

**7045.0524 WORDING OF INSTRUMENTS.**

Subpart 1. **Trust agreement for trust fund.** The trust agreement and certificate of acknowledgment are as follows:

A. A trust agreement for a trust fund as specified in part 7045.0504, subpart 2; 7045.0508, subpart 2; 7045.0514, subpart 2; 7045.0612, subpart 2; or 7045.0616, subpart 2 must be worded as specified in this item, except that instructions in brackets must be replaced with the relevant information and the brackets deleted.

**TRUST AGREEMENT**

Trust Agreement, the "Agreement," entered into as of [date] by and between [name of the owner or operator], a [name of state] [insert "corporation," "partnership," "association," or "proprietorship"], the "Grantor," and [name of corporate trustee], [insert "incorporated in the state of \_\_\_\_\_" or "a national bank"], the "Trustee."

Whereas, the Minnesota Pollution Control Agency (Agency), an agency of the state of Minnesota has established certain rules applicable to the Grantor, requiring that an owner or operator of a hazardous waste facility shall provide assurance that funds will be available when needed for closure and/or postclosure care of, and/or corrective action for the facility,

Whereas, the Grantor has elected to establish a trust to provide all or part of the financial assurance for the facilities identified herein,

Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee,

Now, Therefore, the Grantor and the Trustee agree as follows:

**Section 1. Definitions.** As used in this Agreement:

a. The term "Grantor" means the owner or operator who enters into this Agreement and any successors or assigns of the Grantor.

b. The term "Trustee" means the Trustee who enters into this Agreement and any successor Trustee.

**Section 2. Identification of Facilities and Cost Estimates.** This Agreement pertains to the facilities and cost estimates identified on attached Schedule A [on Schedule A, for each facility list the identification number, name, address, and the current corrective action, closure, and/or postclosure cost estimates, or portions thereof, for which financial assurance is demonstrated by this Agreement].

**Section 3. Establishment of Fund.** The Grantor and the Trustee hereby establish a trust fund, the "Fund," for the benefit of the Agency. The Grantor and the Trustee intend that no third party have access to the Fund except as herein provided. The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in

Schedule B attached hereto. This property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, **IN TRUST**, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor established by the Agency.

**Section 4. Payment for Corrective Action, Closure, and Postclosure Care.** The Trustee shall make payments from the Fund as the Agency Commissioner shall direct, in writing, to provide for the payment of the costs of corrective action, closure, and/or postclosure care of the facilities covered by this Agreement. The Trustee shall reimburse the Grantor or other persons as specified by the Agency Commissioner from the Fund for corrective action, closure, and postclosure expenditures in amounts as the Agency Commissioner shall direct in writing. In addition, the Trustee shall refund to the Grantor the amounts as the Agency Commissioner specifies in writing. Upon refund, these funds shall no longer constitute part of the Fund as defined herein.

**Section 5. Payments Comprising the Fund.** Payments made to the Trustee for the Fund shall consist of cash or securities acceptable to the Trustee.

**Section 6. Trustee Management.** The Trustee shall invest and reinvest the principal and income of the Fund and keep the Fund invested as a single fund, without distinction between principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge duties with respect to the trust fund solely in the interest of the beneficiary and with the care, skill, prudence, and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; **except that:**

a. securities or other obligations of the Grantor, or any other owner or operator of the facilities, or any of their affiliates as defined in the Investment Company Act of 1940, United States Code, title 15, section 80a-2.(a), as amended, shall not be acquired or held, unless they are securities or other obligations of the federal or state government;

b. the Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the federal or state government; and

c. the Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

**Section 7. Commingling and Investment.** The Trustee is expressly authorized in its discretion:

a. to transfer from time to time any or all of the assets of the Fund to any common, commingled, or collective trust fund created by the Trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and

b. to purchase shares in any investment company registered under the Investment Company Act of 1940, United States Code, title 15, sections 80a-1 et seq., as amended, including one which may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

**Section 8. Express Powers of Trustee.** Without in any way limiting the powers and discretions conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

a. To sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee may be bound to see to the application of the purchase money or to inquire into the validity or expediency of a sale or other disposition;

b. To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

c. To register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing the securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of the securities in a qualified central depository even though, when so deposited, the securities may be merged and held in bulk in the name of the nominee of the depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a federal reserve bank, but the books and records of the Trustee shall at all times show that all these securities are part of the Fund;

d. To deposit any cash in the Fund in interest bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the federal or state government; and

e. To compromise or otherwise adjust all claims in favor of or against the Fund.

**Section 9. Taxes and Expenses.** All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the Fund.

**Section 10. Annual Valuation.** The Trustee shall annually, at least 30 days prior to the anniversary date of establishment of the Fund, furnish to the Grantor and to the Agency Commissioner a statement confirming the value of the Trust. Any securities in the Fund shall be valued at market value as of no more than 60 days prior to the anniversary date of establishment of the Fund. The failure of the Grantor to object in writing to the Trustee within 90 days after the statement has been furnished to the Grantor and the Agency Commissioner shall constitute a conclusively binding assent by the Grantor, barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

**Section 11. Advice of Counsel.** The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any question arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

**Section 12. Trustee Compensation.** The Trustee shall be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor.

**Section 13. Successor Trustee.** The trustee may resign or the Grantor may replace the Trustee, but the resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the trust in a writing sent to the Grantor, the Agency Commissioner and the present Trustee by certified mail ten days before the change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 9.

