

<b>DZ BANK AG</b> <b>Deutsche Zentral-Genossenschaftsbank</b>	<b>50) Applicant</b> (= primary debtor)	
	<b>Applicant's reference</b>	
The Applicant requests the DZ BANK AG Deutsche Zentral-Genossenschaftsbank, Frankfurt am Main ('DZ BANK') to issue a bank guarantee under the guarantee agreement/credit facility agreement dated ('credit agreement') and under the terms and conditions specified therein. The Applicant is aware and acknowledges that DZ BANK may reject this application where legitimate concerns of DZ BANK prevent acceptance of the application. The decision is at the discretion of DZ BANK.		
<b>59) Beneficiary</b>	<b>51) Differing Applicant</b> (= Applicant only in the guarantee wording)	
<b>32B) Currency <sup>1</sup> and amount</b>	<b>Maximum amount in words</b>	
<b>22A) Direct / Indirect Garantie</b> The guarantee is to be issued <input type="checkbox"/> by DZ BANK directly to the Beneficiary <input type="checkbox"/> by a correspondent bank of your choice to the Beneficiary <input type="checkbox"/> by (52A) _____ to the Beneficiary		
<b>22D) Form of undertaking</b>	<b>22K) Type of undertaking</b>	<b>40C) ICC Rules for this guarantee</b>
<b>Language of the guarantee</b>	When selecting 'Other Guarantee' or 'Standby Letter of Credit, please specify	When selecting 'Other rules', please specify
<b>45L) Information on the underlying transaction (please specify in the language of the guarantee)</b> Subject of the offer/underlying transaction (if applicable, on behalf of)		
In the amount of _____ % of the total price	Contract no./date	Total price
Further details:		
Only complete for bid bonds:		
Submission deadline	Tender no./date	Offer no./Date
Only for credit facilities:		
<input type="checkbox"/> Credit amount plus interest and costs	<input type="checkbox"/> Credit amount	

DZ210010e/11.21

<sup>1</sup> Unless DZ BANK has provided the Applicant with a foreign currency loan, the guarantee can only be issued in EUR.

**Currency and maximum amount (same as on page 1)**

**23B) Tenor of guarantee**

31E) The guarantee is to be valid until <sup>2</sup>

The guarantee is to be unlimited. Expected validity until/commercial term

**Wording of guarantee**

The wording must be prepared by DZ BANK or, in the case of indirect guarantees, by its correspondent bank.

The sample attached to this application is to be used where possible.

The Applicant is familiar with clause 1 of the Terms and Conditions for Guarantee Business.

**Further instructions**

A claim is only to be made possible under the following conditions (for example, receipt of advance payment):

Advance payment to account no.:

with:

The issue of the guarantee is to be

by letter

by SWIFT<sup>3</sup> via the following (foreign) bank:

by express SWIFT <sup>3</sup> via the following (foreign) bank:

**24G) Delivery of the guarantee document to**

the Applicant                                   the differing Applicant                                   the Beneficiary

the following address:

**24E) Delivery of guarantee document**

by courier                   by collection                   by other method

**Settlements**

All settlements in connection with this contractual relationship and its performance will be made via the Applicant's account no.                                  with DZ BANK on a current account basis.

All settlements in connection with this contractual relationship and its performance will be made via the Applicant's account no.                                  with.

Returned direct debits and other due payments that have not been provided will be debited to a separate account of the Applicant with DZ BANK and settled on a current account basis.

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<sup>2</sup> The limitation of guarantees is not effective in some countries or the Beneficiary of the guarantee may claim extensions without consent. Liability therefore often does not end when validity expires.

<sup>3</sup> If issue of the guarantee is not possible by SWIFT, a courier service will be used.

**Currency and maximum amount (same as on page 1)**

**Guarantee commission** (if different from the credit agreement)

% p.a. on the respective outstanding guarantee amount.

plus a one-off issuing fee per guarantee document of \[currency/amount]:

**Applicant's obligations**

If a claim is made against DZ BANK under the guarantee, the Applicant will owe DZ BANK this amount as a loan repayable immediately. The following collateral will be provided to DZ BANK in special documents for the Applicant's obligation to DZ BANK under this application – without prejudice to the liability of any existing or future collateral within the scope of its collateral purpose (only to be completed if – where applicable additional – collateral is to be provided):

DZ BANK is permitted to issue the guarantee to the Beneficiary only once this collateral has been provided. All costs arising from the conclusion and execution of this contract including the provision of security will be borne by the Applicant.

