



DEFENSE SECURITY COOPERATION AGENCY
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WASHINGTON, D.C. 20301-2800

04 OCT 2019

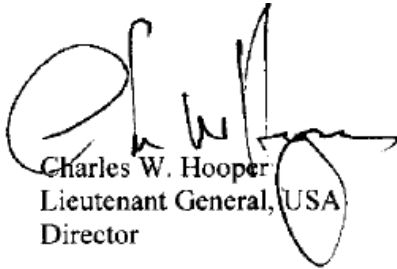
MEMORANDUM FOR DEPUTY UNDER SECRETARY OF THE AIR FORCE FOR
INTERNATIONAL AFFAIRS
DEPUTY ASSISTANT SECRETARY OF THE ARMY FOR DEFENSE
EXPORTS AND COOPERATION
DEPUTY ASSISTANT SECRETARY OF THE NAVY FOR
INTERNATIONAL PROGRAMS
DIRECTOR, DEFENSE CONTRACT MANAGEMENT AGENCY
DIRECTOR DEFENSE FINANCE AND ACCOUNTING SERVICE,
SECURITY COOPERATION ACCOUNTING
DIRECTOR, DEFENSE LOGISTICS AGENCY
DIRECTOR, DEFENSE LOGISTICS INFORMATION SERVICE
DIRECTOR, DEFENSE THREAT REDUCTION AGENCY
DIRECTOR, MISSILE DEFENSE AGENCY
DIRECTOR, NATIONAL GEOSPATIAL-INTELLIGENCE AGENCY
DEPUTY DIRECTOR FOR INFORMATION ASSURANCE,
NATIONAL SECURITY AGENCY
JOINT STRIKE FIGHTER PROGRAM

SUBJECT: Standby Letter of Credit, Defense Security Cooperation Agency Policy Memo 19-16,
E-SAMM 425

Reference: Security Assistance Management Manual (SAMM), C9.9.1.5.4., Standby Letter of Credit.

This memorandum provides notification of the attached updated to Chapter 9 of the SAMM pertaining to Standby Letters of Credit (SBLCs). The Arms Export Control Act requires that FMS partners agree to pay full costs, including termination, owed under contracts into which the U.S. Government enters pursuant to FMS Letters of Offer and Acceptance (LOA). The SBLC is a banking tool that FMS partners may use to guarantee contract termination payments under FMS LOAs. It is critical that SBLC policy and guidance effectively addresses processes, stakeholder roles and responsibilities, and terms and conditions to ensure successful management and implementation of SBLCs.

This SAMM update clarifies and standardizes how Standby Letters of Credit (SBLCs) are approved, established, managed, and terminated by updating the SAMM Section on Standby Letters of Credit (reference). This policy update also expands the category of banks that are eligible to issue SBLCs under DSCA's SBLC program to include U.S.-based foreign banks that hold a Federal License from the Office of the Comptroller of the Currency (OCC) and meet the outlined eligibility criteria. If you have questions or would like additional information, please contact Ms. Danielle Ayers, DBO/FPA, mary.d.ayers2.civ@mail.mil, (703) 697-9407.


Charles W. Hooper
Lieutenant General, USA
Director

Attachment: As stated

**Security Assistance Management Manual (SAMM), E-Change 425
Updates to C9.9.1.5.4. Standby Letter of Credit (SBLC).**

1) Update C9.9.1.5.4. Standby Letter of Credit (SBLC) and subsections to read as follows, and update remaining tables and figures accordingly.

C9.9.1.5.4. Standby Letter of Credit (SBLC). The [DoD FMR, Volume 15, Chapter 4](#) authorizes the Defense Security Cooperation Agency (DSCA) to approve an SBLC arrangement in lieu of Termination Liability (TL) prepayment requirements under an FMS program for Dependable Undertaking-eligible foreign partners. Under the SBLC, the value of the Purchaser's TL is effectively guaranteed by a bank's letter of credit instead of TL prepayments the Purchaser makes into the FMS Trust Fund or Federal Reserve Bank. The SBLC covers all implemented FMS cases for which TL applies. An SBLC does not cover other financial requirements owed to the USG (i.e. working capital). Foreign partners in receipt of and utilizing FMF grants are not eligible to participate in an SBLC in lieu of TL.

C9.9.1.5.4.1. SBLC Documents.

C9.9.1.5.4.1.1. SBLC. Eligible Purchasers may choose to use an SBLC issued by an eligible bank in lieu of TL prepayments. At the request of the Purchaser, the SBLC is a formal and independent undertaking issued by a bank to the DSCA as the "beneficiary" of the SBLC that specifies the duties of the bank and the rights of DSCA. The SBLC, in effect, serves as the bank's guarantee of payment to DSCA in the event of partial or full termination of an FMS case by the Purchaser or USG.

C9.9.1.5.4.1.2. Memorandum of Agreement (MOU). The MOU governs the relationship between and the obligations of DSCA and the Purchaser concerning the establishment, review, modification, drawing on, and termination of an SBLC. The MOU must be negotiated and signed prior to SBLC implementation.

Figure C9.F5. - MOU Template for SBLC

**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 DSCA'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 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].

