

Application for Silent Confirmation to a Letter of Credit



Date:

Emirates Development Bank

P O Box: 51515, Tel +971 26990999, Fax +971 26990998, Abu Dhabi, United Arab Emirates

We hereby request your silent confirmation to be added to the Letter of Credit (LC) referred below, subject to and in accordance with the terms and conditions appearing hereunder and the reverse page:

LC Reference	
EDB Reference Number	
LC Amount	
Issued by	
Applicant Name	

In consideration of your provision of silent confirmation to the above LC, we hereby agree to make an upfront payment or authorize your to debit our account number _____ of confirmation commission based on the amount of LC and tenor. You shall have the sole discretion to receive the above-mentioned amount at such commission rate as you may determine in your own right.

Silent Confirmation Terms and Conditions:

1. It is hereby agreed that your Silent Confirmation would be added to the Letter of Credit (the "Credit"), subject to and in accordance with the Terms and Conditions set out herein.
2. You undertake to pay us, in accordance with our payment instructions after dispatch of documents and upon acceptance by the Issuing Bank as being in compliance with the Terms and Conditions of the Credit, the sum due to us under the Credit up to the value of the Credit in the event that the Issuing Bank fails to pay under the Documentary Credit provided that such failure is only and directly due to the following circumstances:-
 - a. War, civil strike, insurgency, foreign exchange or currency control regulations, moratorium or other similar prohibitions imposed by the government of the country, state or province of the Issuing Bank, or
 - b. The Issuing Bank has since the time of presentation of the documents become insolvent, liquidated, or wound-up or is the subject of any winding-up, receivership, administration or other forms of insolvency proceedings (other than pursuant to a consolidation, amalgamation or merger).
3. In the event that you have made payment pursuant to this Terms and Conditions or by way of a discount or by way of an advance, where you are not a nominated bank, you shall be entitled to reclaim any such payment from us in the event that the Issuing Bank did not fail to make payment as a result of the event specified in (a) and (b) above and where you act as a nominated bank, the Issuing Bank did not fail to make payment as a result of the events specified in (a) and (b) above or where the Issuing Bank refuses payment on the ground that the documents presented do not comply with the terms of the Documentary Credit and you have not received payment thereof from any other source.
4. You shall not be under any obligation or liability whatsoever to us under this Silent Confirmation:-
 - a. If the failure of the Issuing Bank to make payment on due date is attributable or related to a dispute or an alleged dispute arising in connection with the underlying contract of sale and purchase of the Goods;
 - b. If you are prevented by law from making payment to us;
 - c. If we have agreed to or accepted any amendment, variation or termination of the Documentary Credit without your prior written approval
 - d. If we have assigned or transferred the whole or any part of the Documentary Credit or the proceeds thereof to any person other than you;
 - e. If the Issuing Bank refuses to make payment on the ground of beneficiary's fraud or alleged fraud or forgery or alleged forgery in the documents;
 - f. In the event of failure by us to perform any of our obligations under this Silent Confirmation Terms and Conditions, the Credit or the underlying contract of sale and purchase of the Goods.
 - g. If the Issuing Bank or you are unable to make payment under the Credit because of a court injunction or an order having effect similar to an injunction from the country or jurisdiction which the Issuing Bank or you are situated;
 - h. If we were aware of any circumstances or disputes which may give rise to a cause or possible cause for rejection of the documents when they are presented to the Issuing Bank for payment and did not disclose such circumstances to you.

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5. In consideration of your provision of Silent Confirmation to the Credit, we hereby undertake:-
 - a. To forward to you all documents to be presented under the Letter of Credit on or before the expiry date of the Credit;
 - b. Not to create nor grant any mortgage, pledge, lien, assignment by way of security or other security interest, agreement or arrangement of any description over or in respect of the Credit, the sale contract, the proceeds thereof and all other relevant documents;
 - c. Not to accept any variation, change or amendment whatsoever of the terms of the Letter of Credit without your prior written approval;
 - d. Not to transfer nor assign the Credit or the proceeds thereof to any person other than you.
6. In the event that you make a payment or relinquish your recourse against us under this Terms and Conditions herein and without prejudice to any rights you may have against the Issuing Bank, we hereby:-
 - a. Agree to absolutely and irrevocably transfer and/or assign and do so absolutely and irrevocably transfer and/or assign in the Bank's favor all our rights, title and interests under the Credit, the underlying contract and all other relevant documents and to sign and deliver notices of assignment addressed to the Issuing Bank and all other relevant parties (with copies to you) and/or to authorize you to send such notices of assignment to the Issuing Bank and all other relevant parties;
 - b. Undertake to fully co-operate in any collection efforts or enforcement proceedings commenced by you in relation to the Documentary Credit and we hereby agree that any such proceedings (whether in your name or our name) shall be taken and conducted at your sole discretion;
 - c. Undertake to indemnify you against all actions, suits, proceedings, claims, damages, costs, losses, legal fees and expenses which may be taken against you or incurred or become payable by you, in connection with this Silent Confirmation Terms and Conditions;
 - d. Undertake to make payment to you any monies received from the Issuing Bank or the Buyer of the Goods and pending such payment, to hold such monies on trust for you;
 - e. Undertake to promptly pay you any monies received directly by us under the Credit or all other relevant contract without set-off or counter claim and free and clear of and without deduction for or on account of any taxes whatsoever, and until so paid, to hold these monies on trust for you.
7. Without prejudice to the foregoing, in the event that we breach any of our obligations hereunder, you shall be entitled to terminate this Silent Confirmation Terms and Conditions forthwith whereupon your liability hereunder shall immediately cease absolutely and at your request, we shall promptly pay to you such amounts as may be necessary in your opinion to compensate you for such breach.
8. We irrevocably consent to the disclosure by the Bank, the Bank's officers, agents and the Bank's overseas branches, in any manner howsoever, of any account information relating to us including but not limited to details of our facilities, the securities taken, our credit balances and deposits with the Bank to (i) the Bank's head office, any of the Bank's representatives, documents checking and processing centres and branch offices in any jurisdiction, affiliates, (ii) any regulatory or supervisory authority including fiscal authority in any jurisdiction, (iii) any potential assignee of the Bank or any other participant in any of the Bank's rights and/or obligations in relation to our facilities, (iv) any guarantors, third party pledgors or security providers and the Bank's agents and independent contractors, (v) any insurers with whom insurance cover is taken out in connection with our application, and (vi) any third party for use in connection with the provision of Bank's products or services.
9. Save as is otherwise provided by the Terms and Conditions set out herein, your handling of documents under the Credit (whether by negotiation or otherwise) shall be subject to the provisions of the Uniform Customs and Practice for Documentary Credits, ICC Publication 600 ("UCP 600") or such later version of the document in force at the time of the application ("UCP").
10. This Silent Confirmation Terms and Conditions shall be governed and construed in accordance with the laws of United Arab Emirates. We agree to submit to the non-exclusive jurisdiction of the courts in United Arab Emirates in respect of any disputes arising out of or in connection with this agreement. Without prejudice to the foregoing, we undertake not to commence proceedings or suits against the Bank in the courts of any other jurisdiction.

For and on behalf of:

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Authorized Signature(s) and Company Stamp