**Other contractual terms**

DZ BANK issues guarantees in accordance with DZ BANK's Terms and Conditions for Guarantee Business. Further credit terms are set out in DZ BANK's General Terms and Conditions of Loans. DZ BANK's General Terms and Conditions (GTC) also apply.

By signing this application, the Applicant acknowledges having received one copy each of the Terms and Conditions for Guarantee Business, the General Terms and Conditions for Loans, and DZ Bank's General Terms and Conditions (GTC).

Contact person for any queries:

\_\_\_\_\_

Place, date Stamp and legally binding signature(s) of the Applicant

**Information on the particular risks involved in the issuance of bank guarantees:**

The issuance of bank guarantees is associated with particular risks. In the case of bank guarantees, DZ BANK (or guarantor bank) is not entitled to raise objections and defences against claims under the bank guarantee, with the exception of the objection of abuse of rights, if such abuse is obvious or clearly recognisable to anyone on the basis of liquid evidence. DZ BANK (or guarantor bank) is entitled and obliged to make payment without delay on receipt of a formal demand for payment from the Beneficiary made in conformity with the terms of the guarantee. The Applicant can raise any defences or objections based on the underlying transaction (e.g. due to wrong delivery or warranty claims) only against the Beneficiary. Consequently, he bears the risk of having to enforce his claims against the Beneficiary in recovery proceedings (risk of litigation) and, possibly, also to realise them (risk of enforcement/bankruptcy).

With the following signature, the Applicant declares that this order is to be executed despite these risks. The provisions of the Terms and Conditions for Guarantee Business remain unaffected.

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Place, date Stamp and legally binding signature(s) of the Applicant

# Terms and Conditions for Guarantee Business

Version October 2017

## Important information:

The issuing of bank guarantees, counter guarantees, standby letters of credit, letters of credit and 'sureties on first demand' is subject to special risks (cf. clause 4 Recourse to DZ BANK under the Guarantee). DZ BANK is entitled and obliged to make payment without delay on receipt of a formal demand for payment from the Beneficiary made in conformity with the terms of the Guarantee. The Principal can raise any defences or objections based on the underlying transaction (e.g. due to wrong delivery or warranty claims) only against the Beneficiary. Consequently, he bears the risk of having to enforce his claims against the Beneficiary in recovery proceedings (risk of litigation) and, possibly, also to realise them (risk of enforcement/bankruptcy).

Requests made to DZ BANK by a customer ("Principal") to issue sureties ("Sureties"), bank guarantees ("Bank Guarantees"), counter-guarantees ("Counter Guarantees"), standby letters of credit ("Standby Letters of Credit") and/or letters of credit ("Letters of Credit") (hereinafter together "Guarantees") in favour of third parties ("Beneficiaries") are subject to the conditions set forth below:

### 1. Direct and indirect Guarantee

In accordance with the Principal's instructions, DZ BANK will either issue the Guarantee itself ("Direct Guarantee") or it will instruct another bank ("Second Bank") to issue the Guarantee in its own name subject to a Counter Guarantee issued by DZ BANK ("Indirect Guarantee").

According to general practices, DZ BANK's liability under the Counter Guarantee towards the Second Bank will exceed the validity of the Guarantee issued by the Second Bank by at least 20 calendar days.

Unless otherwise expressly instructed by the Principal, DZ BANK may instruct a Second Bank to issue an Indirect Guarantee if it deems this necessary under the circumstances and taking into consideration the interests of the Principal. The Bank will then inform the Principal thereof.

DZ BANK is not obliged to issue a Guarantee in line with a draft proposed by the Principal, the Beneficiary or another third party. In this event, DZ BANK is authorised to reject the request or to amend the text of the Guarantee with the consent of the Principal or to use its own text.

