



Application and Agreement
For Issuance of Standby Letter of Credit

Date: _____

BDO Unibank, Inc.
12 ADB Ave., Ortigas Center
Mandaluyong City

Gentlemen:

We hereby request you as our Agent to open an Irrevocable Standby Letter of Credit (the "Credit") for our account in favor of _____ with office address at _____, hereinafter referred to as the "Beneficiary"; up to the aggregate amount of _____ (P_____) to expire on _____ to secure _____ to be made available by the Beneficiary's draft drawn on you at sight accompanied by the following documents:

We undertake to pay and/or perform the obligation/s secured by the Credit strictly in accordance with the terms and conditions set forth in the contract between us and the Beneficiary, or which we executed in favor of the Beneficiary. We shall within five (5) days of such payment or performance forward to you certified copies of the official receipts or evidence acceptable to you establishing such payment or performance.

It shall not be obligatory upon you to ascertain the legality, demandability or correctness of any payment demanded by the Beneficiary in accordance with the terms of Credit and you may effect any payment without prior notice to us, any right to such notice being hereby waived by us. You shall not be bound by any notice from us to withhold any payment to the Beneficiary for any reason whatsoever, but if upon receipt of any such notice from us/any of us, you, in the exercise of your sole discretion, shall elect to withhold any payment to the Beneficiary, we shall solidarily indemnify you for, and hold you free and harmless from and against, any and all damages, liabilities, costs, expenses, penalties, taxes (including but not limited to documentary stamp tax, gross receipt tax, value-added tax, withholding tax), charges, claims and suit founded upon or arising from such withholding or payment in reliance upon the notice served upon you by us/any of us.

We shall immediately reimburse you, without need of demand and upon notice sent by you to us/any of us at our address/es indicated hereinbelow, for any and all payment or advances which you shall or may, at any time, make pursuant to the Credit or any agreement executed in relation thereto, as well as any all damages, losses, penalties, taxes (including but not limited to documentary stamp tax, gross receipts tax, value-added tax, withholding/final tax), charges, costs, and expenses of whatever kind or nature which you shall or may at any time incur, sustain and/or suffer or for which you have or may become liable to the Beneficiary on account of the Credit, with interest on any such amounts at the rate of _____ (_____) percent per annum, commencing on the date any such payment or advance as made or any damage, loss, penalty, tax, (including but not limited to documentary stamp tax, gross receipt tax, value-added tax, withholding/final tax), charge, cost and/or expenses were incurred, sustained and/or suffered, until the same shall have been fully repaid to you. Interest not paid when due shall be added to and shall become part of the principal, and amounts payable and shall bear the same rate of interest as the principal.

We agree to submit collaterals or additional collaterals as shall be acceptable to you within three (3) days from your demand.

Upon the happening to any of us or to endorsers, sureties, or guarantors of any of the following events (hereinafter referred to as the "Events of Default"), you may at our sole option, proceed against any or all of us judicially or extrajudicially to enforce payment, and/or foreclose collaterals, whether or not you have discharged your liability to the Beneficiary:

1. We shall fail to pay when due any amount payable hereunder;
2. We shall default in the due performance or observance of any covenant contained herein or in any collateral, or if the collateral is executed or any property subject of the collateral is owned by a person other than ourselves, such person shall default in the due performance or observance of any covenant contained in such collateral;
3. Any statement, representation or warranty made by us herein or in any other document delivered or made pursuant hereto shall prove to be incorrect or untrue in any material respect;