- a) 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 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: _____

Figure C9.F5. - MOU Template for SBLC - Appendix A

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

Table of Annexes:

Annex A to Standby: Confirmation of Standby Letter of Credit

Appendix I to Confirmation: Payment Demand

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

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

Annex B to Standby: Payment Demand

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

Annex D to Standby: Demand for Automatic Increase

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

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

Annex G to Standby: Demand for Automatic Reduction

Annex H to Standby: Transfer Demand

Annex I to Standby: Demand for Automatic Change of Address

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

[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

[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

[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

[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

[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

[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

[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

[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

[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

[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, 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

[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]

C9.9.1.5.4.1.3. Demand for Payment (Drawdown). The demand for payment is a document (in the form of an attachment to the SBLC) that would be presented by DSCA to the bank to demand payments from the issuing/confirming financial institution for the amount required by the USG, but not to exceed the amount of the SBLC.

C9.9.1.5.4.1.4. SBLC Status Report. DSCA (Directorate of Business Operations (DBO) Country Financial Management Division (CFM)) will maintain, monitor and track the issuance, activity status, and processing of all SBLC documents. On a quarterly basis, CFM will provide the CFO a report providing a status of all SBLCs.

C9.9.1.5.4.2. Rules and Dispute Resolution. SBLCs for FMS shall provide by their terms that they are subject to the International Standby Practices (ISP 98), International Chamber of Commerce Publication No. 590, and shall be governed by the law of the State of New York and applicable U.S. Federal law. In addition, each SBLC shall contain a consent to the exclusive jurisdiction of the U.S. Federal courts located in the County and State of New York, United States of America, with respect to any disputes arising under the SBLC.

C9.9.1.5.4.3. Definitions. Unless specifically defined otherwise in the SBLC documents, the definitions for all terms stated therein are found in the ISP 98. For informational purposes, the following are key SBLC definitions derived from the ISP 98:

- “Beneficiary” is a named entity who is entitled to draw under a standby.
- “Issuer” means a bank that issues the standby letter of credit.
- “Confirmer” is a bank nominated by the issuer to honor the issuer’s standby.

C9.9.1.5.4.4. Roles and Responsibilities.

C9.9.1.5.4.4.1. DSCA. The DSCA is the beneficiary stated on the SBLC and is responsible for calculating quarterly termination liability for each FMS program. Therefore, DSCA ensures the SBLC amounts are sufficient to cover termination liability every fiscal quarter.

C9.9.1.5.4.4.1.1. DSCA Director. The DSCA Director has overall responsibility for ensuring the successful implementation, execution and management of the SBLC program.

C9.9.1.5.4.4.1.2. Chief Financial Officer (CFO). The CFO provides leadership and policy guidance regarding the administration of the SBLC program. The CFO also signs all invitations for Purchasers to consider joining the SBLC program; approves or denies a SBLC application; and generally signs all SBLC documents on behalf of DSCA as the “beneficiary”.

C9.9.1.5.4.4.1.3. Business Deputy for Country Financial Management (CFM). The Business Deputy for CFM is responsible for day-to-day financial management of the FMS programs. CFM will prepare all invitation letters; issue for release all SBLC documents; conduct negotiations and discussions with the Purchaser’s representatives and participating bank officials; recommend to the DSCA CFO whether an SBLC application should be approved or rejected; ensure adherence to SBLC policy; coordinate with Financial Policy and Analysis to update SBLC policy as necessary; notify DFAS and the Implementing Agencies when SBLCs are implemented and, to include confirmation as to which FMS cases an SBLC pertains; maintain a tracking mechanism to reflect SBLC activity; resolve issues that arise; keep the DSCA Director and CFO apprised of SBLC-related issues as appropriate; serve as USG contact for all SBLC related inquiries; and serve as overall coordinator for the SBLC program.

C9.9.1.5.4.4.1.4. Office of the General Counsel (OGC). The DSCA (Office of the General Counsel (OGC)) will provide legal counsel and advice to the DSCA Director, CFO, and staff on all matters pertaining to SBLC, as appropriate. OGC will review and coordinate on all SBLC documents, including revisions and amendments, to ensure legal sufficiency prior to a document’s issuance to designated parties for review and acceptance. OGC will articulate dispute resolution mechanisms. As appropriate, DSCA OGC will coordinate with DoD GC (Fiscal).

C9.9.1.5.4.4.2. Defense Finance and Accounting Service (DFAS). The Directorate for Security Cooperation Accounting (DFAS-SCA) is responsible for financial accounting of FMS Trust Fund transactions. With regard to SBLCs and Confirmations, DFAS-SCA will maintain copies of all demands for payment made by DSCA. If DSCA has not provided a copy of the Demand for Payment, DFAS-SCA will request a copy from DSCA to ensure sufficient supporting documentation exists for payments received in response to a demand for payment. When receiving a payment in response to a demand for payment, DFAS-SCA will record the deposit of funds from the issuing/confirming bank(s) to the Purchaser’s Trust Fund general ledger account (GLA) 1009 in DIFS; which will correspondingly impact the DIFS GLA 1001 as well. DFAS-SCA will verify that the drawdown amount received matches the demand for payment and notify CFM.