**Section 14. Instructions to the Trustee.** All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by the persons as are designated in the attached Exhibit A or other designees as the Grantor may designate by amendment to Exhibit A. The Trustee shall be fully protected in acting without inquiry in accordance with

the Grantor's orders, requests, and instructions. All orders, requests, and instructions by the Agency to the Trustee shall be in writing, signed by the Agency Commissioner; and the Trustee shall act and shall be fully protected in acting in accordance with the orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or the Agency hereunder has occurred. The Trustee shall have no duty to act in the absence of orders, requests, and instructions from the Grantor and/or the Agency Commissioner, except as provided for herein.

**Section 15. Notice of Nonpayment.** The Trustee shall notify the Grantor and the Agency Commissioner by certified mail within ten days following the expiration of the 30-day period after the anniversary of the establishment of the Trust, if no payment is received from the Grantor during that period. After the pay-in period is completed, the Trustee shall not be required to send a notice of nonpayment.

**Section 16. Amendment of Agreement.** This Agreement may be amended by an instrument in writing executed by the Grantor, the Trustee, and the Agency Commissioner, or by the Trustee and the Agency Commissioner, if the Grantor ceases to exist.

**Section 17. Irrevocability and Termination.** Subject to the right of the parties to amend this Agreement as provided in Section 16, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee, and the Agency Commissioner, or by the Trustee and the Agency Commissioner, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

**Section 18. Immunity and Indemnification.** The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the Agency Commissioner issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide a defense.

**Section 19. Choice of Law.** This Agreement shall be administered, construed, and enforced according to the laws of the state of Minnesota.

**Section 20. Interpretation.** As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each Section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

In Witness Whereof the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals to be hereunto affixed and attested as of the date first above written. The parties below certify that the wording of this Agreement is identical to the wording specified in Minnesota Rules, part 7045.0524, subpart 1, item A, as such rules were constituted on the date first above written.

[SIGNATURE OF GRANTOR]

[TITLE]

Attest:

[TITLE]

[SEAL]

[SIGNATURE OF TRUSTEE]

Attest:

[TITLE]

[SEAL]

B. The following is an example of the certification of acknowledgment, which must accompany the trust agreement for a trust fund as specified in part 7045.0504, subpart 2; 7045.0508, subpart 2; 7045.0514, subpart 2; 7045.0612, subpart 2; or 7045.0616, subpart 2.

#### CERTIFICATION OF ACKNOWLEDGMENT

State of \_\_\_\_\_

County of \_\_\_\_\_

On this [date], before me personally came [owner or operator] to me known, who, being by me duly sworn, did depose and say that she/he resides at [address], that she/he is [title] of [corporation], the corporation described in and which executed the above instrument; that she/he knows the seal of said corporation; that the seal affixed to the instrument is the corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that she/he signed her/his name thereto by like order.

[signature of Notary Public]

Subp. 2. **Surety bond guaranteeing payment into a trust fund.** A surety bond guaranteeing payment into a trust fund as specified in part 7045.0504, subpart 3; 7045.0508, subpart 3; 7045.0514, subpart 3; 7045.0612, subpart 3; or 7045.0616, subpart 3 must be

worded as described in this subpart, except that instructions in brackets must be replaced with the relevant information and the brackets deleted.

### FINANCIAL GUARANTEE BOND

Date bond executed: \_\_\_\_\_

Effective date: \_\_\_\_\_

Principal: [legal name and business address of owner or operator]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation: \_\_\_\_\_

Surety(ies): [name(s) and business address(es)]

Identification number, name, address, and corrective action, closure, and/or postclosure amount(s) for each facility guaranteed by this bond [indicate corrective action, closure, and postclosure amounts separately]: \_\_\_\_\_

Total penal sum of bond: \$ \_\_\_\_\_

Surety's bond number: \_\_\_\_\_

Know All Persons By These Presents, That we, the Principal and Surety(ies) hereto are firmly bound to the Minnesota Pollution Control Agency (hereinafter called Agency), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as cosureties, we, the Sureties, bind ourselves in the sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of the sum only as is set forth opposite the name of the Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

Whereas said Principal is required to have a permit or interim status in order to own or operate each hazardous waste facility identified above, and

Whereas said principal is required to provide financial assurance for closure; closure and postclosure care; closure and corrective action; or closure, postclosure care, and corrective action as a condition of the permit or interim status, and

Whereas said Principal shall establish a standby trust fund as is required when a surety bond is used to provide financial assurance;

Now, Therefore, the conditions of the obligation are such that if the Principal shall faithfully, before the beginning of final closure of each facility identified above, fund the

standby trust fund in the amount(s) identified above for the closure and/or postclosure care of the facility,