### 2. Letters of Credit and Standby Letters of Credit

Upon instruction of the Principal and subject to a Counter Guarantee by DZ BANK Letters of Credit and Standby Letters of Credit can also be made available through DZ BANK with a Second Bank so that in order to make a timely demand, the Beneficiary may present

the stipulated documents also to the Second Bank for payment. Clause 1, paragraph 2 shall apply accordingly.

### 3. Bookkeeping Entries / Guarantee Commission / Fees

DZ BANK has the right to charge the Principal with the guaranteed amount on the Principal's guarantee account, and to bill the Principal (unless otherwise agreed) periodically for the commission for the duration of the Bank's liability beginning from the date of the issued Guarantee or, as the case may be, the instruction to the Second Bank to issue the Guarantee and the issued Counter Guarantee has been dispatched.

DZ BANK shall bill the Principal for the agreed level of fees for processing the Guarantee (issuing, amendment, other services).

### 4. Recourse to DZ BANK under the Guarantee

If DZ BANK receives a formal, duly issued demand for payment from the Beneficiary or the Second Bank, then DZ BANK will make payment to the Beneficiary in accordance with the terms of the Guarantee.

Regarding such demand for payment, DZ BANK can, in case of Bank Guarantees, Counter Guarantees, Standby Letters of Credit, Letters of Credit and "Sureties on first demand", take into consideration only the objection of abuse of rights, and this only if such objec -

tion has been raised before payment is made by the Bank and the abuse of the right is apparent or clearly obvious to anyone on grounds of liquid evidence.

With regard to other Sureties, DZ BANK will take into consideration permissible defences or objections which the Principal, promptly on being notified of the receipt of a demand for payment, has proved to the Bank's satisfaction in writing so that they can be forwarded to the Beneficiary.

#### **5. Examinations of the Documents**

Declarations, payment demands and any documents and legal instruments which are required under the terms of the Guarantee and are submitted thereunder will be examined by DZ BANK as to whether they conform to the terms of the guarantee and do not contradict each other.

Documents and legal instruments that are not presented as originals but as authenticated or encoded teletransmissions may be treated by DZ BANK as if they were originals.

#### **6. Cancellation of Bookkeeping Entries**

After their expiry, DZ BANK will cancel Direct Guarantees, which are subject to German law, and shall cease to charge guarantee commission thereon, if such Direct Guarantees, according to their wording, expire without any doubt on a particular date or upon submission of the documents which are intended for determining expiry, provided no demand for payment was received by DZ BANK prior to their expiry.

In the case of Indirect and other Direct Guarantees not dealt with in the preceding paragraph, DZ BANK will cancel the debit on the guarantee account and cease to charge the guarantee commission only after the guarantee document has been returned for discharge, or after the Bank has been released unconditionally from all liabilities by the Beneficiary or the Second Bank in writing, or it has paid the (full) amount available under the Guarantee.

In deviation from paragraph 1 of this Section 6, in the case of Letters of Credit and Standby Letters of Credit that can be drawn on from a Second Bank upon the timely presentation of documents, the Bank will cancel these Letters of Credit or Standby Letters of Credit no earlier than 20 calendar days after the expiry date of the relevant Letter of Credit or Standby Letter of Credit, provided that until then no demand for payment has been received by DZ BANK.

DZ BANK will cancel Sureties securing costs in legal proceedings and cease to charge the guarantee commission only upon return to DZ BANK of the surety document by the Beneficiary for discharge, or when proof is provided (i) of the Beneficiary's consent to release the Bank from its liability or (ii) of a legally binding order stating that the guarantee has expired

pursuant to § 109(2) of the German Code of Civil Procedure.

In all the aforementioned cases, responsibility to fulfil the conditions for cancellation of the Guarantee lies with the Principal.

#### **7. Reduction of the Guarantee**

If the amount of a Guarantee is reduced, DZ BANK will partially cancel the debit to the guarantee account in the corresponding amount, and will take this partial cancellation into account when calculating the guarantee commission. Exception: a partial cancellation will not be taken into account regarding the calculation of the guarantee commission for Letters of Credit.