C9.9.1.5.4.4.3. Issuing Bank. Refer to the definition of “Issuer” and related rules contained in ISP 98 and Uniform Commercial Code Article 5. The effect of the SBLC is that the issuing bank has an independent and documentary obligation under the SBLC to pay DSCA, as beneficiary, against presentation of a complying demand for payment under the SBLC. Under whatever separate agreement(s) into which they choose to enter, the issuing bank and Purchaser will negotiate fees associated with the SBLC as well as any reimbursement or other underlying transactions required, which are separate and apart from the SBLC. Under no circumstances may articles delivered or services performed under the FMS program be used as collateral for securing arrangements associated with the SBLC. In the body of the SBLC, the issuing bank notifies DSCA as to the letter of credit number assigned to the specific SBLC.

C9.9.1.5.4.4.4. Confirming Bank. Refer to the definition of “Confirmer” and related rules contained in ISP 98 and Uniform Commercial Code Article 5. A confirming bank is necessary when an issuing bank alone will not suffice to meet DSCA’s eligibility criteria to provide DSCA with adequate assurance of payment. (e.g. The issuing bank may not have the necessary credit rating but the confirming bank may or the issuing bank may be located in a country that is not acceptable in terms of country risk but the confirming bank’s being located in the U.S. mitigates

that risk.) A confirming bank takes the issuing bank's promise under the SBLC and then under the Confirmation adds its own independent and documentary obligation under the Confirmation to pay DSCA, as beneficiary, against presentation of a complying demand for payment under the Confirmation. The confirming bank will also usually act as an advising bank to advise the terms and conditions of the SBLC to DSCA and to check the apparent authenticity of the SBLC. Under whatever separate agreement(s) into which they choose to enter, the confirming bank and the issuing bank, and possibly the Purchaser, will negotiate fees associated with the Confirmation as well as any reimbursement or other underlying transactions required, which are separate and apart from the Confirmation and the SBLC. Under no circumstances can articles delivered or services performed under the FMS program be used as collateral for securing arrangements associated with the Confirmation or the SBLC. In the body of the Confirmation the confirming bank notifies DSCA as to the letter of credit number assigned to the specific Confirmation.

C9.9.1.5.4.4.5. Federal Reserve Bank, New York (FRBNY). The FRBNY manages interest-bearing accounts for the deposit of national funds from some Purchasers. Should an SBLC be in effect for a given Purchaser that owns an account at the FRBNY, the Purchaser may request DSCA approval to withdraw all or some of the account's funds which represent Termination Liability prepayments on or after the SBLC is implemented. In addition, the FRBNY account agreement can be amended to reflect the exclusion of TL as a component of "reserve funds" residing in that account, if appropriate. The FRBNY has no direct responsibility for the maintenance of any SBLC or Confirmation.

C9.9.1.5.4.4.6. Purchaser. The Purchaser may initiate a request to furnish an SBLC for FMS programs. All requests, either initiated unilaterally or in reply to a DSCA invitation, must be sent to the DSCA CFO in writing and signed by an official authorized to sign SBLC-related documents on behalf of the Purchaser's government/organization. The Purchaser is responsible for paying to the issuing bank or confirming bank any/all fees associated with the SBLC or Confirmation. No fees can be capitalized or subsumed into the dollar amount specified in the SBLC or Confirmation documents. The Purchaser must specify to DSCA the issuing and/or confirming bank(s) it wishes to issue the SBLC or Confirmation, as applicable, for the FMS program. The Purchaser is responsible for notifying DSCA in writing if and when it wishes to terminate its agreement with an issuing and/or confirming bank or arrange for a replacement SBLC or Confirmation. The Purchaser must sign an agreement with DSCA specifying the terms and conditions for an SBLC to be implemented to support the FMS program.

C9.9.1.5.4.4.7. Implementing Agency (IAs). Upon receiving notice from DSCA that an SBLC has been implemented for an FMS program, the IA will modify the payment schedule of the relevant cases to extract the TL component as a financial requirement owed to the USG. Likewise, should a given SBLC be terminated, the payment schedule may need to be revised to re-insert the TL component as appropriate. The IA will work with CFM to establish a reasonable, but specific timeframe to process the changes in TL status.

C9.9.1.5.4.5. Solicitation and Review.

C9.9.1.5.4.5.1. SBLC Secured Amount Determination. Prior to any formal solicitation for an SBLC, DSCA CFM, in coordination with DSCA FPA, will determine the required amount to be covered under the SBLC by calculating the TL requirements for the FMS cases associated with the SBLC and notify the Purchaser, accordingly. The Purchaser must request an SBLC for at

least the amount calculated by DSCA CFM, and may also request a larger amount. This amount may be discussed with the Purchaser during the solicitation and review phases, but is not subject to negotiation per se as it represents a valid contingent liability. DSCA will notify the Purchaser of the amount that must be covered by the SBLC based on the TL requirements. However, the Purchaser may, in its SBLC application, request an amount higher than DSCA's TL amount. The higher amount can be accommodated if executed via an accepted and implemented SBLC. DSCA will retain an audit trail specifying that the higher amount was due to the Purchaser's request.

C9.9.1.5.4.5.2. Solicitation.

