

MEMORANDUM OF UNDERSTANDING

MEMORANDUM OF UNDERSTANDING BETWEEN THE [FMS Partner] MINISTRY OF DEFENSE AND THE DEFENSE SECURITY COOPERATION AGENCY FOR TERMS AND CONDITIONS FOR STANDBY LETTER OF CREDIT SUPPORTING FOREIGN MILITARY SALES

1) Introduction and Scope.

- a) Parties. This Memorandum Of Agreement (“Agreement”) Between The [FMS Partner] Ministry of Defense And The Defense Security Cooperation Agency For Terms And Conditions For Standby Letter Of Credit Supporting Foreign Military Sales (“FMS”) pertains to the Foreign Military Sales Program (“FMSP”) between the United States (“U.S.”) Defense Security Cooperation Agency (“DSCA”) acting pursuant to Section 22 of the Arms Export Control Act, and the Ministry of Defense of [FMS Partner] (hereinafter “[FMS Partner’s Organization Acronym, if applicable]”).
- b) Purpose. This Agreement documents terms and conditions associated with the confirmed Standby Letter of Credit (“SBLC”) that [FMS Partner] is obligated to provide to DSCA.
- c) Scope. The SBLC is to be furnished to DSCA in lieu of termination liability (“T/L”) prepayments by the FMS Partner for its FMSP. Instead of T/L prepayments being deposited into the Federal Reserve Bank (“FRB”) account or the FMS Trust Fund account for the FMS Partner, payment of an equivalent amount is effectively guaranteed under the SBLC. Other financial obligations owed to the United States Government (“USG”) by the FMS Partner are not covered by this arrangement. The SBLC is to cover all implemented FMS cases for which termination liability applies (i.e., under the authority of Section 22, Arms Export Control Act).
- d) Payments under SBLC. If and when DSCA makes a demand for payment under the SBLC, the payment instructions shall direct payment, directly or indirectly, to the FMS Trust Fund account for the [FMS Partner].

- 2) **Rules and Dispute Resolution**. The SBLC is subject to the International Standby Practices (“ISP 98”), International Chamber of Commerce Publication No. 590, unless otherwise expressly stated in the SBLC, and shall be governed by law of the State of New York and applicable U.S. Federal law. In addition, the SBLC contains an irrevocable consent to the exclusive jurisdiction of the Federal courts located in the County and State of New York with respect to any dispute arising under the SBLC.

3) Responsibilities.

- a) Defense Security Cooperation Agency. DSCA is the beneficiary of the SBLC, on behalf of the USG. DSCA is responsible for implementing all aspects of U.S. Security Cooperation programs. In addition, DSCA is the FMS Trust Fund manager.
 - Director. The DSCA Director has overall responsibility for ensuring the successful implementation, execution and management of the SLBC program.

- Chief Financial Officer (CFO). The CFO provides policy guidance and general supervision to the Business Deputy for Country Financial Management regarding administration of the SBLC program.
 - Business Deputy for Country Financial Management (CFM). CFM will serve as USG contact for all SBLC related inquiries and as overall coordinator for the SBLC program.
- b) Issuing Bank - [Bank Name]. Under separate agreement, the issuing bank, [Bank Name], and the [FMS Partner] will negotiate fees associated with the SBLC as well as any other underlying transactions required. Under no circumstances will articles delivered or services performed under the FMSP be used as collateral for securing arrangements associated with the SBLC. The SBLC specifies that the [Bank Name] is obligated to pay DSCA, as beneficiary, upon presentation to the Issuer of a complying demand for payment under the SBLC, including if the Confirmer fails to pay a complying presentation to the Confirmer.
- c) Confirming Bank - [Bank Name]. It is agreed in the Confirmation of the SBLC by the Confirmer that it will pay DSCA, as beneficiary, upon presentation to the Confirmer of a complying demand for payment under the SBLC, including if the Issuer fails to pay a complying presentation to the Issuer.
- d) Advising Bank - [Bank Name]. It is agreed that [FMS Partner] will cause the SBLC and Confirmation to be advised to DSCA through [Bank Name], [bank address], and SWIFT Address: [Fill in blank]
- e) Non-Parties. The Issuer, Confirmer, and Advising Bank are not parties to this Agreement and have no rights under this Agreement.
- f) FMS Partner - [Ministry of Defense Organization's Name]. The [FMS Partner] is responsible for paying to the Issuer and Confirmer any/all fees associated with the SBLC or Confirmation. No fees can be capitalized or subsumed into the amount payable under the SBLC or Confirmation documents. The FMS Partner is responsible for notifying DSCA in writing if and when it wishes to terminate its Agreement with an Issuer and/or Confirmer.
- g) Terms and Conditions. It is agreed that the [FMS Partner] will cause Issuer and Confirmer to issue an SBLC, properly completed, as set forth in the Appendices to this Agreement ("SBLC and/or Confirmation Forms"), namely Appendix A together with its Annexes. The SBLC and Confirmation Forms reflect the agreed Terms and Conditions between the parties and are incorporated into this Agreement. [FMS Partner] will provide a final copy of the SBLC and Confirmation, and/or any subsequent amendment, to DSCA within 10 business days of its effective date.
- h) Forms and Payment. It is agreed that in presenting demands for payment under the SBLC or Confirmation or in otherwise presenting documents to the Issuer or Confirmer, DSCA or any transferee beneficiary is entitled to fill in the applicable Annexes and Appendices as appropriate, including the mode by which payment is to be effected and the location at which it is to be made. The bank may not dishonor payment by demanding additional documents be furnished by DSCA.

