

Sample Guarantee Undertaking to Establish Branch/es of Foreign Banks

GUARANTEE

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, under the provisions of Republic Acts (R.A.) No. 8791 (“The General Banking Law of 2000”) and No. 7721 (“An Act Liberalizing the Entry and Scop of Operations of Foreign Banks in the Philippines and for Other Purposes”), as amended by R.A. No. 10641, of the Republic of the Philippines, the licensing, supervision and regulation of banks, both foreign and domestic, are vested with the Bangko Sentral ng Pilipinas;

WHEREAS, {Name of Bank} (hereinafter called Guarantor) shall be authorized to operate a branch or branches in the Philippines, in accordance with Republic Act No. 7721, as amended by Republic Act No. 10641 and other applicable laws, rules and regulations.

WHEREAS, under the provisions of R.A. No. 7721, as amended by R.A. No. 10641, banks organized under laws other than those of the Republic of the Philippines shall guarantee the full payment of all liabilities of its branch or branches in the Philippines for the purpose of providing effective protection and security to the interests of the depositors and other creditors of said branch or branches; and

WHEREAS, Guarantor is willing, desirous and ready at any time to give such full guarantee as well as to comply with whatever conditions required in said R.A. No. 7721, as amended by R.A. No. 10641.

NOW, THEREFORE, for the purpose above mentioned, Guarantor hereby agrees that in the event any branch of Guarantor located in the territory of the Republic of the Philippines should fail to promptly pay any lawful debt, claim or liability of any kind or character, due and payable under the laws of the Republic of the Philippines and pursuant to the terms of said debt, claim or liability, then Guarantor upon the demand of the Bangko Sentral ng Pilipinas shall promptly pay said debt, claim or liability to the person or persons entitled thereto under the laws of the Republic of the Philippines. Any such debt, claim or liability, not so promptly paid, shall, in the absence of stipulation as to the rate of interest, bear interest at such rate, as prescribed by the Monetary Board with existing laws and regulations. Said debts, claims or liabilities, interest thereon and any cost or expenses incidental to the collection thereof, shall be paid in the currency in which the obligations

are expressed, or in which the costs or expenses were incurred. The obligation of Guarantor upon default of any of its branches located in the territory of the Republic of the Philippines is primary, direct and immediate and not contingent on any remedy or recourse upon any asset, property or right which its branch or branches within the territory of the Republic of the Philippines may have, in such a way that any depositor or creditor of its branch or branches in the Philippines may take, at any time, any action on this Guaranty whether or not said depositor or creditor has simultaneously taken or will thereafter take, any direct or indirect action under the laws of the Philippines against said branch or branches, or against any assets, property or rights thereof: Provided, however, That Guarantor shall have the right to set-off should it have any claim or claims against any depositor or creditor taking any action by virtue of the provisions of its Guarantee.

The right on this Guarantee is independent of and separate from whatever right, security or action which any depositor or creditor of said branch or branches in the Philippines may have, take or pursue to protect his interest, and whatever action or measure the Bangko Sentral ng Pilipinas may adopt in the exercise of its supervisory and regulatory powers allowed and provided for in said R.A. No. 8791 and No. 7721, as amended by R.A. No. 10641, of the Republic of the Philippines, such as requiring Guarantor to assign to its Philippine Branch or Branches an amount of capital sufficient to meet the minimum capital required in said R.A. No. 7721, as amended by R.A. No. 10641, or any measure it may be authorized to take under the provisions of said R.A. No. 8791, in the case of capital deficiencies; in such case or cases, the liability created hereunder shall not in the least be minimized or affected, it being the purpose of this undertaking that Guarantor shall at all times be responsible and obligated for any such obligations or liabilities of its branch or branches in the Philippines, and to the extent that the same has been fully paid or satisfied only will said Guarantor be relieved from its primary obligations hereunder.

No technicality in the law or in the language of this Guarantee or in any contract, agreement or security, held by or with said branch or branches in the Philippines, shall defeat the nature and purpose of this Guarantee as a primary and direct obligation of Guarantor to the end that the interest of the depositors and creditors of the said branch or branches in the Philippines may be fully protected and satisfied in accordance with Section 5 of R.A. No. 7721, as amended by R.A. No. 10641. Guarantor hereby acknowledges having full knowledge of said R.A. No. 7721, as amended by R.A. No. 10641, in accordance with which this primary and principal obligation is given. Guarantor hereby recognizes the jurisdiction of Philippine courts and hereby authorizes its branch office and/or offices in the Philippines to accept summons, processes and notices from the Philippine courts.

The Guarantee shall be governed by Philippine law.

IN WITNESS WHEREOF, this Guarantee has been executed by Guarantor acting by and through its Officers thereunto duly authorized this ____ day of _____, 20__.