4. We or any of subsidiaries or affiliates shall fail to pay or default in the payment of any monetary obligation, or fail to comply with or violate any other obligation, under any agreement, contract or document with you or any third person or persons to which we or any of our subsidiaries or affiliates is a party or privy, whether executed prior to or after the date hereof, under which credit has/may have been extended to us or our subsidiary or affiliate by you or such third person or persons or under which we our subsidiary or affiliate has agreed to act as guarantor, surety or accommodation party, which under the terms of such agreement, contract, document, guaranty or suretyship; including an agreement similar or analogous thereto, shall constitute a default thereunder;
5. In case the interest rate applicable to our obligations thereunder is subject to adjustment, if we do not accept the new interest rate set by you; or
6. We or any of our subsidiaries or affiliates shall become insolvent or unable to pay our/their debts as they mature, or take advantages of insolvency, moratorium, or other laws for the relief of debtors, or there shall be commenced against us or any of our subsidiaries or affiliates any proceeding under such laws, or any judgment or order is entered by a court of competent jurisdiction for the appointment of a receiver, trustee or the like to take charge of all or substantially all of our/our subsidiary's/affiliate's assets;
7. Attachment or garnishment of any of our property, or of the collateral for our obligations thereunder;
8. Dissolution, suspension of payments, suspension of our usual business or reorganization of our company;
9. Any act or deed or judicial or administrative proceeding in the nature of an expropriation, confiscation, nationalization, intervention, acquisition, seizure, or condemnation of or with respect to us, our business and operations, management, or ownership, or our capital stock, property, or assets, is undertaken;
10. Death of our surety, endorser, guarantor, or any of the owners of the collateral;
11. Any of the concessions, permits, rights, franchises or privileges required for the conduct of our business and operations or for our enjoyment of certain tax exemptions and/or other privileges shall be revoked, cancelled, or otherwise terminated, or the free and continued use and exercise thereof shall be curtailed or prevented;
12. A material change in our business, assets or financial circumstances or condition (including, without limitation, the making of any investment unrelated to our business, excessive losses due to the unnecessary investments, the undertaking of any major expansion program or permitting earnings before interest and taxes to fall below a level which would be necessary to service the interest expense on present and future loan obligation) which, in your reasonable opinion, would adversely affect our ability to perform our obligations thereunder;
13. In your reasonable opinion, we shall have abandoned the project for which Credit was obtained;
14. Upon the occurrence or existence of any of the following events:
 - a. If after the obligations herein have been contracted, we shall become insolvent, unless we give a guaranty or security acceptable to you;
 - b. We fail to furnish you with the guaranties or securities we have promised herein;
 - c. When by our own acts we have impaired our guaranties and sureties after their establishment, and when through a fortuitous event they disappear, unless we give new ones equally satisfactory to you;
 - d. When we violate any undertaking, in consideration of which you agreed to the period;
 - e. When we attempt to abscond.
15. If you find that the proceeds of the loan or other credit accommodation have been employed, without your approval, for purposes other than those agreed upon.
16. If any statements of assets and liabilities, property, income and expenditures, and such other information as may be prescribed by law or by rules and regulations of the Monetary Board furnished to us, to enable us to properly evaluate your credit application in connection with this loan or other credit accommodations, including the corresponding financial statements submitted to the Bureau of Internal Revenue, prove to be false or incorrect in any material detail.
17. Any adverse circumstance occurs which, in your reasonable opinion, materially, or adversely affects our ability to perform any of our obligations thereunder.

You are hereby authorized, at your opinion and without notice, to set-off or apply to the payment of the obligations of any of us, any and all moneys which may be in your hands or in the hands of any of your subsidiaries or affiliates, on deposit or otherwise belonging to any of us. We irrevocably appoint you, effective upon the nonpayment of our/any of our obligations, but without any obligation on your part should you choose not to perform this mandate, as attorney-in-fact for each of us, to sell and dispose of any property belonging to any of us, which may be in your possession, by public or private sale, and to apply the proceeds thereof to the payment of any/all of our obligations; each of us, however, shall solidarily remain liable for any deficiency.

In case any of the foregoing Events of Default occurs, we jointly and severally agree to pay you, without the need of demand, by way of liquidated damages, an additional amount equivalent to twelve percent (12%) per annum of the total sum due, but in no case less than ₱20,000.00 until fully paid, and if this matter is referred to a lawyer/law firm or collection agency for collection, the further sum of not less than ₱20,000.00, exclusive of costs and other judicial or extrajudicial expenses. Venue of any suit arising from this agreement is stipulated to be at the place of your office address stated above or at your principal place of business or in any other lawful jurisdiction, at your sole option.

In case of judicial execution of this obligation, we and all endorsers, sureties and guarantors waive our rights under Rule 39, Section 12, of the Rules of Court.

We and all endorsers, sureties, and guarantors jointly and severally waive presentation, demand, protest and notice of any kind, and hereby consent to any and all extensions of time, renewals, waivers or modifications that may be granted by you with respect to the payment or other provisions of this agreement. No delay or omission on your part in exercising any rights hereunder shall operate as a waiver of such right or any other rights under this agreement.

This agreement and all rights, obligations and liabilities arising hereunder shall be binding to us, and no act of yours or your authorized agent shall be deemed a waiver, unless you or your authorized agent shall have signed such waiver in writing. No such waiver, unless expressly stated therein, shall be effective as to any transaction which occurs subsequent to the date of such waiver, nor as to any continuance of a breach after such waiver.

The obligations herein shall continue in force, and apply, notwithstanding any change in the membership of any partnership whether arising from the death or retirement of one or more partners or the accession of one or more new partners, and the obligations herein shall bind heirs, executors, administrators, successors and assigns of the undersigned, and all rights, benefits and privileges hereby conferred on you shall be and are hereby extended to and conferred upon and may be enforced by your successors and assigns.