C9.9.1.5.4.5.2.1. DSCA Invitation. DSCA may, at its discretion, formally invite in writing a Purchaser to participate in an SBLC for its FMS program. DSCA will only offer an invitation to Purchasers who meet the eligibility criteria specified in Section C9.9.1.5.4.5.2.2. The invitation letter shall specify the date by which a Purchaser must notify DSCA if it accepts the invitation, the amount of TL reserves that must be covered by the SBLC, and include samples of the SBLC-related documents. If a purchaser accepts the invitation, it must provide DSCA the full legal name of the issuing and/or confirming bank proposed for consideration; verification as to the desired SBLC amount; requested changes, if any, to the SBLC-related documents; designation of authority signed by a Ministry-level representative; and the preferred timeframe during which the SBLC should be implemented. This information is considered the SBLC application, and will only be reviewed for approval decision by the DSCA CFO when complete.

C9.9.1.5.4.5.2.2. Purchaser Initiation. Any Purchaser can initiate a request to participate in the SBLC for its FMS program. However, a request does not imply DSCA acceptance; please refer to Section C9.9.1.5.4.5.2.3. for eligibility requirements. The Purchaser's request must include the following, at a minimum: the full legal name of the issuing and/or confirming bank proposed for consideration; verification of the desired SBLC amount; designation of authority signed by a Ministry level representative; and preferred timeframe during which the SBLC should be implemented. While the Purchaser can submit its desired SBLC documents for DSCA review, those documents will be subject to revision based on any perceived variances from the formats prescribed in Section C9.9.1.5.4.1.2. Memorandum of Agreement (MOU).

C9.9.1.5.4.5.2.3. Eligibility Requirements for the Purchaser. Under any SBLC or Confirmation, the obligation to pay on presentation of a complying demand for payment rests with the issuing/confirming bank. The Purchaser remains liable to DSCA for its underlying obligations owed to DSCA but the balance the Purchaser owes will be reduced by any amounts paid by the issuing/confirming bank to DSCA under the SBLC or Confirmation. However, that does not remove the requirement for DSCA to conduct an assessment of the Purchaser's stability or other factors in order to determine whether an SBLC or Confirmation involving that Purchaser can be accommodated. One risk mitigation factor is the stability of *all* parties involved in the SBLC and Confirmation. If the Purchaser is deemed to have a higher level of instability, that in turn could equate to a higher perceived risk of termination events within the FMS program that could, consequently, result in a demand for payment being presented to the issuing and/or confirming bank(s). Among the factors that DSCA may use in assessing a purchaser's stability are: (1) its historical payment and termination track record with the FMS program, and (2) the Purchaser's rating as assessed by the USG's Interagency Country Risk Assessment System (ICRAS). ICRAS rating have has widespread application within USG agencies for determining lending eligibility, credit extensions, etc. The DSCA Director has authority to review the

variables involved in any particular SBLC arrangement (e.g., Country, FMS Case, Specific Dollar Amount, etc.) to ensure there is no unreasonable risk to the U.S. Government. Lastly, programs funded with Foreign Military Financing (FMF) funds are not eligible to participate in this program.

C9.9.1.5.4.5.2.4. Eligibility Requirements for the Issuing and/or Confirming Bank(s). The obligation to pay under the SBLC or Confirmation, as applicable, rests with the bank(s). Extreme care shall be taken in terms of reviewing a bank’s eligibility for participating in the SBLC program for FMS by ensuring the bank is in good standing prior to implementation and post implementation on a quarterly basis. This will be done by DSCA/CFM in accordance with section C9.9.1.5.4.22. Monitoring Requirements.

C9.9.1.5.4.5.2.4.1. Eligibility Requirements for Issuing Bank: It is preferred that the issuing bank be a U.S. bank that is (1) Federally-licensed, (2) U.S.-domestically chartered, and (3) in an “active” status as reported by the Office of the Comptroller of the Currency (OCC). Foreign banks that meet the eligibility requirements in Table C9.T14 and also use a U.S. Confirming bank may be considered as well.

C9.9.1.5.4.5.2.4.2. Once bank status has been verified using the above requirements, DSCA will then confirm the bank’s credit ratings to ensure they meet acceptable thresholds. In short, banks must be rated at a mid-tier investment grade or better. To ensure consistent application, DSCA plans to use the available investment ratings from the Moody’s, Standard & Poor’s, and/or Fitch, rating service as noted in Table C9.T14.

Table C9.T14. Acceptable Credit Ratings

| Acceptable Rating*: | Long-Term Rating | Short-Term Rating |
|--------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------|--------------------------|
| Moody’s – Counterparty Risk Assessment | Aaa(cr), Aa(cr), and A(cr) | P-1(cr) and P-2(cr) |
| Standard & Poor’s (S&P) – Issuer Credit Ratings | AAA, AA+, AA, A+, A, and A- | A-1, A-2, and A-3 |
| Fitch – Issuer Default Ratings | AAA, AA+, AA, A+, A, and A- | F1+ and F1 |
| <p>*Note: When more than one rating agency provides a bank rating, DSCA may use the most recent rating to determine bank eligibility.</p> | | |

C9.9.1.5.4.5.2.4.2.1. Use of long-term credit ratings is preferred to the use of short-term credit ratings. In addition to the bank rating criteria, the issuer and/or confirming bank must have an Outlook of Positive or Stable from the rating service(s). No exceptions for bank eligibility will be granted for banks that do not meet the standards outlined in Section C9.9.1.5.4.5.2.4., its subparagraphs, and TableC9.T14. If the issuing bank fails to meet any of the criteria, DSCA will advise the Purchaser accordingly.

