

LETTER OF CREDIT

Checklist of Requirements and Sample Language

Updated October 2018

This document provides an example format for California cap-and-trade program entities to submit a Letter of Credit (LOC) as a bid guarantee for an auction or reserve sale. A LOC submitted as a bid guarantee must be issued in a form that may be accepted by the Financial Services Administrator (FSA) consistent with U.S. banking laws and bank practices. Auction or reserve sale applicants are encouraged to work with their financial institutions to ensure that all of the bid guarantee requirements are met, as described in the [Detailed Auction Requirements and Instructions](#) (and summarized in the checklist below), prior to submitting any bid guarantee documents to the FSA. Auction and reserve sale applicants are also encouraged to submit a sample LOC to the FSA for review.

Checklist of Requirements:

The following non-negotiable terms must be met in order to submit a LOC.

- ☐ The LOC must refer to the Financial Services Account Name and Financial Services Account Number as provided in the Financial Services Delivery Instructions available in CITSS.
- ☐ **Deutsche Bank National Trust Company** must be listed as the beneficiary.
BENEFICIARY:
DEUTSCHE BANK NATIONAL TRUST COMPANY
DBTCA FOR DBNTC AS FSA FOR WCI, INC
60 WALL STREET, 16TH FLOOR
NEW YORK, NY 10005-2836
- ☐ The LOC must be irrevocable.
- ☐ The amount of the LOC must be included.
- ☐ The expiration or maturity date must be at least twenty-six (26) days after the scheduled auction.
- ☐ There must be instructions included indicating where to submit the LOC for payment.
- ☐ The LOC must allow for presentment by facsimile (Fax). Delivery in person or by courier cannot be required. Include the fax and phone number of the contact.
- ☐ There must be a payment certificate/form of draw included as an exhibit or annex to the LOC.

- ☐ The LOC must be payable within three (3) business days of a payment request.
- ☐ There must be a draw cut off time of no earlier than 9:00 AM Pacific Time (PT) / 12:00 PM (Noon) Eastern Time (ET) for same day draw.

If any of these terms are not met by the date and time provided in the Auction or Reserve Sale Notice for receipt of all bid guarantees by the Financial Service Administrator, the submitted LOC will be rejected. If the submitted LOC requires revisions, all revisions must be completed and received in physical form by the deadline for receipt of bid guarantees or the LOC will not be accepted.

For questions on bid guarantee submittal for an auction or reserve sale, please contact Deutsche Bank National Trust Company at db.wcissupport@db.com or call (212) 250-2885 or (714) 247-6427.

Sample Language:

Provided below is sample LOC language, with areas highlighted in yellow that need to be completed by the issuing bank. Areas highlighted in green would require revision to use this example letter of credit language to submit a bond as a bid guarantee. To submit a bond as a bid guarantee, remove section nine (highlighted below), which is LOC-specific. A bond delivered as a bid guarantee must be issued in a form that may be accepted by the Financial Services Administrator (FSA) consistent with U.S. banking laws and bank practices. Please note that language provided here is meant as a guide only, based on common bank practices. All submitted LOCs must, at minimum, meet the required non-negotiable terms provided in the Checklist of Requirements above or will be rejected.

[DATE:] _____

[ISSUING BANK – BRANCH] _____

PLEASE ISSUE AN IRREVOCABLE STANDBY L/C AS FOLLOWS. PLEASE EMAIL A COURTESY COPY AND SEND ORIGINAL L/C TO:

MAILING ADDRESS:

AUCTION AND RESERVE SALE FINANCIAL SERVICES ADMINISTRATOR
C/O DEUTSCHE BANK TRUST COMPANY AMERICAS

60 WALL STREET, 16TH FLOOR

MAILSTOP: NYC60-1630

NEW YORK, NY 10005-2836

PHONE: (212) 250-2885

EMAIL: DB.WCISUPPORT@DB.COM

BENEFICIARY:
DEUTSCHE BANK NATIONAL TRUST COMPANY
DBTCA FOR DBNTC AS FSA FOR WCI, INC
60 WALL STREET, 16TH FLOOR
NEW YORK, NY 10005-2836

LADIES AND GENTLEMEN:

BY THE ORDER OF:

LEGAL OR OPERATING NAME OF AUCTION APPLICANT: [REDACTED]

ADDRESS OF APPLICANT: [REDACTED]

REFERENCE: [REDACTED] (Insert Financial Services Account Number)

FAX: [REDACTED]

