

CALIFORNIA BANK & TRUST
International Banking Group
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**APPLICATION FOR AND AGREEMENT ON
 LETTER OF UNDERTAKING (LETTER OF
 INDEMNITY) FOR RELEASE OF MERCHANDISE**

Date:	Letter of Credit Number:
APPLICANT Name and Address:	BENEFICIARY Name and Address:

Gentlemen:

The following merchandise intended for us, valued at approximately \$ _____, has arrived, or is expected to arrive on the _____ of the _____, (Name of vessel or flight number) (Name of carrier) consigned to: _____ in advance of the receipt of relative documents of title:

<u>B/L# /AWB#</u>	<u>QUANTITY</u>	<u>MERCHANDISE</u>
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For purposes of CUSTOMS HOUSE entry and prompt delivery to us of such merchandise we hereby request your Bank to issue, or to join with us in issuing, or to arrange with any correspondent Bank or agent to issue, a Letter of Undertaking to: _____ (Name and Address of carrier or its agent or freight forwarder) (hereinafter referred to as the "Carrier") in form acceptable to the Carrier, authorizing such merchandise to be released and delivered to: _____. In consideration of your Bank's issuance of such letter of undertaking in your Bank's standard form as requested above (which issuance shall be at your Bank's sole discretion), we agree to the terms and conditions set forth in the Agreement on pages 2-3 of this application.

APPLICANT _____ NAME DATE _____ AUTHORIZED SIGNATURE, TITLE _____ CONTACT NAME _____ TELEPHONE NUMBER	APPLICANT'S BANK (This section must be completed by Applicant's Bank if application is being submitted through another bank) _____ NAME DATE _____ AUTHORIZED SIGNATURE, TITLE _____ AUTHORIZED SIGNATURE, TITLE
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BANK USE ONLY BELOW THIS LINE

Date:	Office Name:	Office Number:	Customer Signature Verified by:	Managers Signature:	APPROVAL UNDER: <input type="checkbox"/> Manager Authority <input type="checkbox"/> CP Approval
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Agreement on Letter of Undertaking / Letter of Indemnity for Release of Merchandise

