to spot cash settlement of my debt in accordance with the ratios and brackets detailed in the table attached to Law No. 41 of 1993 concerning the State Purchase of Select and Collection Procedure.

Article (4)

I acknowledge notifying the Administrator about any lawsuit wherein I am a party even if raised before courts abroad.

Article (5)

I acknowledge that failure of making spot cash settlement of my debt within two years from the enforcement date of Law No. 41 of 1993, or breach to any of the commitments imposed on me by this Law or its Executive Bill, would entail the immediate payment of my debt which I am committed to pay besides any attributes and discounts until the settlement date, together with the entitlement by the Administrator to take all measures required as empowered him by this Law and the Executive Bill.

Further, I authorize the Administrator to receive the original executive form of this declaration after being authenticated and affixed with the self-execution form by the Real Estate Registration and Authentication Department.

This declaration was drafted comprising the foregoing, and after having it read before those attending, they signed together with me thereon.

Debtor/guarantor:

First witness:

Second witness:

Official Declaration

**By client willing to make a spot cash settlement of his debt
According to Article 8 of the Law No. 41 of 1993 on the State
Purchase of Select Debts and Collection Procedures.**

On this dayin Kuwait City

Corresponding to

Before me,

In presence of

1.

2.

Both witnesses acquiring all legal characteristics and attesting the
identity of the client

In the presence of

Mr.(debtor/guarantor)

Messrs.(debtor/guarantor)

PREAMBLE

Pursuant to Article 8 of Law No. 41 of 1993 on Purchase by the
State of Select Debts and Collection Procedures which stipulates that
in order to benefit from the provisions stipulated by articles five and
six of this Law "the client shall personally authenticate before
Kuwait's Notary Public within six months maximum from the
promulgation date of this Law, an official declaration in self-
execution form, committing himself to the settlement of his debt in
accordance with the provisions of this law".

Article (1)

I hereby declare that all statements, data, certificates and documents
submitted by me to the Administrators for settling my debt in
accordance with this Law are correct and conform to the facts.

Article (2)

I acknowledge that my indebtedness to the State is valued at as at 19..... and that I agree to settle the said debt in accordance with the provisions of Law No. 41 of 1993.

Article (3)

I pledge to mortgage in favour of the administrator the un-mortgaged assets held by me whether in the country or abroad against my debt. I also undertake to cover the shortage in these guarantees from any funds I receive through any means including inheritance, bequest, or will. And I shall cover any shortage in guarantees when revaluated yearly, within three months from the date I am notified by returned registered mail

Article (4)

I undertake to open an account with the administrator for scheduling purposes.

Article (5)

I undertake to employ my bank credit balances in a way that benefits the debt.

Article (6)

I hereby undertake to manage my mortgaged assets and those which will be mortgaged according to the rules and procedures stipulated in the Executive Bill of Law No. 41 of 1993 on the State Purchase of Select Debts and Collection Procedures.

Article (7)

I pledge not to file any lawsuit and not to litigate judicially on any debt element and that the scheduling between me and the Administrator is finally binding for me.

Article (8)

I hereby declare not to withhold from the Administrator any movable funds or real estate whether within the country or abroad, and shall not withhold any statements data, certificates or documents or otherwise shall expose myself to the civil and criminal penalties stipulated in Law No. 41 of 1993 or any other Law.

Article (9)

I pledge to notify the Administrator about any lawsuit to which I am a party even if filled with overseas Courts.

Article (10)

I undertake that in case of delaying the settlement of any installment for more than 30 days or breach of any commitments imposed on me by Law No. 41 of 1993 or its Executive Bill, my debt shall immediately fall due, and I undertake to settle the debt, its attributes and any discounts made until the settlement date. The Administrator shall take all measures empowered him by the Law and the Executive Bill. Further, I authorize the Administrator to receive the original executive form of this declaration after being authenticated and affixed with self-execution form by the Real Estate Registration and Authentication Department.

This declaration was drafted comprising the foregoing, and after having it read before those attending, they signed together with me thereon.

Debtor/Guarantor

First Witness

Second Witness

Explicatory Note to Law No. 41/1993 on State Purchase of Select Debts and Collection Procedures

The vicious Iraqi invasion and occupation period has aggravated the debt problem of the banking and financial sector units, due to failure of settlement.

This resulted in the disorder of the financial status of these units due to the non-availability of adequate provisions against these debts.

Consequently, these units faced a solvency problem that adversely influenced their financial position, with regard to their relations within the country or overseas.