ATTN: [REDACTED]

1. WE HEREBY ESTABLISH IN YOUR FAVOR THIS **IRREVOCABLE LETTER OF CREDIT (THIS "LETTER OF CREDIT")** FOR THE ACCOUNT OF [REDACTED] (Insert appropriate identifying information such as the Applicant's Entity Legal or Operating Name), IN THE AMOUNT OF USD XX,XXX,XXX.XX (XXXXX MILLION US DOLLARS), EFFECTIVE IMMEDIATELY AND AVAILABLE TO YOU AT SIGHT UPON DEMAND BY YOU AT OUR COUNTERS AT [REDACTED] (Insert Contact Information Details Including Phone Number and Location) AND EXPIRING ON [REDACTED], 201 [REDACTED], (Note: the earliest expiration date for a **Letter of Credit** is twenty-six (26) days after the date that the subject auction or reserve sale is conducted.) UNLESS TERMINATED EARLIER IN ACCORDANCE WITH THE PROVISIONS HEREOF OR OTHERWISE EXTENDED.
2. THIS **LETTER OF CREDIT** IS ISSUED AT THE REQUEST OF THE APPLICANT, AND WE HEREBY IRREVOCABLY AUTHORIZE YOU TO DRAW ON US, IN ACCORDANCE WITH THE TERMS AND CONDITIONS HEREOF, UP TO THE MAXIMUM AMOUNT OF THIS **LETTER OF CREDIT**, SUBJECT TO REDUCTION AS PROVIDED IN PARAGRAPH 8 HEREOF. THIS **LETTER OF CREDIT** MAY BE DRAWN BY PRESENTING THE FOLLOWING DOCUMENTS:
 - A. YOUR SIGHT DRAFT DRAWN ON US IN THE FORM OF ANNEX 1 HERETO (THE "SIGHT DRAFT"); AND
 - B. A DATED PAYMENT CERTIFICATE PURPORTEDLY SIGNED BY A DULY AUTHORIZED OFFICER OF THE BENEFICIARY IN THE FORM OF ANNEX 2 HERETO (THE "PAYMENT CERTIFICATE").
3. DEMANDS PRESENTED BY FACSIMILE: [REDACTED] (Insert Facsimile Number / ATTN) ARE ACCEPTABLE.

4. ONLY YOU MAY MAKE ANY PAYMENT CERTIFICATE AND SIGHT DRAFT UNDER THIS **LETTER OF CREDIT**.
5. ALL BANK CHARGES INCLUDING BUT NOT LIMITED TO, FEES OR COMMISSIONS, SHALL BE FOR APPLICANT'S ACCOUNT.
6. THIS **LETTER OF CREDIT** SHALL AUTOMATICALLY TERMINATE AND BE DELIVERED TO US FOR CANCELLATION ON THE EARLIEST OF (I) THE MAKING BY YOU AND PAYMENT BY US OF THE DRAWINGS IN AN AMOUNT EQUAL TO THE MAXIMUM AMOUNT AVAILABLE TO BE MADE HEREUNDER, (II) THE ABOVE-STATED EXPIRATION DATE HEREOF.
7. AS USED HEREIN:

"BUSINESS DAY" SHALL MEAN ANY DAY ON WHICH COMMERCIAL BANKS ARE NOT AUTHORIZED OR REQUIRED TO CLOSE IN NEW YORK, NEW YORK AND ANY DAY ON WHICH PAYMENTS CAN BE EFFECTED ON THE FEDWIRE SYSTEM.
8. THE AMOUNT WHICH MAY BE DRAWN BY YOU UNDER THIS **LETTER OF CREDIT** SHALL BE AUTOMATICALLY REDUCED BY THE AMOUNT OF ANY DRAWINGS PAID THROUGH US REFERENCING THIS **LETTER OF CREDIT** NO. (Insert **Letter of Credit** No.). PARTIAL DRAWINGS ARE PERMITTED HEREUNDER.
9. **THIS LETTER OF CREDIT IS NOT TRANSFERABLE, AND EXCEPT AS OTHERWISE EXPRESSLY STATED HEREIN, THIS LETTER OF CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (2007 REVISION), INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION 600 (PROVIDED, AS TO MATTERS NOT GOVERNED BY THE UCP, SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK AND APPLICABLE U.S. FEDERAL LAW.**
10. WE HEREBY AGREE WITH YOU THAT EACH DULY COMPLETED PAYMENT CERTIFICATE AND SIGHT DRAFT DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS **LETTER OF CREDIT** WILL BE DULY HONORED UPON PRESENTATION TO US ON OR BEFORE THE EXPIRY DATE. IF DOCUMENTS ARE PRESENTED PRIOR TO 12:00 PM EASTERN STANDARD TIME ON ANY BUSINESS DAY, WE WILL HONOR THE SAME IN FULL IN IMMEDIATELY AVAILABLE FUNDS ON THE SAME BUSINESS DAY AND, IF SO PRESENTED AFTER 12:00 PM EASTERN STANDARD TIME ON ANY BUSINESS DAY, WE WILL HONOR THE SAME IN FULL IN IMMEDIATELY AVAILABLE FUNDS ON THE NEXT BUSINESS DAY FOLLOWING PRESENTATION.

