

## Form of Demand Guarantee under URDG 758

[*Guarantor Letterhead or SWIFT identifier Code*]

To: [*Insert name and contact information of the Beneficiary*]

Date: [*Insert date of issue*]

- **TYPE OF GUARANTEE:** [*Specify tender guarantee, advance payment guarantee, performance guarantee, payment guarantee, retention money guarantee, warranty guarantee etc.*]
- **GUARANTEE NO.** [*Insert guarantee reference number*]
- **THE GUARANTOR:** [*Insert name and address of place of issue, unless indicated in the letterhead*]
- **THE APPLICANT:** [*Insert name and address*]
- **THE BENEFICIARY:** [*Insert name and address*]
- **THE UNDERLYING RELATIONSHIP:** The Applicant's obligation in respect of [*Insert reference number or other information identifying the contract, tender conditions or other relationship between the applicant and the beneficiary on which the guarantee is based*]
- **GUARANTEE AMOUNT AND CURRENCY:** [*Insert in figures and words the maximum amount payable and the currency in which it is payable*]
- **ANY DOCUMENT REQUIRED IN SUPPORT OF THE DEMAND FOR PAYMENT, APART FROM THE SUPPORTING STATEMENT THAT IS EXPLICITLY REQUIRED IN THE TEXT BELOW:** [*Insert any additional document required in support of the demand for payment. If the guarantee requires no documents other than the demand and the supporting statement, keep this space empty or indicate "none"*]
- **LANGUAGE OF ANY REQUIRED DOCUMENTS:** [*Insert the language of any required document. Documents to be issued by the applicant or the beneficiary shall be in the language of the guarantee unless otherwise indicated herein*]

- **FORM OF PRESENTATION:** *[Insert paper or electronic form. If paper, indicate mode of delivery. If electronic, indicate the format, the system for data delivery and the electronic address for presentation]*
- **PLACE FOR PRESENTATION:** *[Guarantor to insert address of branch where a paper presentation is to be made or, in the case of an electronic presentation, an electronic address such as the Guarantor's SWIFT address. If no Place for presentation is indicated in this field, the Guarantor's place of issue indicated above shall be the Place for presentation]*
- **EXPIRY:** *[Insert expiry date or describe expiry event]*
- **THE PARTY LIABLE FOR THE PAYMENT OF ANY CHARGES:** *[Insert the name of the party]*

As Guarantor, we hereby irrevocably undertake to pay the Beneficiary any amount up to the Guarantee Amount upon presentation of the Beneficiary's complying demand, in the form of presentation indicated above, supported by such other documents as may be listed above and in any event by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, indicating in what respect the Applicant is in breach of its obligations under the Underlying Relationship.

Any demand under this Guarantee must be received by us on or before Expiry at the Place for presentation indicated above.

**THIS GUARANTEE IS SUBJECT TO THE UNIFORM RULES FOR DEMAND GUARANTEES (URDG) 2010 REVISION, ICC PUBLICATION No. 758.**

**SIGNATURE(S)**

## **Optional clauses to be Inserted in the Form of Demand Guarantee**

– **Time as from which a demand can be presented if different from the date of issue:**

A demand under this guarantee may be presented as from [*indicate date or event, e.g.:*

- The crediting of [*insert currency and exact amount to be received as advance payment*] to the applicant's account [*indicate account number*] maintained with the guarantor, provided such remittance identifies the guarantee to which it relates;
- The receipt by the guarantor of [*insert currency and exact amount to be received as advance payment*] for further credit to the applicant's account [*indicate account number*] maintained with the guarantor, provided such remittance identifies the guarantee to which it relates;\* or
- The presentation to the guarantor of a statement stating [*the release of the tender guarantee*] [*the issue of a documentary credit fulfilling the following terms: indicate amount, issuing or confirming party and goods/services description*] or [*the entry into effect of the underlying contract*].

---

\* This suggested operativeness/entry into effect clause, like the one in the bullet immediately preceding it, is frequently used in advance payment and retention money guarantees. In both cases, the clause ensures that the guarantee is not available for drawdown before the amount due by the beneficiary under the underlying contract is paid to the applicant. There are two ways to draft this clause. The first one, reflected in the first bullet, is to consider the guarantee operative only when the amount is effectively credited to the applicant's account. This leaves the beneficiary/payor with the risks of errors in credit transfers or third party attachments. Another way to draft this type of clauses, reflected in the second bullet, considers the beneficiary's obligations as satisfied when the payment is received by the guarantor holding the applicant's account. Any delay in crediting that payment to the applicant's account is left to be sorted out between the applicant and the guarantor according to the bank-customer relationship agreement or rules of law.