Such situation has reflected negatively on the economic condition in general, thereby necessitating addressing the status of the banking and financial sector, to enable it to regain its vigour in serving the Kuwaiti economy.

Accordingly, the Central Bank of Kuwait was permitted to purchase the total debts of Kuwaiti clients due to local banks and investment companies as well as the Kuwait Finance House, outstanding at 1-8-1990 plus any interest due thereon until the purchase date. Further, the Central Bank was licensed to purchase the domestic real estate portfolio of the Kuwait Finance House.

The debts were purchased at book value at purchase date, after excluding the declared increase in shareholders equity outstanding in 1985, the provisions set and available therefor, 50% of the general

and secret reserves and any other surplus as well as the activity surplus outstanding at the end of 1991.

These amounts were discounted with the provisions required for coping with the risks of un-purchased debts, and by the financial investment portfolio and other risks, besides commitment to return to the purchasing party the provisions surplus after achieving the objective for which they were set.

The State issued in favour of the selling parties bonds against the debt purchase value.

This Law on the State Purchase of Select Debts and Collection Procedures was drafted out of concern to set the stipulations and rules that guarantee the State collection of purchased debts according to regulations that safeguard public funds, and at the same time give serious clients willing to settle their purchased debts the appropriate facilities which entail the least cost possible to be encumbered by public funds, in a manner enabling the citizens to quickly settle their debts so that matters revert back to normalcy as soon as possible. These measures are simultaneously accompanied with steps designed to penalize anyone attempting to delay the settlement of his debts, therefore, including the following main provisions:

1. Collection of purchased debts according to a tight mechanism that is not subject to any interpretation as to debt scheduling and settlement, besides allowing the client to select any debt

settlement procedure according to his own circumstances and in a manner that secures the recovery of the State Rights.

2. Granting the client a grace period to have the adequate chance for arranging his position. Also this law aims at encouraging him to select the cash spot settlement procedure through computing a settlement rate out of the debt due. For this purpose, the Law allows fund debt scheduling methods at equal installments, as well as allowing the client to make advance settlement of installment before they fall due by the client who can benefit from a discount applicable to settled amounts.
3. Deducting interests on the client's indebtedness within the period from 2-8-1990 until 31-12-1991, because some of these interests were due during the Iraqi occupation period, provided that the client is committed settle his debt in accordance with any of the settlement procedures indicated in this Law.
4. Purchase of the debts of the Gulf Cooperation Council citizens that originated before 2-8-1990 and still outstanding on the date of promulgating this law, will ease their positions and bolster economic ties among GCC citizens.
5. Realizing the principle of justice and equality among Kuwaiti clients without doing injustice to the sincere client who has

initiated the settlement of part of his debts without waiting for any procedures or solutions to be issued in this regard, through purchase of any settlements made by Kuwaiti clients during the period following 1-8-1990 and until the validity date of this law.

6. Laying down harsh penalties that guarantee adherence to the provisions of the Law, and punishment of any one who withholds facts or alters the truth with the aim of evading debt settlement. Hence, the Public Prosecution is empowered to exercise the same authority and reservation procedures concerning anyone who commits the crime stipulated in this Law, as those instituted in accordance with Law No. (1) of 1993. This rests on the fact that the provisions for the crime stipulated herein aim ultimately at protecting public funds.
7. Laying down speedy and decisive procedures for the declaration of bankruptcy of the client who stops payment of his debts. This will be conducted in a manner that guarantees the State's speedy collection of its dues from the money of the bankrupt, thus protecting the debt purchased by the State.
8. Organizing National Assembly control over the implementation of the provisions of this Law, through committing the government to submit an annual report on all aspects concerning the collection and administering of purchased debts as well as other matters.

The Law includes a preamble and four Parts. The preamble is provided for specifying the definitions of some terms referred to in the main text thereby defining *Purchased Debts, Realty Portfolio, Selling Parties, Bonds, Clearance Debts, Client, and Administrator.*

The definition of this Administrator stipulates that it should be a bank, because banks have the bodies and potentials to competently manage debts.

Part One organizes the purchase debts. Article 2 adds to the debts whose purchase was approved, granting license to the Central Bank of Kuwait to purchase debts of natural persons from the Gulf Cooperation Council States, as they are outstanding plus interest until the enforcement date of this Law. Therefore, any settlement until the validity date of this Law shall be excluded from the debt. Moreover, the Central Bank is granted permission to purchase amounts settled by the Kuwaiti clients after 1.8.1990 in order to achieve equal treatment granted to all Kuwaiti clients. Hence, such amounts shall be considered as spot cash settlement, and this entails benefitting from the settlement ratios included in the schedule attached herewith.

