FORM
MODEL REQUEST FORM[1]

To:
The Central Authority of the Republic of Indonesia
Directorate of Central Authority and International Law
Directorate General of Legal Administrative Affairs
Ministry of Law
Jl. H.R. Rasuna Said Kav. 6 - 7 Kuningan, Jakarta Selatan
REPUBLIC OF INDONESIA

From:
[name of Central Authority of Requesting Party]
[Through diplomatic channels][2]

REQUEST FOR MUTUAL ASSISTANCE IN A CRIMINAL MATTER
RE: (*insert particulars*)

INTRODUCTION

1. I, ……, the (*name of agency/office designated as Central Authority*), being the designated Central Authority to make and receive requests for mutual legal assistance in criminal matters on behalf of (*name of country*), present this request to the Central Authority of (*name of Requested Party*).

AUTHORITY FOR REQUEST

2. This request is made under the *(specify relevant provisions of the relevant legal basis such as international treaty/convention*).

NATURE OF REQUEST

3.1 This request relates to a (*criminal matter*)[3] concerning (*describe subject of criminal matter*).

3.2 The personal details of the subject of the request are as follows:

Name/Description:
Date of birth:
Age:
Occupation:
Nationality:
Passport No.
Address/Location:

3.3 The details of the property to be traced/restrained/forfeited are as follows[4]:

Description:
Location:
Other relevant details:

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[1] This Model Request Form is intended as a guide and a reference only. The requirements may be modified as necessary to meet the requirements of the domestic law and practice of each states.

[2] This may be deleted where the request is not made through diplomatic channels.

[3] State whether it is an investigation, prosecution or an ancillary criminal matter relating to the restraining of dealing with property or the enforcement or satisfaction of a forfeiture order.

[4] Applicable where request relates to restraint of property or enforcement of a forfeiture order.

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3.4 The reasons for suspecting that the person/property is in (*name of Requested Party*) are as follows[5]:

3.5 The authority having the conduct of the criminal matter is (*describe authority in Requesting Party concerned with the criminal matter*).

STATEMENT OF FACTS

4. (*Describe the material facts of the criminal matter including, in particular, those facts necessary to establish circumstances connected to evidence sought in the Requested Party and the relevance of the evidence from the Requested Party to the criminal matter in the Requesting Party.*)

CRIMINAL OFFENCES/APPLICABLE LEGISLATION/PENALTIES

EITHER:

5.1 (*Name of suspects/defendants*) are (*suspected of having/alleged to have*) committed/have been charged with the commission of the following offences, namely -

- (*describe offences and provisions of the legislation contravened*)
  The maximum penalties for the above offences, which are the subject of this (*investigation/prosecution*) are:
  - (*specify maximum penalty for each offence and applicable law*)[6].

OR:

5.1 A forfeiture order (*has been/may be*) made in proceedings in (*name of Requested Party*). (*State basis for any statement that a forfeiture order may be made*.)

The forfeiture order is connected with (*state the relevant offences*) in (*name of Requested Party*) the maximum penalties for which are (*specify maximum penalty for the offence and applicable law*)[7].

5.2 A copy/extract of the relevant legislation is attached and marked as "Attachment A" to this request.

PURPOSE OF THE REQUEST

6. By this request it is intended to (*state purpose: e.g. secure admissible evidence for the purpose of the criminal proceedings against the defendants, enforce the abovementioned forfeiture order, etc.*)

MANDATORY UNDERTAKINGS

7. [*Insert relevant undertakings, if any*][8]

DESCRIPTION OF ASSISTANCE REQUESTED

8. The *(appropriate authority of the Requested Party)* is requested to take such steps as are necessary to give effect to the following:

(a) examination on oath or affirmation of a witness before (*relevant judicial authority of Requested Party*);

(e.g.) Mr. X
ABC Co., Ltd.
(address)

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[5] Applicable where request relates to restraint of property or enforcement of a forfeiture order.

[6] Applicable where request relates to an investigation or prosecution.

[7] Applicable where request relates to restraint of property or enforcement of a forfeiture order.

[8] Requesting Party to insert such undertakings as may be relevant.

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to be orally examined on oath or affirmation on the following matters:

- (*specify clearly the relevant issues/areas relating to the subject matter of the criminal proceedings/investigation on which evidence of the witness is sought and/or provide a list of the relevant questions*)

Note: **Specify form in which statement is to be obtained e.g. witness statement or affidavit. Samples forms to be attached.**

(b) production of documents, records or items before a court [and obtaining of oral evidence of the witness producing such material for the purpose of identifying and proving the material produced][9];

(e.g.) Director
ABC Co., Ltd.
(address)

to be required to produce (*describe the form of evidence e.g. "certified copies"*) of the following documents, records or items for the period (*state relevant time frame*):

- (*specify documents, records or items or classes thereof*).