– **Variation of amount clause:**

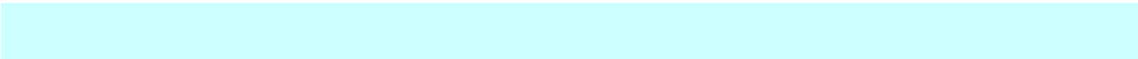
- ❖ The Guarantee Amount will be **reduced** by [*insert percentage of Guarantee Amount or exact amount and currency*] upon [*choose one or more of the options below*]:
  - Presentation to the Guarantor of the following document(s): [*insert list of documents*];
  - In the case of an index specified in the guarantee as triggering reduction [*insert index figure triggering the reduction in the Guarantee Amount*]; or
  - (In the case of a payment guarantee): the remittance of [*insert exact amount and currency*] to the beneficiary's account [*indicate account number*] held with the guarantor, provided the record of such remittance enables the guarantor to identify the guarantee to which it relates (for example, by referring to the guarantee's reference number).]
  
- ❖ The Guarantee Amount will be **increased** by [*insert percentage or exact amount and currency*] upon [*choose one or more of the options below*]:
  - Presentation to the Guarantor of the following document(s): [*insert list of documents*];
  - Presentation to the Guarantor of the Applicant's statement stating that the underlying contract was amended to increase the scope or value of the works and specifying the amount and currency of the new value; or
  - In the case of an index specified in the guarantee as triggering increase [*insert index figure triggering increase in the Guarantee Amount*].]

– **Sample terms for article 15(a)'s supporting statement to be provided by the beneficiary:**

- ❖ In the case of a **tender guarantee**, the supporting statement could state:

The Applicant:

- Has withdrawn its offer during the tender period, or
- While it was declared the successful bidder, the Applicant did not sign the contract corresponding to its offer and/or failed to provide the guarantee(s) requested in the call for tenders.

- ❖ In the case of a **performance guarantee**, the supporting statement could state:  
The Applicant is in breach of its obligations with respect to the underlying relationship because [*of late delivery*] [*the contract's performance was not completed by the due date*] [*there was a shortfall in the quantity of the goods supplied under the contract*] [*the delivered works are defective*] etc.
  
  - ❖ In the case of a **payment guarantee**, the supporting statement could state:  
The Applicant has not fulfilled its contractual payment obligations.
  
  - ❖ Supporting statements required under **other types of guarantees** (advance payment, retention money, delivery, warranty, maintenance, etc.) are likewise expected to be general in their drafting without the need for the beneficiary to substantiate its claim or to provide meticulous technical detail of the breach absent an express requirement in the guarantee itself.
- 

## FORM OF COUNTER-GUARANTEE UNDER URDG 758

[Counter-guarantor Letterhead or SWIFT identifier Code]

To: [Insert name and contact information of Guarantor]

Date: [Insert date of issue]

**PLEASE ISSUE UNDER OUR RESPONSIBILITY IN FAVOUR OF THE BENEFICIARY YOUR GUARANTEE IN THE FOLLOWING WORDING:**

[Quote the following Form of Demand Guarantee under URDG 758, provide brief details of the guarantee or use your own guarantee text as appropriate]

- **TYPE OF GUARANTEE:** [Specify tender guarantee, advance payment guarantee, performance guarantee, payment guarantee, retention money guarantee, warranty guarantee, etc.]
- **GUARANTEE NO.** [Guarantor to insert guarantee reference number]
- **THE GUARANTOR:** [Guarantor to insert name and address of place of issue, unless indicated in the addressee field above]
- **THE APPLICANT:** [Insert name and address]
- **THE BENEFICIARY:** [Insert name and address]
- **THE UNDERLYING RELATIONSHIP:** The Applicant's obligation in respect of [Insert reference number or other information identifying the contract, tender conditions or other relationship between the applicant and the beneficiary on which the guarantee is based]
- **GUARANTEE AMOUNT AND CURRENCY:** [Insert in figures and words the maximum amount payable and the currency in which it is payable]
- **ANY DOCUMENT REQUIRED IN SUPPORT OF THE DEMAND FOR PAYMENT, APART FROM THE SUPPORTING STATEMENT THAT IS EXPLICITLY REQUIRED IN THE TEXT BELOW:** [Insert any additional document required in support of the demand for payment. If the guarantee requires no documents other than the demand and the supporting statement, keep this space empty or indicate "none"]

