

## **STRAIGHT IRREVOCABLE LETTER OF CREDIT**

The [INSERT FINANCIAL INSTITUTION'S NAME AND ADDRESS], (hereinafter referred to as the "Bank") grants a straight irrevocable letter of credit (hereinafter referred to as the "letter of credit") for the amount of \_\_\_\_\_ **Dollars (\$\_\_\_\_\_ .00)** [INSERT WRITTEN & NUMERICAL AMOUNT], in favor of the U.S. Army Corps of Engineers, Nashville District (hereinafter referred to as the "Beneficiary"), at the request of and on behalf of [INSERT APPLICANT'S NAME, CITY, & STATE] (hereinafter referred to as the "Applicant"), to monitor, perform, complete, pay or supply required documents regarding [INSERT MITIGATION PROJECT OR PLAN NAME] ("Project"), associated with the Department of the Army Permit No. \_\_\_\_\_ ("Permit").

This letter of credit is irrevocable and effective on [DATE], and will expire on [MINIMUM LENGTH OF TIME ESTIMATED NECESSARY FOR ACHIEVEMENT OF MITIGATION PERFORMANCE STANDARDS], unless extended or renewed by written consent of the parties.

The Bank warrants and represents it is a federally regulated and insured financial institution rated investment grade or higher by a commercial rating service. The Bank will notify the Beneficiary at least 120 days before this letter of credit is revoked, terminated, modified, or otherwise affected. Neither this letter of credit nor any rights with respect thereto may be assigned or otherwise transferred, in whole or in part, to any other person or entity without the express written consent of the Beneficiary.

The Beneficiary can demand payment from the Bank to the Beneficiary's designee or to a standby trust agreement up to an amount of \_\_\_\_\_ **Dollars (\$\_\_\_\_\_ .00)** [INSERT WRITTEN & NUMERICAL AMOUNT] or fractions thereof up to said amount. This letter of credit will only be considered terminated once withdrawal of \_\_\_\_\_ **Dollars (\$\_\_\_\_\_ .00)** [INSERT WRITTEN & NUMERICAL AMOUNT] has been completed or by written agreement between the Beneficiary and the Applicant.

The Beneficiary has the exclusive right to demand payment from the Bank to the Beneficiary's designee or to a standby trust agreement of any sums under the terms of this letter of credit from the Bank, to be used to complete the Project as provided in the Permit or to provide alternative compensatory mitigation as approved by the Beneficiary. The demand shall be made by presentation of a letter sent by certified mail to the Bank located at [INSERT BANK'S FULL ADDRESS], similar to Attachment A signed by the District Engineer, U.S. Army Corps of Engineers, Nashville District.

The Bank's payment of the demand shall be made by means of a certified check payable to the Beneficiary's designee or to a standby trust agreement. Payment shall be made by certified mail within one Bank working day after the Bank receives the demand via certified mail. The District Engineer, U.S. Army Corps of Engineers, Nashville District, or his/her officially designated representative, is the official authorized by the Beneficiary to make demand upon the Bank for payment to the Beneficiary's designee or to a standby trust agreement.

Nothing in this letter of credit will be construed as making the Beneficiary responsible in any manner for any failure of the Applicant to provide adequate assurances to the Bank.

The Bank hereto agrees to the grant of this letter of credit and its terms on this the \_\_\_\_\_ day of \_\_\_\_\_ 2017. The undersigned person hereby represents and warrants [s/he] is authorized to execute this letter of credit on behalf of [FINANCIAL INSTITUTION'S NAME].

**THE BANK**

**BY:** \_\_\_\_\_

**Name**

**Title**

**Financial Institution's Name and Address**

## ACKNOWLEDGEMENT

By its signature below, the undersigned acknowledges issuance of the above letter of credit, granted at the request of and on behalf of the Applicant.

Dated this the \_\_\_\_\_ day of \_\_\_\_\_ 2017.

**BY:** \_\_\_\_\_

**Name**

**Authorized Representative Title**

**Applicant's Name and Address**

**ATTACHMENT A to STRAIGHT IRREVOCABLE LETTER OF CREDIT**

**SAMPLE OF DEMAND FOR FUNDS**

From: U.S. Army Corps of Engineers  
3701 Bell Road  
Nashville, TN 37214

To: Bank Name  
Street Address  
City, State & Zip

DRAWN UNDER LETTER OF CREDIT NO. \_\_\_\_ **{Insert Number}** ISSUED BY **{Insert Bank's name}** ON \_\_\_\_\_ **{Insert Month/Day/Year}**

On \_\_\_\_\_ **{Insert Month/Day/Year}**, I/We hereby certify that **{Insert Applicant's name, City & State}**, has failed to monitor, perform, complete, pay or supply required documents regarding the **{Insert mitigation project or plan name}** associated with the Department of the Army Permit No. \_\_\_\_\_.

On \_\_\_\_\_ **{Insert Month/Day/Year}**, I/We hereby demand payment in the amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_.\_\_) **{Insert Written & Numerical Amount}** to be issued to \_\_\_\_\_ **{Insert name & address of Beneficiary's designee or standby trust}** in the form of a certified check sent by certified mail. Under no circumstances shall payment be issued directly to the U.S. Army Corps of Engineers, Nashville District.

BY: \_\_\_\_\_  
(Signature)

Name  
Title (e.g. Lieutenant Colonel, U.S. Army)  
District Engineer