VERY TRULY YOURS,

(Insert Name and Address of Issuing Bank and Name of Contact Individual)

NAME: _____ (Insert Name of Issuing Bank)

ADDRESS: _____ (Insert Address of Issuing Bank)

NAME: _____ (Insert Name of Contact)

TITLE: (Insert Title of Contact)

VERY TRULY YOURS,
APPLICANT

ANNEX 1 IRREVOCABLE LETTER OF CREDIT

SIGHT DRAFT

LETTER OF CREDIT NO.: _____

DATE OF **LETTER OF CREDIT**: _____

DATE OF DRAFT: _____

TO: (BANK)

(ADDRESS)

(FAX):

ATTENTION: _____

FOR VALUE RECEIVED

PAY ON DEMAND TO: DEUTSCHE BANK NATIONAL TRUST COMPANY, DBTCA FOR DBNTC AS FSA FOR WCI, INC, USD _____ DOLLARS (USD \$_____). THE AMOUNT OF THIS DRAFT DOES NOT EXCEED THE AMOUNT AVAILABLE TO BE DRAWN BY THE BENEFICIARY UNDER THE **LETTER OF CREDIT**.

WE ACKNOWLEDGE THAT, UPON YOUR HONORING THE DRAWING HEREIN REQUESTED, THE AMOUNT OF THE **LETTER OF CREDIT** AVAILABLE FOR DRAWING SHALL BE AUTOMATICALLY DECREASED BY AN AMOUNT EQUAL TO THIS DRAWING.

CHARGE TO ACCOUNT OF [APPLICANT].

DRAWN UNDER [NAME OF BANK] **LETTER OF CREDIT NO.** _____.

FUNDS TO BE WIRED TO:

ABA ROUTING NUMBER: _____

RECEIVING BANK: _____

BENEFICIARY: _____

ORIGINATING BANK INFORMATION (OBI FIELD):
VERY TRULY YOURS,

BY _____

NAME:

TITLE:

DATE:

ANNEX 2 **IRREVOCABLE LETTER OF CREDIT**

PAYMENT CERTIFICATE

TO: [INSERT ISSUING BANK]

[INSERT ADDRESS]

RE: **IRREVOCABLE LETTER OF CREDIT** NO: _____ [INSERT]

THE UNDERSIGNED, A DULY AUTHORIZED OFFICER OF DEUTSCHE BANK NATIONAL TRUST COMPANY, DBTCA FOR DBNTC AS FSA FOR WCI, INC, HEREBY SUBMITS THIS PAYMENT CERTIFICATE TO [ISSUING BANK] WITH REFERENCE TO THE **IRREVOCABLE LETTER OF CREDIT** NO: [INSERT] ("**LETTER OF CREDIT**"), IN CONNECTION WITH A WINNING BID IN THE GHG ALLOWANCE AUCTION OR RESERVE SALE AND DEUTSCHE BANK NATIONAL TRUST COMPANY, DBTCA FOR DBNTC AS FSA FOR WCI, INC IS AUTHORIZED AND ENTITLED TO DRAW ANY AMOUNT UP TO THE MAXIMUM ALLOWED BY THE ATTACHED **LETTER OF CREDIT**.

THE TERMS USED HEREIN WHICH ARE NOT SPECIFICALLY DEFINED HEREIN ARE DEFINED IN THE **LETTER OF CREDIT**, A COPY OF WHICH IS ANNEXED HERETO.

IN WITNESS WHEREOF, THE BENEFICIARY HAS EXECUTED AND DELIVERED THIS PAYMENT CERTIFICATE AS OF THE ____ DAY OF _____.

VERY TRULY YOURS,

BY _____
NAME:
TITLE:
DATE: