

TEXT



WHAT WOULD YOU DO WITH IT?

The following bank-issued performance guarantee was provided to DCW. Do you find aspects of its wording problematic? We invite your comments and reaction.

The Beneficiary (Indonesia Co.),.

Date: ()

Performance Guarantee No. () (Bank Guarantee)

Dear Sirs,

We, (BANK NAME) of (BANK ADDRESS) Have been informed that (full name and address of applicant) (hereinafter known as “Company”) has entered into contract nowith you datedfor the purpose of supply of xxx units of scopes at a contract price of (currency and amount) and that the contract stipulates that a performance guarantee has to be issued in the amount of (currency and amount), being xxx percent of the total contract price.

At the request and on behalf of the company, we hereby irrevocably undertake to pay to you without delay an amount up to (currency and amount) (“Maximum amount”), against receipt of your first written demand stating that (A) a default in relation to the contract (“Default”) has occurred and (B) such default occurred during the validity of the contract and prior to the expiry date (as defined below)

Original of the performance guarantee shall be attached to your written demand.

More than one demand may be made under this performance guarantee provided that the total aggregate amount claimed does not exceed the maximum amount.

This performance guarantee shall be valid fromto..... (“Expiry date”) and shall become null and void thereafter even if the original of performance guarantee is not returned to us. This performance guarantee shall also expire once we have paid up to the maximum amount.

Your written demand in accordance with the terms of this performance guarantee shall be conclusive evidence of our liability to make payment hereunder. To be valid, such written demand must be received by us after the occurrence of the default and within the claim period of 14 (fourteen) calendar days after the expiry date.

We expressly release our privilege as a guarantor to claim confiscation in advance of the debotor’s properties to settle its debts which conforms to Article 1832 of the Indonesian Civil Code. This waiver is only for the sole benefit of you as a beneficiary of this performance guarantee and solely for the purpose of this performance guarantee.

This performance guarantee is neither transferable nor assignable, except with our prior written consent.

This performance guarantee shall be governed by the laws of Indonesia and the parties hereby submit to the jurisdiction of the court of central Jakarta.

The whole text of the present contract, as well as the documents derived from it, have been written in bahasa indonesia and English. Although both versions are being deemed authentic, but for legal purposes the text in English is to be given priority of interpretation.



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