- **LANGUAGE OF ANY REQUIRED DOCUMENTS:** *[Insert the language of any required document. Documents to be issued by the applicant or the beneficiary shall be in the language of the guarantee unless otherwise indicated herein]*
- **FORM OF PRESENTATION:** *[Insert paper or electronic form. If paper, indicate mode of delivery. If electronic, indicate the format, the system for data delivery and the electronic address for presentation]*
- **PLACE FOR PRESENTATION:** *[Guarantor to insert address of branch where a paper presentation is to be made or, in the case of an electronic presentation, an electronic address such as the Guarantor's SWIFT address. If no Place for presentation is indicated in this field, the Guarantor's place of issue indicated above shall be the Place for presentation]*
- **EXPIRY OF GUARANTEE:** *[Insert expiry date or describe expiry event]*
- **THE PARTY LIABLE FOR THE PAYMENT OF ANY CHARGES:** *[Insert the name of the party]*

As Guarantor, we hereby irrevocably undertake to pay the Beneficiary any amount up to the Guarantee Amount upon presentation of the Beneficiary's complying demand, in the form of presentation indicated above, supported by such other documents as may be listed above and in any event by the Beneficiary's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, indicating in what respect the Applicant is in breach of its obligations under the Underlying Relationship.

Any demand under this Guarantee must be received by us on or before Expiry at the Place for presentation indicated above.

**THIS GUARANTEE IS SUBJECT TO THE UNIFORM RULES FOR DEMAND GUARANTEES (URDG) 2010 REVISION, ICC PUBLICATION No. 758.**

[unquote]

As Counter-guarantor, we hereby irrevocably undertake to pay the Guarantor any amount up to the Counter-guarantee Amount indicated below upon presentation of the Guarantor's complying demand, in the form of presentation indicated below, supported by the Guarantor's statement, whether in the demand itself or in a separate signed document accompanying or identifying the demand, indicating that the Guarantor has received a complying demand under the guarantee.

Any demand under this Counter-guarantee must be received by us on or before Expiry of this Counter-guarantee at the place for presentation indicated below.

- **COUNTER-GUARANTEE NO:** *[Insert counter-guarantee reference number]*
- **THE COUNTER-GUARANTOR:** *[Insert name and address of place of issue, unless indicated in the letterhead]*
- **THE GUARANTOR:** *[Insert name and address of Guarantor and place of issue of guarantee]*
- **COUNTER-GUARANTEE AMOUNT AND CURRENCY:** *[Insert in figures and words the maximum amount payable and the currency in which it is payable]*
- **FORM OF PRESENTATION:** *[Insert paper or electronic form. If paper, indicate mode of delivery. If electronic, indicate the format, the system for data delivery and the electronic address for presentation]*
- **PLACE FOR PRESENTATION:** *[Counter-guarantor to insert address of branch where a paper presentation is to be made or, in the case of an electronic presentation, an electronic address such as the counter-guarantor's SWIFT address. If no Place for presentation is indicated in this field, the Counter-guarantor's place of issue indicated above shall be the Place for presentation]*
- **EXPIRY OF COUNTER-GUARANTEE:** *[Insert expiry date or describe expiry event. Note that the expiry of the counter-guarantee is generally scheduled to occur later than the expiry of the guarantee to include a mailing period]*
- **THE PARTY LIABLE FOR THE PAYMENT OF ANY CHARGES:** *[Insert the name of the party, generally the counter-guarantor]*

The Guarantor is requested to confirm to the Counter-guarantor the issuance of the guarantee.



**THIS COUNTER-GUARANTEE IS SUBJECT TO THE UNIFORM RULES FOR DEMAND GUARANTEES (URDG) 2010 REVISION, ICC PUBLICATION NO. 758.**

Signature(s)