The above witness to be orally examined on oath or affirmation on the following matters for the purpose of identifying and proving the documents, records or items produced:

- (*state relevant particulars*).
  (e.g.)
  - to provide confirmation as to his position in a company/office and that he is responsible for keeping/maintaining/holding the documents, records or items in relation to the subject-matter of the investigation
  - that he is authorized by the relevant law of the Requested Party to make the affidavit
  - to confirm that he has access to the documents, records or items kept in relation to the subject-matter of the investigation in the normal course of his duties
  - to confirm the authenticity of the copies of the documents, records or items supplied
  - to confirm that the documents, records or items were created in the ordinary course of business

Note:
Specify form in which statement is to be obtained e.g. witness statement or affidavit. Samples forms to be attached.

(c) search of person or premises for documents, records or items;

(e.g.) The premises of ABC Co., Ltd.
(address)

to be searched under a search warrant for the seizure of the following from the company:

- (*provide details of the documents, records or items sought to be searched for and seized).*
- (*support any request for originals of documents, records or items seized with reasons*).

(d) production of documents, records or items through production orders;

(e.g.) Manager
ABC Bank Ltd.
(address)

to be required to produce copies of the following documents, records or items under a production order:

[9] Include this part if it is deemed necessary for the purposes of admissibility of the documents, records or items in evidence.

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- (*describe particulars of material required to be produced and where located*).
- (*state grounds for believing that the material sought is likely to be of substantial value to the criminal matter in Malaysia*).
- (*support any request for the production of originals of documents with reasons*).

(e) arrangement of travel of person/prisoner from (*name of Requested Party*) to assist in a criminal matter;

(e.g.) Arrangements to be made for Mr. X
(address)

to travel to (*name of Requesting Party*) to give assistance in a (*criminal matter*)[10] by rendering the following assistance:

- (*specify the assistance sought*).
- (*provide the undertakings required by the law of (name of Requested Party)*).
- (*provide details of the allowances to which the person will be entitled, and of the arrangements for security and accommodation for the person, while the person is in (name of Requesting Party) pursuant to the request*).

(f) enforcement of a forfeiture order/request to assist in the restraining of dealing in property;

- (*state particulars of the forfeiture order to be enforced, or the property to be restrained and present state of related proceedings*).

(g) assistance in locating/identifying and locating a person who is suspected to be involved in/to have benefited from the commission of a serious offence;

(e.g.) Arrangements to be made to locate/identify and locate Mr. X who is believed to be in (*name of Requested Party*) with the last known address at (*address*).

- (*state particulars of person concerned*).

(h) assistance in tracing property suspected to be connected to a serious offence;

(e.g.) Arrangements to be made to trace (*description of property*) believed to be in (*name of Requested Party*).

- (*state particulars of property concerned*).

(i) service of process.

(e.g.) Mr. X
(address)

to be served with the following documents:

- (*describe documents to be served*).
- (*specify manner of service and period within which documents to be served*).
- (*specify required proof of service*).

EXECUTION OF REQUEST

(A) CONFIDENTIALITY

9.1. It is requested that the fact that this request has been made and the execution of the request be kept entirely confidential except to the extent necessary to execute the request as (*state reasons e.g. the likelihood of interference with witnesses and /or destruction of evidence, etc.*)[11]

9.2. It is also requested that the evidence of the witness be taken *in camera* as there exist reasonable grounds for believing that it is in the interests of the witness to give evidence

[10] State whether it is an investigation or criminal proceedings of an offence in the Requesting Party or an ancillary criminal matters.

[11] Necessary if confidentiality is requested.

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in camera because (*state reasons*) and the criminal matter would be substantially prejudiced if the examination was conducted in open court because (*state reasons*).[12]

(B) PARTICULAR PROCEDURES TO BE FOLLOWED

10. It is requested that the following procedures be observed in the execution of the request:

- (*state details of manner and form in which evidence is to be taken and transmitted to Requesting Party, if relevant*.)

  (e.g.)

  - In relation to the evidence obtained on examination on oath/affirmation of a witness, please provide the statement in admissible form. To be admissible, the statement must be made in the form of an affidavit except when recorded in writing by a judicial authority. If documents and records are referred to or are otherwise enclosed, the documents and records must be accompanied by an attestation of authenticity. Copies of the prescribed form for the affidavit and attestation of authenticity are attached to this request and marked as Attachment B and Attachment C respectively.
  - In relation to the evidence of (*name of relevant witness(es)*), please arrange for the evidence to be given in a court in (*name of Requesting Party*) via live video or live television link (or other appropriate communications facilities) from (*name of Requested Party*).

- (*state any special requirements as to certification/authentication of documents.*)

  (e.g.)