C9.9.1.5.4.5.2.4.3. Eligibility Requirements for the Confirming Bank. In general, if the U.S. bank serving as the issuing bank is eligible, there will be no need for a confirming bank or a

Confirmation. However, if the DSCA CFO approves the use of a foreign bank as an issuing bank, or determines it is in the best interest of the U.S. Government to secure additional credit support for the SBLC, then a confirming bank that is either a U.S. bank or U.S.-based foreign bank that meets all the criteria outlined in Section C9.9.1.5.4.5.2.4., its subparagraphs, and Table C9.T14 shall be required to issue the Confirmation. If it is determined that the proposed confirming bank is unsuitable then DSCA will advise the Purchaser that the proposed bank is not acceptable.

C9.9.1.5.4.6. Process Flow for Solicitation. The following events are shown in chronological order to depict the process pertaining to the SBLC:

1. DSCA determines SBLC amount based on the current and projected TL amounts;
2. DSCA issues an invitation letter; or Purchaser requests to participate;
3. DSCA receives Purchaser's reply to invitation;
4. DSCA determines whether Purchaser meets eligibility criteria; and
5. DSCA determines whether bank(s) meet(s) eligibility criteria.

C9.9.1.5.4.7. Notification of SBLC Application Decision. After reviewing the application based on requirements shown above in Section C9.9.1.5.4.5.2., DSCA will notify the Purchaser as to its approval/disapproval of the SBLC proposal. All approval/disapproval notifications must be in writing and signed by the DSCA CFO.

C9.9.1.5.4.7.1. Approval Notification. Approvals can be in the form of either approvals as provided (meaning there are no changes with the proposal contained in the SBLC application) or approvals as modified (meaning DSCA approves the package subject to required modifications). All required modifications must be clearly articulated in the notification letter. *Note:* DSCA will not unilaterally change the issuing and/or confirming bank(s) proposed by the Purchaser nor will it propose specific banks that might serve as suitable substitutes.

C9.9.1.5.4.7.2. Disapproval Notification. DSCA will notify the Purchaser if the package was disapproved, to include the specific reason(s) for not being able to accept the SBLC proposal. The disapproval notification will also state if there is a basis for approving the package if altered by the Purchaser (for example, proposing a different bank in order to meet acceptable eligibility thresholds).

C9.9.1.5.4.8. Acceptance Documentation. DSCA will inform the Purchaser in the approval letter that DSCA accepts the proposal (either as-is or as modified) and will send a copy of the letter via certified mail to the bank(s) at the address specified by the Purchaser. The approval letter will propose the specific date, time and location for the official acceptance of all SBLC and Confirmation documents, and will include a date by which the Purchaser and bank(s) are to confirm the date and time selected, the credit number(s) assigned by the bank(s), and insertion of text into the Terms and Conditions Agreement (for example, each bank's address/contact for presentation of a demand for payment and the Purchaser's designated authorities). Informal arrangements via telephonic or e-mail contact prior to the letter issuance are encouraged to expedite the acceptance process. The Purchaser and bank officials should reply to DSCA CFM not later than five (5) business days prior to the scheduled meeting time to reschedule or cancel that meeting. Appended to the DSCA letter will be the forms of SBLC and Confirmation (if

applicable) reflecting any modifications made to the original version, and the Terms and Conditions agreement.

C9.9.1.5.4.9. Authorizing Officials. Except as provided for in Section C9.9.1.5.4.14., the following officials are authorized to sign SBLC-related documents:

Table C9.T15. SBLC Authorized Officials

| Organization | Authorizing Official |
|-----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| DSCA/USG (Beneficiary) | The DSCA Director, Deputy Director or DSCA CFO may sign SBLC-related documents. Further delegation is not authorized. |
| Purchaser | Designated by the Purchaser at Ministry-level. Ministry-level can also sign the Terms and Conditions Agreement and amendments without further designation. No formal acceptance may occur without submission of the designation of authority or if the designated official does not sign. |
| Issuing and/or Confirming Bank(s) | Left to the discretion of the issuing and/or confirming bank(s). DSCA reserves the rights to demand proof of designation authorization and deny acceptance until such documentation is received, reviewed and approved. Such documentation may include a certificate of incumbency, specimen signatures and/or a legal opinion of in-house or outside counsel to the bank. DSCA may also require the use of an acceptable U.S. advising bank. |

C9.9.1.5.4.10. Documents Accepted. Formal acceptance occurs in the form of signatures affixed by designated officials on the following documents:

Table C9.T16. Formal Documents Accepted

| Document | Number of Originals | Signatories |
|----------------------------------------------|---------------------|------------------------|
| Original SBLC by the issuing bank | 1 | Bank official(s) |
| Original Confirmation by the confirming bank | 1 | Bank official(s) |
| Terms and Conditions Agreement | 2 | DSCA and the Purchaser |

C9.9.1.5.4.11. Acceptance Document Repositories. The document repositories for Purchaser and bank(s) are at the discretion of those parties. Repositories for the USG are:

Table C9.T17. USG Repositories

| Document | Responsible Office |
|---------------------------------------|-----------------------|
| SBLC (original) | DSCA/FPA |
| SBLC (copies) | DSCA/CFM and DSCA/OGC |
| Confirmation (original) | DSCA/FPA |
| Confirmation (copies) | DSCA/CFM and DSCA/OGC |
| Terms/Conditions Agreement (original) | DSCA/FPA |
| Terms/Conditions Agreement (copies) | DSCA/CFM and DSCA/OGC |

C9.9.1.5.4.12. Process Flow for Acceptance. The following events are shown in chronological order to depict the process flow for acceptance of an SBLC:

- | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> 1. DSCA decides whether to approve the SBLC application; 2. If disapproved, DSCA will send a letter explaining why the package was rejected and what could be revised to make the package acceptable; 3. If approved, DSCA will send a letter to that effect; modifications made to the original package will be specified; 4. DSCA will call or e-mail Purchaser and bank officials to arrange for SBLC acceptance and, if applicable, Confirmation acceptance; 5. DSCA will send a letter confirming the informal meeting arrangements; 6. The Terms and Conditions Agreement (i.e. the MOU) will be signed by authorized officials; 7. The FMS Partner will furnish DSCA with the SBLC and, if applicable, Confirmation; and 8. DSCA will store original documents and copies thereof in designated locations. |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

C9.9.1.5.4.13. Implementation Criteria. The SBLC is binding when issued. Likewise, the Confirmation is binding when issued. The Terms and Conditions Agreement is considered to be implemented when all parties signed all copies of the documents and the corresponding SBLC and, if applicable, Confirmation is issued (with DSCA having received whatever proof of authorization it has requested in respect of such undertakings). At this stage, the process shall commence to notify applicable USG Implementing Agencies as to implementation and next steps required for existing and new Letters of Offer and Acceptance.

C9.9.1.5.4.14. Implementation Notification. Upon SBLC implementation, DSCA will engage specific organizations as follows:

Table C9.T18. DSCA Engagement

| Organization | Notification |
|-----------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Implementing Agencies | DSCA/CFM will send an official email that provides the SBLC implementation date; confirms the extent of TL coverage under the SBLC and, if applicable, Confirmation; and provides either a list of affected cases (or makes general reference to all cases to which TL applies). The email will also specify actions to be performed in terms of ensuring proper format of payment schedules on affected cases. |
| DFAS | DSCA/CFM will send an official email that conveys the requirement to modify the means by which DFAS captures the payment schedule amounts into its DIFS system. Additionally, DSCA/CFM will notify DFAS of any changes that impact TL held in the FMS Trust Fund or the FRB resulting from SBLC changes. |
| Purchaser | DSCA/CFM will send a letter that confirms implementation details of the SBLC-related documents. |

C9.9.1.5.4.15. Implementation Process Flow. The following events are shown in chronological order to depict the Implementation phase process flow:

- | |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ol style="list-style-type: none"> 1. All authorized parties sign all copies of the documents presented during the formal acceptance session; 2. DSCA sends an email to the IAs specifying applicable actions; 3. DSCA sends an email to DFAS specifying applicable actions; and 4. DSCA sends a letter to the Purchaser confirming implementation details. |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

C9.9.1.5.4.16. Drawdown Process. This Section describes certain actions and requirements relating to demands for payment under the SBLC or Confirmation.

C9.9.1.5.4.17. Events Prompting a Drawdown. A demand for payment under the SBLC or Confirmation may be completed by CFM and signed by the DSCA CFO after coordination with the DSCA Director or Deputy Director. The SBLC and Confirmation should each attach a form of demand to be used. DSCA may issue a demand for payment if any one or more of the following situations occur:

- | |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> ▪ The Purchaser notifies the USG, in writing, that it is terminating all or a portion of any FMS case; ▪ The USG notifies the Purchaser, 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);
- The Purchaser does not maintain its Dependable Undertaking (DU) eligibility;
- The issuing and/or confirming bank falls below DSCA's acceptable eligibility thresholds; or,
- The Purchaser fails to complete all actions to implement any election to increase the amount of the SBLC or Confirmation; or the issuing bank denies the request to increase the credit.

C9.9.1.5.4.17.1. The demand for payment may demand the entire amount of the SBLC or Confirmation (including any automatic amendment 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).

C9.9.1.5.4.18. Presentation. As a courtesy, DSCA will provide the Purchaser with a copy of any demand for payment presented by DSCA to the issuing bank or confirming bank. The presentation shall be made, at DSCA's option, by any of the methods specified in the SBLC or Confirmation, as applicable. No documentation other than the demand for payment shall be required for presentation to the applicable bank in order for that presentation to be complete. Under the terms of the SBLC or Confirmation, the bank cannot dishonor payment by demanding that additional documents be furnished by the DSCA.

C9.9.1.5.4.19. Sight Draft/Drawdown Honor. The terms of the SBLC and Confirmation (and, in the absence of specific terms, clauses or provisions in either of those documents, the ISP 98) govern the time frame by which a demand for payment must be honored.

C9.9.1.5.4.20. Application of Payment Received. The demand for payment shall specify the account into which the payment shall be remitted. Upon receipt, DFAS will ensure the payment is properly credited to the applicable FMS case(s). DFAS will notify DSCA/CFM via e-mail as to the date deposited and FMS case(s) credited within three business days of payment receipt. DSCA/CFM will acknowledge to DFAS via e-mail within one business day thereafter its receipt of the DFAS advice and confirm that it approves the payment application.