Article (3) stipulates the transfer of the debts purchased to the State, together with all in kind and personal securities. This shall also apply to promissory notes stipulated in the Civil Law.

Article (4) grants license to the Central Bank of Kuwait to grant an annual return on issued bonds, guided by the average cost of funds deposited at local banks. The return rate shall be unified for all bonds irrespective of the owner.

Part Two deals with the arrangements for collection of debts. Accordingly, article (5) dropped interest due on purchased debts for the period from 2-8-1990 to 31-12-1991, conditional on the client's abidance with debt settlement according to any settlement procedure as follows:

- a) Spot cash settlement of the debt within two years from the validity date of this law. In this case the client shall benefit from the minimum debt brackets settlement rates, besides cutting these rates by 0.5% (half a percent) for every speedy settlement during a three month period and within the two years allowed for client settlements.
- b) Debt settlement on the basis of a maximum twelve year scheduling after the lapse of the grace period. In this case, the client shall not shoulder the burden on his debt.

This article stipulates that in all cases the client must select the settlement procedure he deems appropriate prior to 31-3-1994.

It goes without saying that the guarantor shall not have the right to select the appropriate settlement procedure, unless the debtor abstains from doing so.

Article (6) indicates that debt scheduling shall be over equal installments according to the scheduling period.

Scheduling shall start from 1-4-1994 preceded by a grace period ending on the day preceding the said date.

Installments will be settled at the dates set by the Central Bank of Kuwait for various groups of debtors in accordance with the scheduling conditions, taking into consideration debt precedence.

To encourage clients to settle the installments prior to the due date indicated in the scheduling list, this article stipulates a discount rate of 8% to be applicable to installments settled prior to the due date, if the scheduling is made according to clause 2 of Article (5).

Article (7) stipulates utilization of compensations due to the client because of the Iraqi invasion and the real estate expropriation amounts, as spot cash settlements for the debt. This applies to moneys due to minors, except for amounts received by them by way of inheritance, will or bequest from persons not being subject to the provisions stipulated in articles (425) to (432) of the Civil Law.

Article (8) imposes on the client certain conditions in order to benefit from the settlement procedure, the discount rate and the grace period stipulated in this Law with regard to the client favouring scheduling.

The most important condition is that the client must authenticate an official declaration with self-execution form from before the Notary Public of Kuwait not later than 31-3-1994. Accordingly, he shall be

obliged to settle his debt, mortgage any assets he holds but not mortgaged against purchased debts, and complete any shortage in securities, beside other conditions deemed necessary.

However, the client favouring the spot cash settlement of his debt, shall sign a declaration in accordance with the rates and brackets detailed in the schedule attached herewith, and also settle the debt through any of his dues according to the provisions of article (7).

In this context, it is needless to mention that spot cash settlement of the debt by the client in accordance with the rates and brackets detailed in the schedule attached herewith during the defined period, shall exempt the client from submitting the required official declaration in accordance with the provisions of this Article.

The debtor and his guarantor shall abide by the terms stipulated in this article. The abstention of one or more clients from abiding by these terms, does not impede a debtor abiding by the provisions of articles (5) & (6) of the Law from benefitting therefrom.

The Administrator may take all the measures stipulated in such case against the abstaining guarantor alone.

In order that the financial positions of all parties stabilizes, article (9) stipulates the validity of the provisions of this Law for the client

subject of a judicial claim to settle his debt, provided that he shall be committed to the book balance shown in the selling party's register. Also, this Article permits the client to benefit from the Law provisions, even if a final judicial ruling was issued in the litigation in his favour, on the proviso that he shall abide by the book balance shown in the registers of the selling party.

Article (10) defines the authorities of the Administrator, in a way that allows him in his capacity as acting legally and gratis on behalf of the State, to administer the purchased debts, to follow the collection thereof, take all legal or judicial measures against clients who fail to live up to their commitments according to the Law, and also trace the client's indebtedness as to the value of mortgaged funds, in case he is in breach of the scheduling procedures or if he fails to honour other commitments.

Article (11) obligates each client to notify the Administrator of any lawsuit in which he takes part. In this case, the Administrator has to interfere in the lawsuit, if the ruling issued thereon imposes on the client a commitment that weakens his general guarantee before creditors, thus making him incapable of settling his debt.

Article (12) stipulates that all the client's funds shall jointly guarantee his debt settlement. The State shall have preference over

all the ordinary debtors whose debts dates were not fixed prior to 2-8-1990.

Any acts by clients after this date shall be invalid if issued to relatives up to the second degree.

This Part concludes with article (13) which stipulates a penalty for the delay by the client in settling any due installment. It stipulates that if delay continues for more than thirty days, or if the client abrogates any of his other commitments imposed by this Law or the Executive Bill, then the original debt shall immediately fall due for payment and the debtor shall settle the debt, its attributes and discounts thereof until the date of settlement.

All the foregoing measures shall take place without prejudice to the possibility of referring him to the court in conformity with law provision, in addition to taking measures to declare him bankrupt whenever the conditions for applying these penalties exist.

Part Three includes special provisions on declaring the bankruptcy of the client who stops payment.

These aim at simplifying the bankruptcy procedures and at speeding up the finalization of these procedures, in order to safeguard the right of the State to collect its funds.

Article (14) stipulates the powers of the Public Prosecution to demand declaration of bankruptcy of the client who stops settlement. This demand should be treated as urgent and should be investigated by a special circuit of the Court of the First Instance.

The Court shall appoint, for the declaration of bankruptcy procedures, the Kuwait Investment Authority (KIA) as Bankruptcy Administrator, because the KIA is the body authorized to invest State funds, and possess the capability and competence to control the bankruptcy and direct it in the proper manner that guarantees good management.

Article (15) stipulates that the Public Prosecution shall report on the financial position of the client whose bankruptcy should be declared, and a copy of the report shall be forwarded to the Court.

The Public Prosecution shall also publish a statement on the bankruptcy in the Official Gazette and in at least two dailies. The Article authorizes the party concerned with the report, his creditors and debtors to review such report or receive a copy thereof.

According to Article (16), the Public Prosecution shall, while preparing the report, carry out necessary investigations required to affirm whether the debtor referred thereto has withheld any funds or transferred the same overseas.

Article (17) includes special provisions to simplify composition arrangement as stipulated in the Commercial Law.

Article (18) stipulates that the Kuwait Investment Authority shall report to the competent court handling the bankruptcy on measures taken for calculating, receiving and managing the debtor's funds.

It also stipulates that the report referred to in article (15) shall be considered in lieu of a list of debts in accordance with article (658) of the Commercial Law. The court which issues the bankruptcy verdict shall, instead of the bankruptcy judge, decide on the debts litigated.

Article (19) deals with the provisions for judicial conciliation and conciliation after relinquishment of funds, whereby this will be effective upon a ruling from the court that declares the bankruptcy, and following the approval of the Kuwait Investment Authority and hearing the statements made by the bankrupt or any of his creditors desirous of making such statements.

This will not require following the procedures on the conciliation committee stipulated by the Commercial Law. The debtor's situation shall be deemed to have eased pursuant the provisions of Article (699) of the Commercial Law should his assets be equal to his incumbent debts.

Article (20) stipulates that the Kuwait Investment Authority shall have the capacities of Bankruptcy Administrator and Controller, Director of the Creditors Union as well as Conciliation Controller in the manner that enables the KIA to direct and control the bankruptcy. The money collected from sale of bankrupt funds shall be deposited with the Administrator's Treasury.

Article (21) states that the Administrator shall receive the funds if the bankruptcy is closed due to the inadequacy of such funds, or after making temporary distributions or receiving amounts due to judicial conciliation, or conciliation after relieving funds, or when the bankruptcy is closed.

In all such cases, the Administrator shall distribute the bankruptcy funds to all creditors each according to his share in the same.

Out of keenness on quick measures, article (22) stipulates that all creditors and debtors shall be notified on all procedures and lawsuits ensuing from the bankruptcy, as well as verifying the debts by way of publication in the Official Gazette and at least two daily newspapers.

Part Four deals with penalties and precautionary procedures. Article (23) stipulates the penalization of anyone who premeditatedly withholds facts on his funds in order to evade debt settlement.

Article (24) penalizes anyone who submits to the judicial or other official bodies incorrect statements or data, or forges a certificate or declaration, thus enabling the perpetrator to evade penalty concerning any of the crimes stipulated in this Law.

Article (25) penalizes any staff member, whether under the Administrator or under any other party concerned with the implementation of this law, in case of breach lead to the loss of the right of State to collect its debts or to have the adequate guarantees, or if such breach leads to the said.

Article (26) tightens the penalty on anyone knowledgeable about a plan to commit a crime as stipulated by this law or knows about its actual occurrence but refrains from reporting it. The Article excludes the spouse, first degree relatives as well as offspring from this stipulation.