This agreement is in accordance with Sections 39 and 40 of The General Banking Law of 2000, and shall be governed by and interpreted in accordance with the laws of the Republic of the Philippines.

We agree that all costs, fees, taxes and other charges payable in connection with the execution, delivery, registration and enforcement of Agreement shall be for our own exclusive account.

We agree that the Credit may not be revoked or cancelled by us without your prior written consent which may be conditioned in any way.

OTHER TERMS AND CONDITIONS:

GUARANTEE FEE:

PAYABLE

In settlement of charges relative to the opening of this credit:

We are enclosing our Check.
Please debit our Account No. _____ at
the BDO _____ Branch.

Printed Name of Accountee

Complete Address

By:

Name:
Designation:

Name:
Designation:

Signed in the presence of:

Suretyship

[I/We _____, [and _____], of legal age, with address at _____,]

[_____, a _____ duly organized and existing in accordance with Philippine laws, with principal office address at _____,]

(hereinafter, the “**Surety**”) hereby agree/s and undertake/s to pay BDO Unibank, Inc. (“**Bank**”) on demand, any and all sums and amounts of money which the Bank may call upon the Surety to pay arising out of, pertaining to, and/or in any event connected with the default of and/or non-fulfillment by the applicant/s of this Irrevocable Standby Letter of Credit (hereinafter “**principal debtor/s**”) or any of the above terms and conditions.

The Surety further agree/s that the Bank does not have to take any steps or exhaust its remedy against the principal debtor/s before making demand on the Surety. The Surety’s liabilities hereunder shall in all cases be joint and several.

The Surety hereby waives notice of default and it shall not be necessary for the Bank to proceed against the principal debtor/s upon default or to exhaust the property of the principal debtor/s before proceeding against the Surety. The liability of the Surety shall be a primary one, shall be enforceable upon the occurrence of default of the principal debtor/s, and shall in all cases be joint and several with the principal debtor/s. The Bank may from time to time and without the necessity of first giving notice to or obtaining Surety’s consent increase the amount of credit given to the principal debtor/s, grant extensions of time to the principal debtor/s, accept notes or other obligation from the principal debtor/s for money, securities or other things of value due from the principal debtor/s and renew said notes or other obligations from time to time either in whole or in part.

As security for the full and due performance by the Surety of its/her/his/their obligations hereunder, the Bank is hereby given a lien upon any and all moneys or other properties of the Surety which are or may come into the Bank’s/its subsidiaries’/affiliates’ possession or control (or with any third party acting on behalf of the Bank) by or for the account of the Surety, those in safekeeping, and those in which the Surety may have an interest.

Upon default of the Surety, the Bank shall have the right to set-off or apply to the payment of the defaulted obligation any and all moneys of the Surety which may be in the possession or control of the Bank, its subsidiaries and/or affiliates. The Bank shall likewise have full power and authority, as attorney-in-fact of the Surety, to sell, assign and deliver all or any part of the property upon which the Bank pursuant to the immediately preceding paragraph has a lien. Such sale or other disposition may, at the Bank’s discretion, be at any broker’s board, or at public or private sale, for cash or on credit, or future delivery, without assumption by the Bank of any credit risk, and without either demand, advertisement or notice of any kind, all of which the Surety hereby waives. In case of any such sale or other disposition as aforesaid: (i) the Bank may at its option, purchase the whole or any part of the property so sold, free from any right of redemption on the part of the Surety, all such right being all hereby waived and released; (ii) the Bank is hereby given full power and authority (after deducting all costs and expenses of every kind for care, safekeeping, collection sale, delivery or otherwise) to apply the residue of the proceeds of the sale, or other disposition thereof to the payment, pre-payment or reduction, to the extent thereof, of anyone or more of the defaulted obligation, whether or not such defaulted obligation, except for this suretyship, are then due and payable; and (iii) said sale or other disposition and application of the proceeds thereof shall be without prejudice to all other rights and remedies which the Bank may now or in the future have against the Surety with respect to any of the defaulted obligations remaining unpaid.

In the event of judicial proceedings being instituted by the Bank to enforce any of the covenants and conditions of this suretyship, the Surety hereby agrees to pay the Bank a reasonable compensation for its expenses and charges including attorney’s fees, which shall not be less than ten percent of the indebtedness then outstanding and unpaid, and shall in no event be less than Five Hundred Pesos.

The Surety (if corporate) represents and warrants that the execution and delivery of this suretyship has been properly authorized by the necessary corporate actions, does not and will not violate its Articles of Incorporation/By-laws or equivalent documents, and that this suretyship constitutes its valid, binding and legal obligation enforceable in accordance with the terms hereof.

Surety

Marital Consent:

(Spouse of Surety)

Corporate Surety

By:

(Authorized Representative)