However, this shall only apply insofar as the terms of the reduction clause of a Direct Guarantee have been fulfilled without any doubt, or the Beneficiary or the Second Bank in the case of an Indirect Guarantee have unconditionally declared a partial discharge in the respective amount in writing, or DZ BANK has made partial payment in accordance with a demand for payment.

#### **8. Respective obligations of the Principal and DZ BANK**

If DZ BANK requests information regarding the underlying transaction in an individual case, the Principal shall furnish this and inform DZ BANK without delay of material circumstances that could entail utilisation of the Guarantee (e.g. dispute over contractual performance of the underlying transaction).

In the case of Bank Guarantees and Sureties, DZ BANK will notify the Principal without delay of the Beneficiary's or the Second Bank's requests for payment and of the submitted documents or legal instruments to the extent such documents are relevant to the Principal. Any information and documents required to review eligibility shall be furnished to DZ BANK by the Principal at no charge.

If DZ BANK no longer needs the submitted original documents or legal instruments in order to protect its rights, then, at the Principal's request, the Bank will put such documents or legal instruments at the Principal's disposal unless it is itself under an obligation to hold them in custody.

#### **9. DZ BANK's Claim to a Refund of Expenses**

The principal shall compensate DZ BANK for all costs and out-of-pocket expenses which are incurred by the bank in connection with the execution of the principal's instructions to issue a guarantee – including those arising from judicial or extra-judicial prosecution in Germany or abroad – and which the bank is entitled to consider necessary in the circumstances.

This obligation to reimburse disbursements also includes disbursements incurred after a Guarantee has been deleted, including when a payment obligation under the Guarantee still exists, or a court order to make payment, enforceable in the country where such court is situated, has been issued. In the case of Indirect Guarantees, all commissions, charges and expenses billed by the Second Bank are also to be reimbursed.

#### **10. DZ BANK's Claim to Release**

If the underlying contractual loan and business relationship between DZ BANK and the Principal is terminated by one party or ends by lapse of time before expiry of the Guarantee(s) issued under such contractual relationship, the Principal shall, within a time limit set by DZ BANK, release DZ BANK from its liability under the Guarantee. If the Principal does not meet this obligation within the aforementioned deadline, the Principal is obligated to pay DZ BANK an amount equivalent to said guarantee risks in order to ensure DZ BANK's expenses are refunded.

The Principal is obligated upon DZ BANK request's to either release DZ BANK from the Guarantee or to provide appropriate security if any other material circumstance has arisen. This includes in particular a significant deterioration in the asset situation of the Principal or Primary Debtor, a change in the Principal's or Primary Debtor's place of residence, commercial location or domicile that impedes prosecution, delayed payment by the Principal or Primary Debtor, or if the Creditor has obtained a court decision to execute an enforceable judgment against DZ BANK.

#### **11. Uniform guidelines for Letters of Credit and Standby Letters of Credit**

Letters of Credit and Standby Letters of Credit issued by DZ BANK are subject to the 'Uniform Customs and Practice for Documentary Credits' from the Inter-

national Chamber of Commerce, Paris, in the latest version in force at the time the Letter of Credit is opened or the Standby Letter of Credit is issued. In cases of conflict between the 'Uniform Customs and Practice for Documentary Credits' of the International Chamber of Commerce, Paris, and these Guarantee Terms and Conditions, the latter shall take precedence.

#### **12. Uniform Rules for Demand Guarantees**

If in the case of a Guarantee the order is given that the 'Uniform Rules for Demand Guarantees' of the International Chamber of Commerce, Paris, shall apply, said rules shall only apply on a supplementary basis insofar as they do not deviate from these terms and conditions for the Guarantee business. If nothing else is agreed to the contrary under such a Guarantee, DZ BANK may, in the case of an 'extend or pay' demand, furnish payment 7 calendar days after notifying the Principal, unless the Principal has already instructed the bank to extend the Guarantee term and DZ BANK has accepted this instruction.

#### **13. General Terms & Conditions**

Furthermore, DZ BANK's General Terms & Conditions, which can be reviewed at any branch and sent out on request, shall apply.