C9.9.1.5.4.21. Impact of Honor on SBLC or Confirmation Amount. To the extent DSCA has received payment of a demand for payment under an SBLC or Confirmation, such amount is deducted from the amount of the SBLC or Confirmation remaining for future payment. A bank's obligation under an SBLC for a given Purchaser is finite in nature. For example, if the SBLC amount is \$100M and a payment of \$42M is made to DSCA, only \$58M is available for subsequent drawings. An exception to this is if the SBLC amount is restored to \$100M (or some other amount) via an amendment.

C9.9.1.5.4.22. Monitoring Requirements. DSCA/CFM will monitor the status of each SBLC and Confirmation for FMS on a basis not less than quarterly. This includes processes as noted in the following sections.

C9.9.1.5.4.22.1. Validating TL Requirements. Each quarter, DSCA/FPA will, in coordination with the DSCA CFD, determine whether the amount specified in the SBLC remains adequate to

cover TL requirements for the portion of the Purchaser's FMS program covered by the SBLC. This is in recognition of the dynamic nature of FMS programs. For example, during the period in which a given SBLC is active, many FMS cases may be implemented, many may close and many may continue to be executed – all of which may impact the corpus-level TL requirement.

C9.9.1.5.4.22.2. Tracking Mechanism. Each quarter, CFM, in coordination with FPA, will submit to the DSCA CFO a report to identify SBLC/Confirmation activity/status. On an annual basis (by 31 October for the fiscal year-end), a consolidated report will be forwarded from FPA to the DSCA Director. The annual report will include overall assessments and a recommendation as to any changes in the overarching SBLC policy that may be required to more effectively execute this program.

C9.9.1.5.4.23. Amendments. It is recognized that changes to any given SBLC or Confirmation while it is outstanding may be necessary. These changes could be prompted by the DSCA assessment that the amount should be adjusted, the Purchaser's and/or issuing or confirming bank's request for the same, changes in law, and changes in any terms and conditions acceptable to all parties. Regardless of the reason, all amendments must be approved by DSCA before they are accepted and implemented. This Section addresses the mechanics by which amendments will occur.

C9.9.1.5.4.23.1. Automatic Adjustment. The form of SBLC and Confirmation allows for one or more automatic amendments to the original amount for an aggregate amount not to exceed 10% over the dollar amount specified therein as originally issued. DSCA will send the request for amendment up to 110% of the original amount to the bank with copy to the Purchaser. The amendment shall take effect upon DSCA's notice to the bank (in the form prescribed in the SBLC or Confirmation, as applicable).

C9.9.1.5.4.23.2. SBLC Secured amount Adjustment.

C9.9.1.5.4.23.2.1. Increases. If the amount of the SBLC or Confirmation 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 Purchaser in writing that an increase is necessary, and will allow the Purchaser 10 business days to reply as to whether the Purchaser prefers that the SBLC and Confirmation amounts be increased via an amendment or if the Purchaser wishes to deposit the required TL increment. If the Purchaser replies that an amendment should be processed, the Purchaser will submit in writing a notice to the issuing bank and/or confirming bank, with a copy to the DSCA. In that notice, the Purchaser will request the bank reply within 15 business days. The bank's reply to the Purchaser and DSCA should either: (1) provide a formal amendment that indicates the bank's willingness to raise the amount per the request; or (2) provide notice to Purchaser 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 business days, the Purchaser will notify the DSCA and the increased adjustment will be captured in the Purchaser'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 Purchaser does not pay the TL amount owed by the bill's due date, then DSCA may sequester funds in the FMS Trust Fund to reserve the full TL amount.

C9.9.1.5.4.23.2.2. Decreases. If the TL validation performed in Section C9.9.1.5.4.19.1. above reveals that a decrease to the amount of the SBLC and Confirmation is warranted (e.g., the

computed TL is more than 10 percent under the SBLC amount for two consecutive quarters), DSCA shall notify the Purchaser in writing. The Purchaser then has the option to either approve a decrease to the SBLC and Confirmation or leave the amount unchanged. The Purchaser’s response must be addressed to the DSCA CFO in writing. If no reply is received by DSCA within 30 calendar days of the date of DSCA’s written notice to the Purchaser, DSCA shall not send the request for decrease to the issuing or confirming bank. If the Purchaser approves the decrease, DSCA will implement the reduction in accordance with the procedures outlined in the SBLC or Confirmation, as applicable.

C9.9.1.5.4.23.3. Expiration Date Extension. The form of SBLC provides that the SBLC shall remain valid until a specific expiration date as stated therein. The SBLC further provides for an automatic amendment extending it each year by one calendar year, unless notice of non-extension is given to DSCA in accordance with the MOU’s specified number of days in advance of the then current expiration date. The form of Confirmation contains a similar expiration date and automatic extension provision.

C9.9.1.5.4.23.4. Other Amendments. Amendments of a nature other than those described above must be approved in writing by DSCA. Such requests, to include those initiated by DSCA, must be reviewed on their own merits before a proposal to arrange for acceptance and implementation is made.