Article (27) reviews the acts of the convict concerning the funds related to the crimes stipulated by this Law or to those who received such funds, thereby considering these acts null and void even if concluded prior to the validity of this Law, if they were intended to prevent the State from exercising its right to collect the debt. However, consideration was given to other well-meaning persons who receive such money in compensation.

A person shall not be considered acting in good faith if he could have possibly known about the crime or the purpose of the act.

Moreover, the Article stipulates in all cases that the right to nullify the act shall not be rescinded unless after the lapse of fifteen years from the date on which it occurred.

Article (28) necessitates referring to the Public Prosecution, every client who does not honour his commitments or pledges, so that the Public Prosecution ensures the presence of adequate evidence on charging the client with committing a crime, or assume its powers on demanding the declaration of his bankruptcy, in addition to powers entrusted to it by virtue of this Article.

Whereas Law No. (1) of 1993 on the Protection of Public Funds stipulates the precautionary measures to be taken in regard to public fund crimes, and since the crimes stipulated by the present Law represent a violation against public funds, hence these measures shall be applicable thereto because of the same inherent reason.

Therefore, Article (29) stipulates that the Attorney General or any Advocate General acting on his behalf shall have the right to take the measures stipulated in Article (24) of Law No. (1) of 1993 on the Protection of Public Funds, pertinent to the defendant who commits

the crime stipulated in Article (23) of this Law or concerning his spouse or minor or adult children or others.

Article (29) stipulates that in such case, the provisions of articles (25) and (26) of Law No. (1) of 1993 indicated above shall prevail, provided that Kuwait Investment Authority shall manage these funds and shall have for this purpose the powers of the receiver as stipulated in the Civil Law.

Any disposal of the public funds subject to be administered by Kuwait Investment Authority following the promulgation of the order that bans disposal shall be deemed null and void. This ban shall not be lifted unless after the collection by the State of its dues, and the order by the Attorney General either to leave the lawsuit or acquittal thereon.

Article (30) stipulates that the Kuwait Investment Authority shall not be in its capacity as a receiver responsible for debts of those subject to its control, except within the limit of the funds subject to receivership.

According to Article (31), any measures taken against the client, which measures are included in the measures stipulated in article (29), shall not withhold the effectuation of seizureship and compulsory execution on these funds, in order to collect the debts of the State as stipulated in this Law.

The Law concludes with Part Five, which includes general and conclusive provisions. Thus, article (32) necessitates that the Administrator shall monitor any funds that reach the client through any means including inheritance.

Further, the Article obligates the Ministry of Justice competent authorities and other parties concerned with the implementation of this Law to furnish the Administrator with any data available in this regard.

Article (33) stipulates that if any of the joint account parties becomes subject to the provisions hereof, then their debit balance shall be segregated and the account balance shall be equally distributed among those concerned; and none of them shall be considered as guarantor for another or liable for the debt in the course of implementing these provisions.

All such steps shall apply unless otherwise agreed prior to the debt purchase date. In case of multiple guarantors per single debt, the deficit balance shall be distributed among them after the debt settlement by the debtor.

Article (34) stipulates the non-payment of evaluation money in case of expropriation or disimbursement of compensation for damages inflicted by the Iraqi invasion, prior to submitting a certificate of non-indebtedness concerning the purchased debt.

Article (35) stipulates disregarding the period from 2-8-1990 until the validity date of this law from computation of periods which their lapse would prevent a hearing for State demand for collecting its debt stipulated by this Law.

Article (36) stipulates that the Central Bank of Kuwait shall submit an annual debt position report to the government.

Out of keenness to institute National Assembly control on implementing the provisions of this Law, Article (37) stipulates that the government shall submit to the National Assembly together with the State Budget, a report on all aspects related to the implementation of this Law and the collection efforts made by the Administrators.

Article (38) stipulates that the required financial provisions shall be earmarked from the General State Reserve in order to implement this Law. A special account shall be set to enlist all amounts collected, and this account shall be employed to implement the provisions of this Law.

Out of commitment to the dictates of the Constitution, Article (39) sets the maximum limit for the original value of bonds issued at KD 5750 (five thousand seven hundred and fifty) million Kuwaiti Dinars.

Article (40) indicates the validity of the provisions of the Civil and Commercial Pleadings Law as well as the Penal Procedures and Trials Law, in a manner that does not contravene with this Law.

Article (41) stipulates the issuance of the Executive Bill of this Law by a resolution from the Council of Ministers.