- 1) The Customer hereby agrees to indemnify California Bank & Trust (the "Bank") against, and hold the Bank harmless from, any consequences, claims, losses, liabilities or damages, and to reimburse the Bank promptly on demand for all charges and expenses, including counsel fees, which the Bank may sustain or incur by reason of the issuance of the Letter of Undertaking or similar agreement requested by Customer, and the Customer agrees that the Bank shall have the unrestricted right, without obtaining the Customer's consent, to settle or adjust any claim or demand that may be made upon the Bank by reason of the issuance by, and agrees to pay the Bank for such documents the Bank of the above requested undertaking. The Customer waives any and all discrepancies or deficiencies in such letter of credit documents immediately upon presentation. The Customer also undertakes to accept and/or pay immediately upon presentation any draft or drafts or invoice or invoices which may be drawn upon the Customer by or for account of the shippers in respect of this merchandise regardless of the amount thereof.
- 2) The Customer further agrees to take whatever steps are necessary to obtain the relative documents of title and upon receipt by the Customer of such documents of title forthwith to cause same to be delivered to the Carrier, duly endorsed by all parties whose endorsement are required by such Carrier, and thereupon to obtain from the Carrier the Bank's undertaking and a release of the Bank's liability to such Carrier thereunder and to deliver same to the Bank.
- 3) As security for the fulfillment of the Customer's obligation hereunder, the Customer hereby grants to the Bank a security interest in the "Collateral." As used herein, the term "Collateral" shall mean the balance of every deposit account, now or hereafter existing, of the Customer with the Bank and any other claim of the Customer against the Bank, now or hereafter existing, direct or indirect, and all money, goods, instruments, securities, documents (including the goods covered thereby), chattel paper, credits, claims, demands, goods, inventory, equipment and any other property, rights and interests of the Customer which at any time shall come into the possession or custody or under the control of the Bank or any of its agents, associates or correspondents for any purpose, and shall include any of the foregoing from time to time made available to the Customer by the Bank pursuant to a trust receipt or other security agreement the effect of which is to continue the Bank's security interest therein and shall also include the proceeds, products, and accessions if any to each of the foregoing, and any additional security (not including real estate or fixtures) now or hereafter furnished by the Customer under the terms of any other agreement between the Bank and the Customer. The Customer agrees at any time upon the Bank's demand to deposit with the Bank as further security for the fulfillment of the Customer's obligation hereunder such cash or other collateral as the Bank may request. The Customer hereby authorizes the Bank to sign and file financing statements at any time with respect to the Collateral. Upon the Customer's failure to do so the Bank is authorized as the agent of the Customer to sign any such agreements as well as financing statements. The Customer agrees to pay all filing fees and to reimburse the Bank for all costs and expenses of any kind (including legal fees) incurred in any way in connection with the Collateral.
- 4) Upon any default by the Customer in meeting its obligations hereunder or under any other agreement entered into between the Bank and the Customer or the Customer's failure to maintain any demanded margin of collateral security, the Bank shall have the rights and remedies of a secured creditor provided in the Uniform Commercial Code in force in California at the date of execution of this Agreement, and in addition to, substitution for, modification of, or in conjunction with those rights and remedies, the Bank is authorized to sell any collateral hereunder including any property which has been made the subject of a lien as provided above without further demand, without advertising and without notice to the Customer which hereby are expressly waived, at public or private sale or at any stock exchange or broker's board, and if notice to the Customer is required by law or otherwise, the Bank may give notice by mailing it to the Customer at the address designated by the Customer. The Customer remains responsible for any deficiency if net proceeds of any collateral are insufficient to settle the Customer's obligations to the Bank.
- 5) The Applicant's Bank, if any, executing this agreement is jointly and severally liable for any and all obligations to the Bank pursuant to this agreement. Both the Customer and the Applicant's Bank shall be bound by any notice instruction or authorization from the Bank to either of them, and by any notice instruction or authorization of either of them to the Bank. Both the Customer and the Applicant's Bank shall be bound by any settlement or release of claims by either of them in favor of the Bank.
- 6) This agreement is governed by California Law. It shall take effect immediately upon execution by the Customer, and the execution hereof by the Bank shall not be required as a condition to the effectiveness of this Agreement.
- 7) To the extent not inconsistent with this Agreement, this Agreement and the Credit shall be subject to the UCP as provided in the Credit, and subject to such limitation, shall be governed by the laws of the State of California, United States of America, in all respects, including (without limitations) matters of title, construction, validity, performance and discharge, and shall be binding upon us and our successors, assigns, and legal representatives and shall not be waived, altered, modified or amended as to any of its terms or provisions, except as you may consent thereto in writing. No assignment or other transfer of all or any of our rights hereunder or under said Credit, whether with regard to any property or otherwise, may be made without your prior consent in writing. We agree to waive our right to assert forum non conveniens against the institution of an action in or removal of an action to any such court.
- 8) Jury Trial Waiver and Judicial Reference.
 - (a) SUBJECT TO SECTION 8(b) AND TO THE EXTENT THAT IN THE FUTURE SUCH WAIVERS ARE PERMITTED BY LAW, EACH OF THE PARTIES HERETO WAIVES ITS RESPECTIVE RIGHTS TO A TRIAL BEFORE A JURY IN CONNECTION WITH ANY ACTION, CLAIM, LAWSUIT, DISPUTE OR CONTROVERSY OVER, ARISING FROM OR RELATING TO THIS AGREEMENT OR ANY OTHER DOCUMENT OR INSTRUMENT RELATING HERETO, THE ENFORCEMENT HEREOF OR THEREOF OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.
 - (b) The foregoing provision shall not apply if, at the time an action, claim, lawsuit, dispute or controversy is brought or initiated, jury trial waivers are not permitted by applicable law. If jury trial waivers are not permitted by applicable law, either party may require that such action, claim, lawsuit, dispute or controversy be resolved by judicial reference in accordance with California Code of Civil Procedure, Sections 638, et seq., including without limitation whether the action is subject to a judicial reference proceeding. The referee shall be a retired judge or justice or a practicing or retired attorney with experience in the field of international trade and finance selected by mutual written agreement of the parties. If the parties cannot agree, the referee shall be selected by the presiding judge (or his or her representative) of the superior court or federal district court in a county or district where venue is appropriate under applicable law. The referee shall sit with all of the powers provided by law. The parties agree that time is of the essence in conducting the judicial reference proceeding set forth herein. The costs of the judicial reference proceeding, including the fee for the court reporter, shall be borne equally by the parties as the costs are incurred, unless otherwise awarded by the referee. The referee shall hear all pre-trial and post-trial matters (including without limitation requests for equitable relief), prepare an award with written findings of fact and conclusions of law and apportion costs as appropriate. The referee shall be empowered to enter equitable relief as well as legal relief, provide all temporary or provisional remedies, enter equitable orders that are binding on the parties and rule on any motion that would be authorized in a trial, including without limitation motions for summary judgment or summary adjudication. Judgment upon the award shall be entered in the court in which such proceeding was commenced, and all parties shall have full rights of appeal. This provision will not be deemed to limit or constrain Bank's right of set-off, to obtain provisional or ancillary remedies, to interplead funds in the event of a dispute, to exercise any security interest or lien Bank may hold in any collateral or property (whether such proceedings are judicial or non-judicial or otherwise) or to comply with legal process involving Customer's accounts or other property.
By agreeing to judicial reference proceedings, the parties do not intend to deprive any court of its jurisdiction to issue a pre-trial injunction, pre-trial attachment or other order in aid of these judicial reference proceedings and the enforcement of any award.
- 9) In these provisions:
 1. "We", "Us" means the undersigned party or parties identified and signing this Agreement as Applicant.
 2. "Applicant" means all of the undersigned party or parties.
 3. "You", "Your" means California Bank & Trust.
 4. "Applicant's Bank" means the undersigned party or parties identified and signing as such.
 5. "Credit" means the irrevocable letter of credit issued by California Bank & Trust at its option pursuant to this Application, as such Credit may be modified or amended from time to time.
 6. "UCP" means the Uniform Customs and Practice for Documentary Credits (1993 Revision), International Chamber of Commerce Publication No. 500, and any subsequent revisions thereof approved by the International Chamber of Commerce.

In consideration of your issuing the Letter of Undertaking and for other consideration, the receipt and adequacy of which is hereby acknowledged, we agree to be bound by this Agreement, including but not limited to the payment obligations therein set forth, and including being jointly and severally liable for all indebtedness and obligations of any other Customer, if any, arising under or pursuant to this Agreement.

CUSTOMER

NAME DATE

AUTHORIZED SIGNATURE, TITLE

CONTACT NAME

TELEPHONE NUMBER

APPLICANT'S BANK (This section must be completed by Applicant's Bank if application is being submitted through another bank)

NAME DATE

AUTHORIZED SIGNATURE, TITLE

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