C9.9.1.5.4.24. Impact on LOA Payment Schedules. TL applies for purchases of defense articles and defense services made pursuant to Section 21 of the Arms Export Control Act. In the event no SBLC exists, TL prepayments are made as part of the financial requirements owed to the DSCA on each applicable FMS case. With an issued SBLC, TL requirements can instead be satisfied by the SBLC. The SBLC therefore impacts the USG’s financial requirements. Accordingly, the FMS case payment schedules must be adjusted to identify the revised amount owed to the DSCA (which equals the advance collection of funds needed to cover anticipated disbursements). Upon SBLC implementation, DSCA will notify the IAs in accordance with Section C9.9.1.5.4.12. For affected FMS 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.

C9.9.1.5.4.25. Process Flow for Execution/Monitoring/Adjustments. The following events are shown in chronological order to depict the process flow pertaining to Execution, Monitoring and Adjustments:

- DSCA will monitor the TL requirements not less than quarterly;
- DSCA/CFM will send quarterly reports to the DSCA CFO and DSCA/FPA will send

annual reports to the DSCA Director on SBLC and Confirmation activity/status;

- Increases to SBLC value after:
 - DSCA notifies the Bank and Purchaser that an automatic 10% increase to the SBLC or Confirmation original amount is needed; or
 - DSCA notifies the Purchaser that an increase of more than 10% is needed.
 - Should an increase of more than 110% of the SBLC or Confirmation original amount not be accommodated by the Purchaser or bank(s), DSCA will:
 - (1) Bill the Purchaser for the TL requirement not covered by the SBLC until such time as a separate SBLC and, if necessary, Confirmation for the increment is implemented; or
 - (2) Sequester funds in the FMS Trust Fund to reserve the required TL amount.
 - If the bank(s) approve any increase, then they will issue an SBLC and/or Confirmation amendment reflecting the new amount. This documentation will be provided to DSCA and the Purchaser.
 - If a decrease to the amount is warranted, DSCA will give the Purchaser the option to either request an amount reduction or leave the amount unchanged;
 - All amendments and implementations are performed in accordance with processes described above and the terms of the applicable SBLC or Confirmation;
 - IAs must reflect payment schedules as directed by DSCA and in a prescribed format; and
 - DFAS must reflect the amounts shown in DIFS based on its receipt of LOA documents from IAs.

C9.9.1.5.4.26. Transfer Provisions. The SBLC and 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 or Confirmation; absent consent by DSCA, neither the issuing or confirming bank nor the Purchaser has authority to transfer the SBLC or Confirmation.

C9.9.1.5.4.27. Termination Provisions.

C9.9.1.5.4.27.1. Termination of an SBLC or Confirmation prior to its expiration date 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 TL covered by the SBLC and Confirmation prior to their termination, or (2) billing the Purchaser for that liability amount via an official billing statement prior to their termination. In the event of scenario (2) above, DSCA's official billing statement will require payment from the purchaser within 30 business days of the request and the TL payment must be completed prior to termination of the SBLC.

C9.9.1.5.4.27.2. If either the issuing or confirming bank ceases to satisfy the eligibility criteria of the DSCA while the SBLC or Confirmation is in effect, DSCA will notify the Purchaser 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 TL amount to be issued by a bank that

satisfies the eligibility criteria. Alternatively, DSCA will notify the Purchaser that TL prepayments in the amount covered by the SBLC and Confirmation (without duplication) must be paid within 30 business days of official notice.

C9.9.1.5.4.27.3. The Purchaser must maintain DU eligibility in order to be eligible to keep an implemented SBLC. If DU is revoked, the Purchaser will be notified of the status revocation, and upon this notification DSCA will drawdown the required TL amount from the SBLC or Confirmation prior to final termination of the SBLC and/or Confirmation.

C9.9.1.5.4.28. Closeout. Closeout of an SBLC and Confirmation can be prompted by its termination or expiration without extension. Within 30 days after either date (whichever occurs earlier), the bank(s) will be requested to submit to the DSCA CFO and to the authorized Purchaser official a written notice that confirms the SBLC and Confirmation were closed and that the bank(s) is no longer carrying this contingent liability on its books. Within fifteen days after receiving the bank's notice, DSCA will send written confirmation to the Purchaser and the bank(s) that it has also closed the SBLC and Confirmation on its records. Written confirmation to the Purchaser will also include information on how future TL requirements will be billed until/unless a new SBLC is implemented. DSCA will notify DFAS and the IAs that the SBLC and Confirmation were closed and instruct (a) the IAs as to consequent payment schedule methodology and (b) DFAS as to the revised billing process. If DSCA executes a demand for payment that does not cover the entire TL amount required, the Purchaser will have 30 business days to ensure TL is fully paid as requested by DSCA.

C9.9.1.5.4.28.1. If the Purchaser requests that the SBLC not be extended, not later than 30 business days prior to the expiration date the Purchaser may request that DSCA either: (1) draw the entire TL amount from the SBLC or Confirmation or (2) make available funds for the TL prepayment amount for deposit into its FMS Trust Fund account. If the amount available under the SBLC or Confirmation is not sufficient to cover all TL funds required at the time of SBLC or Confirmation expiration, the Purchaser would be responsible for depositing that uncovered amount not less than 30 days prior to the expiration date.