  In relation to evidence to be provided by affidavit-

  a) the affidavit should be made before a judicial officer or other officer who is authorized to administer oaths or affirmations in (*name of Requested Party*). When the affidavit has been sworn or affirmed, the affidavit should be sealed with an official or public seal of (*name of Requested Party*) to ensure compliance with *(specify relevant provisions of the relevant legislation of Requesting Party),* a copy of which is attached to this request and marked as Attachment D;
  b) if the affidavit runs for more than one page, each page other than the last should be initialed both by the person who makes the affidavit and by the person before whom the affidavit is made; and
  c) each page of each attachment should be initialed both by the person who makes the affidavit and by the person before whom the affidavit is made.

  (e.g.)

  In relation to documents produced by computers, or a statement contained in such document, the document or statement, as the case may be, is admissible as evidence of any fact stated therein if the document was produced by the computer in the course of its ordinary use, whether or not the person tendering the same is the maker of such document or statement. A certificate signed by a person who either before or after the production of the document by the computer is responsible for the management of the operation of that computer or for the conduct of the activities for which that computer was used must be tendered to the court to prove that a document was produced by a computer in the course of its ordinary use.

  An extract of the relevant legislation, *(specify relevant provisions of the relevant legislation of Requesting Party)* is attached and marked as "Attachment E" to this request.

- (*state if attendance by representative of appropriate authority of Requesting Party at examination of witnesses/execution of request is required and, if so, the title of the office held by the proposed representative*.)

  (e.g.)

  Permission is requested for an officer of (*name of appropriate authority in Requesting Party*) to travel to (*name of Requested Party*) to assist in the execution of this request.

[12] Applicable if the request relates to the taking of evidence before a court for the purposes of an investigation in Requesting Party.

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(C) PERIOD OF EXECUTION

11. It is requested that the request be executed urgently/within (*state period giving reasons i.e. specify likely trial or hearing dates or any other dates/reasons relevant to the execution of the request*).

(D) TRANSMISSION OF REQUESTED MATERIAL

12.1 Any documents, records, items, statements or information obtained in response to this request should be sent to the (*Central Authority of Requesting Party*) at the following address:
[*Provide full address and other contact details such as name of contact officer, telephone and facsimile numbers and email address*]

12.2 The (*Central Authority of Requesting Party*) will forward the material to (*name of authority in Requesting Party concerned with the criminal matter*), being the relevant requesting authority in this matter.

(E) DETAILS OF ALLOWANCES, ARRANGEMENTS FOR SECURITY AND ACCOMODATION[13]

13.1 The allowances to which (*name of person*) will be entitled are as follows:
(*State details of allowances*)
13.2 The arrangements for the security of (*name of person*) are as follows:
(*State details of security arrangements*)
13.3 The arrangements for the accommodation of (*name of person*) are as follows:
(*State details of accommodation arrangements*)

(F) UNDERTAKING ON EXPENSES FOR USE OFLIVE VIDEO LINK[14]

14. The Government of (*name of Requesting Party*) shall responsible for all cost takes by the Government of (*name of Requested Party*) in order to establish the live video or television link or other appropriate communications facilities, the costs related to the servicing of the live video or television link or other appropriate communications facilities, the remuneration of interpreters provided by (*name of Requested Party*) and allowances to witnesses and their traveling expenses in (*name of Requested Party*).[15]

LIAISON

15.1 The officers of the (*Central Authority of Requesting Party*) handling this request are:
(*state name of officer(s)*)
(*address*)

Telephone Number:
Facsimile Number:
Electronic mail address:

15.2 The case officer of (*name of authority in Requesting Party concerned with the criminal matter*) is:

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[13] If the request involves a person travelling from the Requested Party to the Requesting Party.

[14] If the request involves a person travelling from the Requested Party to the Requesting Party.

[15] If the request involves the giving of evidence by live video or live television link or other appropriate communications facilities, unless the Parties mutually agree otherwise.

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(*name of officer of authority in Requesting Party concerned with the criminal matter, telephone and facsimile numbers and e-mail address)*

15.3 The following officer/*s of (*name of appropriate authority in Requested Party*) *has/*have knowledge of this matter:

*(name of officer/*s of appropriate authority in Requested Party, telephone and facsimile numbers and e-mail addresses).*

15.4 If permission is given for an officer of (*name of authority in Requesting Party concerned with the criminal matter*) to travel to (*name of Requested Party*), the officer is likely to be (*name of officer of authority in Requesting Party concerned with the criminal matter*).

SUPPLEMENTARY REQUEST

16. The (*Central Authority of Requesting Party*) may wish to make supplementary requests for assistance in this matter if necessary.

RECIPROCITY UNDERTAKING

17. The Government of (*name of Requesting Party*) assures the Government of (*name of Requested Party*) that the Government of (*name of Requesting Party*) would, subject to its laws, comply with a request by the Government of (*name of Requested Party*) to (*name of Requesting Party*) for assistance of this kind in respect of an equivalent offence.

Signed by

Name and Position : _____
Office : _____
Date : _____

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