- i) Transfer of Drawing Rights. It is agreed that DSCA and any subsequent transferee beneficiary can, at its sole discretion, effect transfer of its drawing rights in their entirety under the SBLC and Confirmation to another beneficiary and that the SBLC and Confirmation as issued will permit DSCA or any subsequent transferee beneficiary to demand such a transfer in the manner indicated in the SBLC and Confirmation Forms.
 - j) Amount. The aggregate amount of each of the SBLC and Confirmation as issued will be US [\$fill in amount].
- 4) Proceeds.** It is agreed that the proceeds of any drawing on the SBLC or Confirmation will be deposited into the FMS Trust Fund account for [FMS Partner].
- 5) Presentation.**
- a) Presentation of Documents. It is agreed that documents required to be presented under the SBLC or Confirmation may be presented by DSCA or any subsequent transferee beneficiary to Issuer or Confirmer and that they may be presented in paper or electronic documents, at the beneficiary's option, per any of the methods specified in the SBLC or Confirmation, as applicable.
 - b) Documents. As a courtesy, DSCA agrees to provide [FMS Partner] with copies of any drawing documents under on the SBLC or Confirmation.
 - c) Time for Examination and Honor of Presentation. It is agreed that the SBLC and Confirmation will provide that:
 - Issuer or Confirmer will examine any presented documents and make any decisions regarding honor within three banking days of the banking day of presentation; and
 - Payment of any complying presentation will be made within three banking days of presentation.
 - d) Multiple Demands. It is agreed that DSCA may, at its sole discretion, make multiple demands under the SBLC or Confirmation.
 - e) Excessive Demands. It is agreed that any demand by DSCA in excess of the available balance under the SBLC or Confirmation will be deemed to be a demand for the available balance and will not constitute a basis for its refusal.
- 6) Automatic Increases/Decreases.**
- a) Increases. It is agreed that on demand by DSCA, the SBLC and Confirmation will provide for one or more automatic amendments to increase the aggregate amount available, which increases shall not exceed 10% of the aggregate amount available when issued (the "Cap"). For example, if each of the SBLC and Confirmation is issued in the initial aggregate amount of \$100 million, the automatic increases to each cannot exceed \$10 million and neither the SBLC nor the Confirmation can be increased by automatic amendment(s) to a maximum amount exceeding \$110 million.
 - b) Discretionary. Demands for automatic increases by DSCA are at its sole discretion.
 - c) Multiple Demands. It is agreed that there may be multiple demands to increase the

amount available under the SBLC or Confirmation up to the Cap.

- d) Excessive Increase Demanded. It is agreed that any demand to increase the amount available under the SBLC or Confirmation in excess of the Cap will be deemed to constitute a demand for an increase to the Cap and not provide a basis for refusal.
 - e) Notice of Increase or Decrease. As a courtesy, DSCA will send a notice that it will make a demand for an increase or decrease to [FMS Partner] in advance of doing so.
 - f) Decreases. If the T/L validation performed by DSCA reveals that a decrease in the amount of the SBLC and Confirmation is warranted, DSCA shall notify [FMS Partner] in writing. [FMS Partner] then has the option to either approve a decrease to the SBLC and Confirmation or leave the amount unchanged. [FMS Partner's] response must be addressed in writing to the appropriate person indicated in DCSA's written notice. If no reply is received by DSCA within 30 calendar days of the date of DSCA's written notice to [FMS Partner], DSCA shall not send the request for decrease to Issuer or Confirmer. If [FMS Partner] agrees to a decrease, and if the grounds for the decrease continue to be applicable, DSCA will demand a decrease in the amount of the SBLC and Confirmation by presenting a Demand for Automatic Reduction (Annex G).
- 7) Other Amount Increases Requiring Amendments to SBLC and Confirmation.** If the amount currently in effect needs to be increased beyond the 110% threshold, a non-automatic amendment would need to be processed. In that event, DSCA will notify the FMS Partner in writing that an increase is necessary, and will allow the FMS Partner 10 business days to reply as to whether the FMS Partner prefers that the SBLC and Confirmation amounts be increased via an amendment or if it wishes to deposit the required T/L increment. If the FMS Partner replies that an amendment should be processed, the FMS Partner will submit in writing a notice to Issuer and/or Confirmer, with a copy to the DSCA, that an increase to the amount of each of the SBLC and Confirmation is required. In that notice, FMS Partner will normally request that the bank reply within 15 business days. The bank's reply should either: (1) provide a formal amendment that indicates the bank's willingness to raise the amount per FMS Partner's request; or (2) provide notice to FMS Partner and DSCA that the requested increase to the amount will not be accommodated by the bank. In the event of scenario (1), the amendment will be accepted. In the event of scenario (2) or if no reply from the bank is received within 15 days, the FMS Partner will notify DSCA and the increased adjustment will be captured in the FMS Partner's official billing statement from the next quarterly bill, until/unless a separate SBLC and Confirmation with a different bank for the increment is obtained. If the FMS Partner does not pay the TL amount due by the bill's due date, then DSCA may use existing funds in the FMS Trust Fund to reserve the required TL amount.
- 8) Other Amendments.** DSCA will provide to the FMS Partner on a quarterly basis a report that lists the cases subject to the SBLC and Confirmation at the time of report generation. While this report will be used to keep the FMS Partner informed as to the inventory of cases subject to the SBLC and Confirmation, it is not binding as to either the cases for which a demand for payment is applied or as regards the amount applied to each case.
- 9) Impact on LOA Payment Schedules.** Each SBLC and Confirmation impacts the USG's

Figure C9.F5. - MOU Template for SBLC

financial requirements. Accordingly, the FMS case payment schedules must identify the revised amount owed to DSCA on behalf of the USG (which equals the advance collection of funds needed to cover anticipated disbursements). Upon SBLC implementation, DSCA will notify the Implementing Agencies (IAs) in accordance with Section 4.2 above. For affected cases, the IAs will ensure the LOA payment schedules reflect the following format:

	(1)	(2)	[(1) – (2)]
Quarterly Payment	Total Requirements	Termination Liability	USG Financial Requirements

Upon receiving the LOA documents reflecting the above payment schedule format and amounts, DFAS will load the “USG Financial Requirements” figures into DIFS. This will replace the “total requirements” figures currently shown in DIFS and, consequently, revise future financial forecasts and individual quarterly amounts due.

10) Expiration and Automatic Extension. The parties agree that:

- a) The SBLC and Confirmation will each have an initial expiration date approximately one year after their respective dates of issuance, except that the expiration date of the Confirmation shall be set 30 days later than that of the SBLC; and
- b) The SBLC and Confirmation shall each provide for automatic extension, without amendment, for additional periods of one year from the initial expiration date or any extended expiration date, but not beyond 25 years from the date of issuance in the case of the SBLC or 25 years plus 30 days from the date of issuance in the case of the Confirmation, unless the Issuer or Confirmer, as applicable, notifies DSCA by registered mail or other receipted means at least 60 days prior to the then current expiration date that it will not extend the SBLC or Confirmation, as applicable, for an additional period.

11) Drawdown Process. This section describes certain actions and requirements relating to demands for payment under the SBLC or Confirmation.

- a) Basis for Drawing on SBLC or Confirmation.
 - The parties agree that DSCA may draw on the SBLC or Confirmation where any one or more of the following occurs:
 - [FMS Partner] notifies the USG, in writing, that it is terminating all or a portion of any FMS case.
 - The USG notifies [FMS Partner], in writing, that it is terminating an FMS case(s) or contracts relating to an FMS case.
 - The USG is aware the SBLC or Confirmation is being either terminated or not extended beyond its then current expiration date.
 - A contractor presents a bill to the USG for termination charges associated with an FMS case(s).
 - [FMS Partner’s] loses DU status per Security Assistance Management Manual,

Chapter 9.

- The Issuer or Confirmer falls below DSCA's acceptable eligibility thresholds.
 - [FMS Partner] fails to complete all actions to implement any election under Section 7 of this Agreement.
- b) Alternatively, DSCA will notify [FMS Partner] that T/L prepayments in the amount covered by the SBLC and Confirmation (without duplication) must be paid.
- c) Each demand for payment may demand payment for the entire amount of the SBLC or Confirmation (including any automatic amendment(s) of up to 10% over the original amount when issued) or a portion of the amount. Multiple drawings, on either the same date or on separate dates, can also be made, provided those drawings taken together do not exceed the entire amount of the SBLC or Confirmation (including any automatic amendment(s) of up to 10% of the original amount when issued).
- d) Presentation. Each demand for payment will be completed by the Country Finance Director and signed by the DSCA Chief Financial Officer after coordination and approval by the Director or Deputy Director. It will be presented to the Issuer or Confirmer, as applicable (with a copy to the [FMS Partner]) by DSCA. No other document shall be required to draw on the SBLC or Confirmation.

12) Notice to [FMS Partner].

If the SBLC or Confirmation is cancelled or not extended or replaced by an acceptable substitute, DSCA will inform [FMS Partner] and Issuer or Confirmer, as applicable. DSCA will include information on how future T/L requirements will be billed.

13) Transfer Provision. Each of the SBLC and the Confirmation specifies the means by which DSCA can transfer its rights as the beneficiary. Only DSCA has the right to demand transfer of its rights under the SBLC and Confirmation; absent consent by DSCA, neither the Issuer, Confirmer, nor the [FMS Partner] has authority to transfer the SBLC or Confirmation.

14) Termination Provisions.

- a) Termination of the SBLC or Confirmation prior to the date of expiry is subject to the written consent of DSCA. Consent to termination will normally result in DSCA either (1) issuing a demand for payment for the remaining T/L amount covered by the SBLC and Confirmation prior to their termination, or (2) billing the FMS Partner for that liability amount via an official billing statement prior to their termination.
- b) If the Issuer or Confirmer, as applicable, ceases to satisfy the eligibility criteria of DSCA while the SBLC or Confirmation is in effect, DSCA will notify the [FMS Partner] that such bank no longer satisfies DSCA's requirements. DSCA may draw on the SBLC or Confirmation for the remaining amount of the SBLC or Confirmation, as applicable. DSCA may require another SBLC and Confirmation for the remaining T/L amount to be issued by a bank that satisfies the eligibility criteria. Alternatively, DSCA will notify the FMS Partner that T/L prepayments in the amount covered by the SBLC and Confirmation (without duplication) must be paid.
- c) DSCA may terminate if the [FMS Partner's] credit falls below the acceptable

threshold identified in the Security Assistance Management Manual, Chapter 9.

15) Applicable Law and Practice Rules.

- a) The Arms Export Control Act is statutory authority for the FMS program, including the legal requirements for T/L.
- b) With respect to its provisions regarding the SBLC and Confirmation, this Agreement will be construed in light of the attached SBLC forms (Appendix A) as supplemented by ISP 98.
- c) This Agreement is subject to the law of the State of New York (United States of America) and applicable U.S. federal law. The U.S. federal courts located in the County of New York in the State of New York (United States of America) shall have exclusive jurisdiction over any disputes arising under or in connection with this Agreement.

16) Interpretation of the Agreement. This Agreement constitutes a complete, exclusive, and final expression of the agreed terms between the parties regarding the SBLC and Confirmation and supersedes all previous communications, representations, warranties, and agreements, either oral or written, between the parties with respect to the subject matter of this Agreement. Any subsequent agreement to modify, amend, or rescind this Agreement must be by a writing signed by the party affected. Headings and sub-headings used in this Agreement are for convenience and shall not affect the interpretation of this Agreement.

- a) Effect of Signatures. When signed, this Agreement is accepted and agreed to by all parties by and through the parties or their agents or authorized representatives. All parties acknowledge that they have read and understand this Agreement and the Annexes and Appendices hereto. All parties further acknowledge that they have executed this legal document voluntarily and of their own free will.
- b) Authorized Signatories. It is agreed that documents presented under the SBLC or Confirmation or relating to this Agreement can be signed by any official representing him/herself to be:
 - Ministry level representative acting on behalf of [FMS Partner]; or
 - Director, Deputy Director, or Chief Financial Officer on behalf of DSCA.
- c) By executing this Agreement, DSCA and [FMS Partner] represent and warrant that the signatures are authorized to bind the respective organizations and governments and approve all the terms and conditions contained in this Agreement.

17) Communications and Change of Address. It is agreed that all communication between the parties will be sent to the following addresses:

DSCA: 201 12th Street South, Arlington, Virginia, 22202

[FMS Partner Name and address]:

It is agreed that any request for change of address sent by either party to the other at the then current address shall be effective 10 calendar days after its receipt.

18) Signatures below by authorized officials constitute acceptance and approval of all terms

Figure C9.F5. - MOU Template for SBLC

and conditions in this Agreement. The parties now ratify, assume, and agree to perform and observe, each of the covenants, rights, agreements, terms, conditions, obligations, duties and liabilities under this Agreement.

FOR THE DEFENSE SECURITY COOPERATION AGENCY

Signature: _____

Name: _____

Title: _____

Date: _____

FOR THE MINISTRY OF DEFENSE OF [FMS Partner Name]

Signature: _____

Name: _____

Title: _____

Date: _____

Appendix A - Standby Letter of Credit

Standby Letter of Credit

**Defense Security Cooperation Agency
201 12th Street South, Suite 101
Arlington, VA 22202-5408**

[insert date of issuance]

Advising Bank: [U.S. Bank], [address] is requested to advise this Standby.

Issuance. At the request and for the account of the Government of [Fill in], Ministry of Defence, [Office name], [office address] (“Applicant”), we, [Issuing Bank’s Name], [address], (“Issuer”), issue this irrevocable standby letter of credit number [insert reference number] (“Standby”) in favor of the Defense Security Cooperation Agency (“Beneficiary”) in the maximum aggregate amount of [spell out dollar value] United States dollars (\$[numerical amount]).

Confirmation. Issuer authorizes and requests [Confirming Bank’s Name], [address] (“Confirmer”) to add its confirmation to this Standby in the form indicated in Annex A to this Standby (Confirmation of Standby Letter of Credit).

Underlying Purpose. Issuer has been notified by Applicant that this Standby is required in connection with a Memorandum of Agreement between the Government of [Name] and the Beneficiary for Terms and Conditions for Standby Letter of Credit Supporting Foreign Military Sales.

Undertaking. Issuer undertakes to Beneficiary to pay Beneficiary’s demand for payment in the currency and for an amount available under this Standby, completed as indicated and presented to Issuer at [insert address of place for presentation]. Such demand for payment must be presented at or before the close of business there either:

- i) on or before the expiration date of this Standby, in the form of the annexed Payment Demand (Annex B), or
- ii) whether before or within 90 days after the expiration date of this Standby, in the form of the annexed Demand upon Confirmer’s Failure to Honor (Annex C), which will be treated as if the presentation had been made to Issuer in a timely manner if Confirmer has failed to honor a complying presentation made to Confirmer by Beneficiary.

If a demand for payment exceeds the amount available, but the presentation otherwise complies, Issuer undertakes to pay the amount available.

Electronic Presentation. Presentation of any demand under this Standby may be made at Beneficiary’s option i) by paper, ii) by authenticated message to Issuer through the advising bank or iii) by any other means of communication as may be agreed upon in writing by Issuer, Confirmer and Beneficiary.

Automatic Increase. The amount of this undertaking shall be automatically increased up to a new maximum aggregate amount which taken together will not exceed 10% of the maximum aggregate amount at the time of issuance in accordance with the terms of one or more Beneficiary's demands in the form of the annexed Demand for Automatic Increase (Annex D), completed as indicated and presented to Issuer at the above-stated place for presentation. If the Demand for Automatic Increase is in excess of the maximum aggregate amount available under this provision, the amount available will increase to the maximum aggregate amount available.

Expiration. The expiration date of this Standby is [insert a fixed calendar date].

Automatic Extension. The expiration date of this Standby shall be automatically extended for successive one year periods, unless Issuer notifies Beneficiary by registered mail or other receipted means of delivery received at Beneficiary's above-stated address 60 or more calendar days before the then current expiration date that Issuer elects not to extend the expiration date. If this Standby is not extended or replaced on or before the date that is 45 calendar days prior to the then current expiration date of this Standby, Issuer is obligated to honor Beneficiary's Payment Demand on Refusal of Automatic Extension in the form of Annex E to this Standby, completed as indicated and presented to Issuer at the above-stated place for presentation on or before the then current expiration date of this Standby. At any time before the then current expiration date of this Standby Issuer may retract its notice of non-extension and thereby automatically extend the expiration date of this Standby as if its notice of non-extension had not been sent or received and may treat any pending (unhonored) demand for payment based on non-extension as automatically retracted by Beneficiary, by delivering a Notice of Retraction to Beneficiary in the form of Issuer's Notice of Revocation of Notice of Non-Extension (Annex F).

Final Expiration. The expiration date of this Standby is not subject to automatic extension beyond [insert a fixed calendar date 25 years from the date of issuance], and any pending automatic one-year extension shall be ineffective beyond that date.

Payment. Payment against a complying presentation shall be made within 3 business days after the business day of presentation at the place for presentation or by wire transfer to an account duly requested in the demand for payment. An advice of such payment shall be sent to Beneficiary's above-stated address.

Automatic Reduction. Any payment made under this Standby shall reduce the amount available under it. Also, the amount available under this Standby shall be automatically reduced in accordance with the terms of Beneficiary's reduction demand(s) in the form of the annexed Beneficiary's Demand for Automatic Reduction (Annex G), completed as indicated and presented to Issuer at the above-stated place for presentation under this Standby.

Drawing. Partial and multiple drawings are permitted.

Transfer. This Standby is transferable. Beneficiary's drawing rights under this Standby may be transferred in their entirety by presentation of a demand in the form of the annexed Transfer Demand (Annex H), completed as indicated and presented with this Standby or a copy (but not any amendments) of it (i) to Issuer at the above-stated place for presentation under this Standby or (ii) to Confirmer at the place for presentation to Confirmer stated in the Confirmation. Upon presentation of a complying demand for transfer: (i) the person identified

as the transferee shall become the Beneficiary, whose name and address and duly provided bank account information for any requested payment by wire transfer of funds shall be substituted for that of the transferor on any demands, requests, or consents then or thereafter required or permitted to be made by Beneficiary under this Standby or the Confirmation and (ii) Issuer or Confirmer, as applicable, shall acknowledge and effect the demanded transfer and shall issue its advice of transfer to the transferor and transferee and to Issuer or Confirmer, as applicable.

Applicable Rules & Laws; Jurisdiction. This Standby is issued subject to the International Standby Practices 1998 (ISP98) (International Chamber of Commerce Publication No. 590). Issuer's obligations under this Standby are governed by the law of the State of New York (United States of America) and applicable U.S. federal law. The U.S. federal courts located in the County of New York in the State of New York (United States of America) shall have exclusive jurisdiction over any action to enforce Issuer's obligations under this Standby.

Bank Charges and Fees. All bank charges and fees associated with issuing, advising, amending, extending, honoring, or transferring this Standby shall be borne by Applicant and shall not be deducted from the proceeds of any drawing on this Standby.

Communications. Communications other than demands may be made to Issuer by telephone, telefax, email or SWIFT message, to the following: [numbers/addresses]. Communications to Beneficiary will be made to Beneficiary at the above Beneficiary's address unless Beneficiary makes demand to Issuer in the form of Demand for Automatic Change of Address in the form of Annex I to this Standby, which will be automatically effective and thereafter Issuer will notify Confirmer thereof and all communications by Issuer and Confirmer must be sent to Beneficiary at that address.

[Issuing Bank]

[signature]_____

Authorized Signature

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Automatically to Extend Confirmation

Annex B to Standby: Payment Demand

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Annex D to Standby: Demand for Automatic Increase

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Annex I to Standby: Demand for Automatic Change of Address

Annex A to Standby: Confirmation of Standby Letter of Credit

Annex A to Standby: Confirmation of Standby Letter of Credit

**Defense Security Cooperation Agency
201 12th Street South, Suite 101
Arlington, VA 22202-5408**

[insert date of issuance]

Advising Bank: [U.S. Bank], [address] is requested to advise this Confirmation.

Confirmation. We, [Confirming Bank's Name], [Confirming Bank's address] ("Confirmer"), issue this irrevocable confirmation number [insert reference number] ("Confirmation") in favor of the Defense Security Cooperation Agency ("Beneficiary") in the maximum aggregate amount of [spell out dollar value] United States dollars (\$[numerical amount]) under the standby letter of credit number [insert reference number] ("Standby") issued by [Issuing Bank's Name], [Issuing Bank's address] ("Issuer"). The Standby was issued on the application of the Government of [Fill in], Ministry of Defence, [Office name], [office address] ("Applicant"), and nominates Confirmer to advise and issue this Confirmation.

Underlying Purpose. Confirmer has been notified that this Standby is required in connection with a Memorandum of Agreement between the Government of [Name] and the Beneficiary for Terms and Conditions for Standby Letter of Credit Supporting Foreign Military Sales.

Undertaking. Confirmer undertakes to Beneficiary to pay Beneficiary's demand for payment in the currency and for an amount available under this Confirmation, completed as indicated and presented to Confirmer at [insert address of place for presentation]. Such demand for payment must be presented at or before the close of business there on the expiration date of this Confirmation, in the form of either:

- (i) Appendix I to this Confirmation (Payment Demand), or
- (ii) Appendix II to this Confirmation (Payment Demand Upon Issuer's Failure to Honor).

If a demand for payment exceeds the amount available, but the presentation otherwise complies, Confirmer undertakes to pay the amount available.

Electronic presentation. Presentation of any demand under this Confirmation may be made at Beneficiary's option i) by paper, ii) by authenticated message to Confirmer or iii) by any other means of communication as may be agreed upon in writing by Issuer, Confirmer and Beneficiary.

Automatic Increase. The amount of this undertaking shall be automatically increased up to a new maximum aggregate amount which taken together will not exceed 10% of the maximum aggregate amount at the time of issuance in accordance with the terms of one or

more Beneficiary's demands in the form of the Demand for Automatic Increase annexed to the Standby (Annex D), completed as indicated and presented to Issuer with a copy sent to Confirmer at the above-stated place for presentation to Confirmer. If this Demand for Increase is not presented to Issuer, it may be presented directly to Confirmer. If the Demand for Automatic Increase is in excess of the maximum aggregate amount available under this provision, the amount available will increase to the maximum aggregate amount available.

Expiration. The expiration date of this Confirmation is [insert a fixed calendar date 30 calendar days later than the expiration date of the Standby].

Automatic Extension. The expiration date of this Confirmation shall be automatically extended for successive one year periods, unless Confirmer notifies Beneficiary by registered mail or other receipted means of delivery received at Beneficiary's above-stated address 60 or more calendar days before the then current expiration date that Issuer elects not to extend the expiration date. If this Confirmation is not extended or replaced on or before the date that is 45 days prior to the then current expiration date of this Confirmation, Confirmer is obligated to honor Beneficiary's Payment Demand on Refusal of Automatic Extension in the form of Appendix III to this Confirmation, completed as indicated and presented to Confirmer at the above-stated place for presentation on or before the then current expiration date of this Confirmation. At any time before the then current expiration date of this Confirmation Confirmer may retract its notice of non-extension and thereby automatically extend the expiration date of this Confirmation as if its notice of non-extension had not been sent or received and may treat any pending (unhonored) demand for payment based on non-extension as automatically retracted by Beneficiary, by sending a Notice of Retraction to Beneficiary in the form of Issuer's Notice of Revocation of Notice of Non-Extension (Annex F).

Final Expiration. The expiration date of this Confirmation is not subject to automatic extension beyond [insert a fixed calendar date 25 years plus 30 calendar days from the date of issuance of the Standby], and any pending automatic one-year extension shall be ineffective beyond that date.

Termination of Obligations. All obligations of Confirmer shall terminate automatically on Issuer's honor of its obligations under the Standby or Confirmer's honor of its obligations under this Confirmation to the extent that they extinguish Issuer's liability.

Payment. Payment against a complying presentation shall be made within 3 business days after the business day of presentation at the place for presentation or by wire transfer to an account requested in the demand for payment. An advice of such payment shall be sent to Beneficiary's above-stated address.

Automatic Reduction. Any payment made under this Confirmation shall reduce the amount available under it. Also, the amount available under this Confirmation shall be automatically reduced in accordance with the terms of Beneficiary's reduction demand(s) in the form of a copy of Beneficiary's Demand for Automatic Reduction annexed to the Standby (Annex G), completed as indicated and presented to Confirmer at the above-stated place for presentation under this Confirmation. If the Demand for Automatic Reduction is not presented to Issuer, it may be presented directly to Confirmer.

Drawing. Partial and multiple drawings are permitted.

Transfer. This Confirmation is transferable. Beneficiary's drawing rights under this

Confirmation may be transferred in their entirety by presentation of a demand in the form of a copy of Beneficiary's Transfer Demand annexed to the Standby (Annex H), completed as indicated and presented with the Standby or a copy (but not any amendments) of it (i) to Issuer at the place for presentation under the Standby or (ii) to Confirmer at the above-stated place for presentation to Confirmer under this Confirmation. Upon presentation of a complying demand for transfer: (i) the person identified as the transferee shall become the Beneficiary, whose name and address and duly provided bank account information for any requested payment by wire transfer of funds shall be substituted for that of the transferor on any demands, requests, or consents then or thereafter required or permitted to be made by Beneficiary under the Standby or this Confirmation and (ii) Issuer or Confirmer, as applicable, shall acknowledge and effect the demanded transfer and shall issue its advice of transfer to the transferor and transferee and to Issuer or Confirmer, as applicable.

Applicable Rules & Laws; Jurisdiction. This Confirmation is issued subject to the International Standby Practices 1998 (ISP98) (International Chamber of Commerce Publication No. 590). Confirmer's obligations under this Confirmation are governed by the law of the State of New York (United States of America) and applicable U.S. federal law. The U.S. federal courts located in the County of New York in the State of New York (United States of America) shall have exclusive jurisdiction over any action to enforce Confirmer's obligations under this Confirmation.

Bank Charges and Fees. All bank charges and fees associated with issuing, advising, amending, extending, honoring, or transferring this Confirmation shall be borne by Applicant and shall not be deducted from the proceeds of any drawing on this Confirmation.

Communications. Communications other than demands may be made to Confirmer by telephone, telefax, email or SWIFT message, to the following: [numbers/addresses]. Communications to Beneficiary will be made to Beneficiary at the above Beneficiary's address unless Beneficiary makes demand to Confirmer in the form of Demand for Automatic Change of Address in the form of Annex I to the Standby, which will be automatically effective and thereafter Confirmer will notify Issuer thereof and all communications by Issuer and Confirmer must be sent to Beneficiary at that address.

[Confirmer's Name] _____

[signature]_____

Authorized Signature

Appendix I to Confirmation: Payment Demand

Appendix I to Confirmation: Payment Demand

[INSERT DATE]

[Confirming Bank]

[Insert address of Confirmer at place of presentation as stated in Confirmation]

Re: Confirmation No. [insert reference number] (“Confirmation”), dated [insert date] of Standby Letter of Credit No. [insert reference number], dated [insert date] issued by [Issuing Bank] (“Standby”).

The undersigned Beneficiary demands payment of [INSERT CURRENCY/AMOUNT] under the Confirmation.

Beneficiary states that Applicant is obligated to pay to Beneficiary the amount demanded under the agreement between Beneficiary and Applicant titled Memorandum of Agreement for Terms and Conditions for Standby Letter of Credit Supporting Foreign Military Sales and dated [insert date] and that it has not made presentation to Issuer.

Beneficiary requests that payment be made by wire transfer to an account of Beneficiary as follows: [INSERT NAME, ADDRESS, AND ROUTING NUMBER OF BENEFICIARY’S BANK, AND NAME AND NUMBER OF BENEFICIARY’S ACCOUNT].

[INSERT BENEFICIARY’S NAME AND ADDRESS]

By its authorized officer:

[INSERT ORIGINAL SIGNATURE]

[INSERT TYPED/PRINTED NAME AND TITLE]

Appendix II to Confirmation: Payment Demand Upon Issuer's Failure to Honor

Appendix II to Confirmation: Payment Demand Upon Issuer's Failure to Honor

[INSERT DATE]

[Confirming Bank]

[Insert address of Confirmer at place of presentation as stated in Confirmation]

Re: Confirmation No. [insert reference number] ("Confirmation") dated [insert date] of Standby Letter of Credit No. [insert reference number] ("Standby"), dated [insert date] issued by [Issuing Bank] ("Issuer").

The undersigned Beneficiary demands payment of [INSERT CURRENCY/AMOUNT] under the Confirmation.

Beneficiary states that it has made a complying presentation to Issuer under its above referenced Standby and that Issuer has not honored such demand for payment.

Beneficiary requests that payment be made by wire transfer to an account of Beneficiary as follows: [INSERT NAME, ADDRESS, AND ROUTING NUMBER OF BENEFICIARY'S BANK, AND NAME AND NUMBER OF BENEFICIARY'S ACCOUNT].

[INSERT BENEFICIARY'S NAME AND ADDRESS]

By its authorized officer:

[INSERT ORIGINAL SIGNATURE]

[INSERT TYPED/PRINTED NAME AND TITLE]

Appendix III to Confirmation: Payment Demand on Confirmer's Refusal Automatically to Extend Confirmation

Appendix III to Confirmation: Payment Demand on Confirmer's Refusal Automatically to Extend Confirmation

[INSERT DATE]

[Confirming Bank]

[Insert address of Confirmer at place of presentation as stated in Confirmation]

Re: Confirmation No. [insert reference number] ("Confirmation"), dated [insert date] of Standby Letter of Credit No. [insert reference number], dated [insert date] issued by [Issuing Bank] ("Standby").

The undersigned Beneficiary demands payment of [INSERT CURRENCY/AMOUNT] under the Confirmation.

Beneficiary states that the Confirmation is set to expire fewer than 45 days from the date hereof, because Confirmer has given a notice of non-extension of the Confirmation, no retraction of the non-extension notice or satisfactory substitute confirmation has been duly received, and the amount demanded is required as cash collateral to secure the obligations of the Applicant referred to in the Standby under the agreement between Beneficiary and such Applicant titled Memorandum of Agreement for Terms and Conditions for Standby Letter of Credit Supporting Foreign Military Sales and dated [date].

Beneficiary requests that payment be made by wire transfer to an account of Beneficiary as follows: [INSERT NAME, ADDRESS, AND ROUTING NUMBER OF BENEFICIARY'S BANK, AND NAME AND NUMBER OF BENEFICIARY'S ACCOUNT].

[INSERT BENEFICIARY'S NAME AND ADDRESS]

By its authorized officer:

[INSERT ORIGINAL SIGNATURE]

[INSERT TYPED/PRINTED NAME AND TITLE]

Annex B to Standby: Payment Demand

Annex B to Standby: Payment Demand

[INSERT DATE]

[Issuing Bank]

[Insert address of Issuer at place of presentation as stated in Standby]

Re: Standby Letter of Credit No. [insert reference number], dated [date], issued by [Issuing Bank] (“Standby”) and Confirmation No. [insert reference number] dated [date], confirmed by [Confirming Bank]

The undersigned Beneficiary demands payment of [INSERT CURRENCY/AMOUNT] under the Standby.

Beneficiary states that Applicant is obligated to pay to Beneficiary the amount demanded under the agreement between Beneficiary and Applicant titled Memorandum of Agreement for Terms and Conditions for Standby Letter of Credit Supporting Foreign Military Sales and dated [insert date].

Beneficiary requests that payment be made by wire transfer to an account of Beneficiary as follows: [INSERT NAME, ADDRESS, AND ROUTING NUMBER OF BENEFICIARY’S BANK, AND NAME AND NUMBER OF BENEFICIARY’S ACCOUNT].

[INSERT BENEFICIARY’S NAME AND ADDRESS]

By its authorized officer:

[INSERT ORIGINAL SIGNATURE]

[INSERT TYPED/PRINTED NAME AND TITLE]

Annex C to Standby: Payment Demand Upon Confirmer's Failure to Honor

Annex C to Standby: Payment Demand Upon Confirmer's Failure to Honor

[INSERT DATE]

[Issuing Bank]

[Insert address of Issuer at place of presentation as stated in Standby]

Re: Standby Letter of Credit No. [insert reference number], dated [date], issued by Issuing Bank] ("Standby") and Confirmation No. [insert reference number], dated [date], confirmed by [Confirming Bank] ("Confirmer")

The undersigned Beneficiary demands payment of [INSERT CURRENCY/AMOUNT] under the Standby.

Beneficiary states that it has made a complying presentation to Confirmer under its confirmation of the Standby (Confirmation No. [insert] dated [insert]) and that Confirmer has not honored such demand for payment.

Beneficiary requests that payment be made by wire transfer to an account of Beneficiary as follows: [INSERT NAME, ADDRESS, AND ROUTING NUMBER OF BENEFICIARY'S BANK, AND NAME AND NUMBER OF BENEFICIARY'S ACCOUNT].

[INSERT BENEFICIARY'S NAME AND ADDRESS]

By its authorized officer:

[INSERT ORIGINAL SIGNATURE]

[INSERT TYPED/PRINTED NAME AND TITLE]

Annex D to Standby: Demand for Automatic Increase

Annex D to Standby: Demand for Automatic Increase

[INSERT DATE]

[Insert name and address of Issuer or Confirmer at place of presentation as stated in Standby or Confirmation, as appropriate]

Re: Standby Letter of Credit No. [insert reference number], dated [date], issued by [Issuing Bank] (“Standby”) and Confirmation No. [insert reference number], dated [date], confirmed by [Confirming Bank]

The undersigned Beneficiary demands increase of the amount available under the Standby by [INSERT CURRENCY/AMOUNT] for a maximum aggregate amount of [INSERT CURRENCY/AMOUNT].

[INSERT BENEFICIARY’S NAME AND ADDRESS]

By its authorized officer:

[INSERT ORIGINAL SIGNATURE]

[INSERT TYPED/PRINTED NAME AND TITLE]

Annex E to Standby: Payment Demand on Refusal of Automatic Extension

Annex E to Standby: Payment Demand on Refusal of Automatic Extension

[INSERT DATE]

[Issuing Bank]

[name and address of Issuer at place of presentation as stated in Standby]

Re: Standby Letter of Credit No. [insert reference number], dated [date], issued by [Issuing Bank] (“Standby”) and Confirmation No. [insert reference number], dated [date], confirmed by [Confirming Bank]

The undersigned Beneficiary demands payment of [INSERT CURRENCY/AMOUNT] under the Standby.

Beneficiary states that the Standby is set to expire fewer than 45 days from the date hereof, because Issuer has given a notice of non-extension of the Standby, no notice of retraction of the non-extension or satisfactory substitute standby has been duly received, and the amount demanded is required as cash collateral to secure the obligations of the Applicant referred to in the Standby under the agreement between Beneficiary and such Applicant titled Memorandum of Agreement for Terms and Conditions for Standby Letter of Credit Supporting Foreign Military Sales and dated [date].

Beneficiary requests that payment be made by wire transfer to an account of Beneficiary as follows: [INSERT NAME, ADDRESS, AND ROUTING NUMBER OF BENEFICIARY’S BANK, AND NAME AND NUMBER OF BENEFICIARY’S ACCOUNT].

[INSERT BENEFICIARY’S NAME AND ADDRESS]

By its authorized officer:

[INSERT ORIGINAL SIGNATURE]

[INSERT TYPED/PRINTED NAME AND TITLE]

Annex F to Standby: Issuer’s Notice of Revocation of Notice of Non-Extension

Annex F to Standby: Issuer’s Notice of Revocation of Notice of Non-Extension

[INSERT DATE]

Defense Security Cooperation Agency
201 12th Street South, Suite 101
Arlington, VA 22202-5408

[Insert address of beneficiary]

[insert date of issuance]

Re: Standby Letter of Credit No. [insert reference number], dated [date], issued by [Issuing Bank] (“Standby”) and Confirmation No. [insert reference number], dated [date], confirmed by [Confirming Bank]

Issuer hereby irrevocably retracts its Notice of Non-Extension dated [date] sent to Defense Security Cooperation Agency at the above address or: [INDICATE ADDRESS IF DIFFERENT].

This retraction signifies that the Standby remains in full force and effect and will automatically extend as if the Notice of Non-Extension had not been issued.

[INSERT ISSUING BANK]

By its authorized officer:

[INSERT ORIGINAL SIGNATURE]

[INSERT TYPED/PRINTED NAME AND TITLE]

Annex G to Standby: Demand for Automatic Reduction

Annex G to Standby: Demand for Automatic Reduction

[INSERT DATE]

[Insert name and address of Issuer or Confirmer as stated in Standby as appropriate]

Re: Standby Letter of Credit No. [insert reference number], dated [date], issued by [Issuing Bank] (“Standby”) and Confirmation No. [insert reference number], dated [date], confirmed by [Confirming Bank]

The undersigned Beneficiary demands decrease of the amount available under the Standby by [INSERT CURRENCY/AMOUNT] for a maximum aggregate amount of [INSERT CURRENCY/AMOUNT].

[INSERT BENEFICIARY’S NAME AND ADDRESS]

By its authorized officer:

[INSERT ORIGINAL SIGNATURE]

[INSERT TYPED/PRINTED NAME AND TITLE]

Annex H to Standby: Transfer Demand

Annex H to Standby: Transfer Demand

[INSERT DATE]

[Insert name and address of Issuer or Confirmer as appropriate]

Re: Standby Letter of Credit No. [reference number] (“Standby”), dated [date], issued by [Issuing Bank] (“Issuer”) and Confirmation No. [insert reference number] (“Confirmation”), dated [date], confirmed by [Confirming Bank] (“Confirmer”)

The undersigned Beneficiary demands transfer of drawing rights in their entirety, including rights to demand further payment, reduction, increase, and transfer under the Standby and the Confirmation, and rights to give or withhold consent to any pending or future amendment or cancellation, to the following person at the following address: [INSERT NAME AND ADDRESS OF THAT PERSON]

and with the following bank account for payment by wire transfer of funds to that person [INSERT NAME, ADDRESS, AND ROUTING NUMBER OF THAT PERSON’S BANK AND NAME AND NUMBER OF THAT PERSON’S ACCOUNT].

Beneficiary states that the above-identified person is the transferee, from and after the effective date stated below, of all of Beneficiary’s rights that are supported by the Standby and the Confirmation under the agreement between Beneficiary and Applicant titled Memorandum of Agreement for Terms and Conditions for Standby Letter of Credit Supporting Foreign Military Sales and dated [date].

Beneficiary further states that there are no outstanding demands or requests for transfer under the Standby or the Confirmation. Beneficiary agrees to make no such demands or requests while this demand is outstanding.

Accompanying this demand is the Standby or, if not, a copy accompanied by the following declaration: “The original Standby is not available and Beneficiary undertakes to indemnify and hold Issuer and Confirmer harmless from any losses directly resulting from non presentation of the original”.

Please effect the demanded transfer as of the following effective date: [INSERT DATE] by delivering a replacement to the above-identified person as the transferee beneficiary and then notifying the undersigned thereof.

If this demand has been presented to Issuer, Beneficiary also requests that Issuer notify Confirmer of this demand and the transfer. If this demand has been presented to Confirmer,

Figure C9.F5. - MOU Template for SBLC

Beneficiary also requests that Confirmer notify Issuer of this demand and transfer.

[INSERT BENEFICIARY'S NAME AND ADDRESS]

By its authorized officer:

[INSERT ORIGINAL SIGNATURE]

[INSERT TYPED/PRINTED NAME AND TITLE]

Annex I to Standby: Demand for Automatic Change of Address

Annex I to Standby: Demand for Automatic Change of Address

[INSERT DATE]

[Insert name and address of Issuer as stated in Standby]

Re: Standby Letter of Credit No. [insert reference number], dated [date], issued by [Issuing Bank] (“Standby”) and Confirmation No. [insert reference number], dated [date], confirmed by [Confirming Bank] (“Confirmation”)

The undersigned Beneficiary demands that its address for sending all communications related to the Standby and Confirmation be changed to [INSERT NEW ADDRESS] effective [INSERT DATE].

[INSERT BENEFICIARY’S NAME]

[INSERT BENEFICIARY’S NEW ADDRESS]

By its authorized officer:

[INSERT ORIGINAL SIGNATURE]

[INSERT TYPED/PRINTED NAME AND TITLE]