Or, if the Principal shall fund the standby trust fund in the amount(s) identified above for the closure and/or postclosure care of the facility within 15 days after an order to begin closure is issued by the Agency Commissioner, the Agency, or court of competent jurisdiction,

Or, if the Principal shall faithfully, before beginning corrective action at any facility identified above, fund the standby trust fund in the amount identified above for corrective action at the facility,

Or, if the Principal shall fund the standby trust fund in the amount identified above for corrective action at the facility within 15 days after an order to begin corrective action is issued by the Agency Commissioner, the Agency, or a court of competent jurisdiction,

Or, if the Principal shall provide alternate financial assurance, as specified in Minnesota Rules, parts 7045.0498 to 7045.0524, or 7045.0608 to 7045.0624 as applicable and obtain the Agency Commissioner's written approval of assurance, within 90 days after the date notice of cancellation is received by both the Principal and the Agency Commissioner from the Surety(ies), then this obligation shall be null and void, otherwise it is to remain in full force and effect.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above. Upon notification by the Agency Commissioner that the Principal has failed to perform as guaranteed by this bond, the Surety(ies) shall place funds in the amount guaranteed for the facility(ies) into the standby trust fund as directed by the Agency Commissioner.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the Principal and to the Agency Commissioner, provided, however, that cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by both the Principal and the Agency Commissioner, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety(ies), provided, however, that no such notice shall become effective until the Surety(ies) receive(s) written authorization for termination of the bond by the Agency Commissioner.

(The following paragraph is an optional rider that may be included but is not required.)

Principal and Surety(ies) hereby agree to adjust the penal sum of the bond yearly so that it guarantees a new corrective action, closure, and/or postclosure amount, provided that the penal sum does not increase by more than 20 percent in any one year, and no decrease in the penal sum takes place without the written permission of the Agency Commissioner.

In Witness Whereof, the Principal and Surety(ies) have executed this Financial Guarantee Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond is identical to the wording specified in Minnesota Rules, part 7045.0524, subpart 2, as the rules were constituted on the date this bond was executed.

Principal

[SIGNATURE(S)]

[NAME(S)]

[TITLES(S)]

[CORPORATE SEAL]

Corporate Surety(ies)

[NAME AND ADDRESS]

State of incorporation: \_\_\_\_\_

Liability limit: \$ \_\_\_\_\_

[SIGNATURE(S)]

[NAME(S) AND TITLE(S)]

[CORPORATE SEAL]

[For every cosurety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]

Bond premium: \$ \_\_\_\_\_

Subp. 3. **Surety bond guaranteeing performance.** A surety bond guaranteeing performance of corrective action, closure and/or postclosure care, as specified in part 7045.0504, subpart 4; 7045.0508, subpart 4; or 7045.0514, subpart 4 must be worded as specified in this subpart, except that the instructions in brackets must be replaced with the relevant information and the brackets deleted.

#### PERFORMANCE BOND

Date bond executed: \_\_\_\_\_

Effective date: \_\_\_\_\_

Principal: [legal name and business address of owner or operator]

Type of organization: [insert "individual," "joint venture," "partnership," or "corporation"]

State of incorporation: \_\_\_\_\_

Surety(ies): [name(s) and business address(es)]

Identification number, name, address, and corrective action, closure, and/or postclosure amount(s) for each facility guaranteed by this bond [indicate corrective action, closure, and postclosure amounts separately]:

Total penal sum of bond: \$ \_\_\_\_\_

Surety's bond number: \_\_\_\_\_

Know All Persons By These Presents, That we, the Principal and Surety(ies) hereto are firmly bound to the Minnesota Pollution Control Agency (hereinafter called Agency), in the above penal sum for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns jointly and severally; provided that, where the Surety(ies) are corporations acting as cosureties, we, the Sureties, bind ourselves in the sum "jointly and severally" only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each Surety binds itself, jointly and severally with the Principal, for the payment of the sum only as is set forth opposite the name of the Surety, but if no limit of liability is indicated, the limit of liability shall be the full amount of the penal sum.

Whereas said Principal is required to have a permit in order to own or operate each hazardous waste facility identified above, and

Whereas said Principal is required to provide financial assurance for closure; closure and postclosure care; closure and corrective action; or closure, postclosure care, and corrective action as a condition of the permit, and

Whereas said Principal shall establish a standby trust fund as is required when a surety bond is used to provide financial assurance,

Now, Therefore, the conditions of this obligation are such that if the Principal shall faithfully perform closure, whenever required to do so, of each facility for which this bond guarantees closure, in accordance with the closure plan and other requirements of the permit as the plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as these laws, statutes, rules, and regulations may be amended,

And, if the Principal shall faithfully perform postclosure care of each facility for which this bond guarantees postclosure care, in accordance with the postclosure plan and other requirements of the permit, as the plan and permit may be amended, pursuant

to all applicable laws, statutes, rules, and regulations, as these laws, statutes, rules, and regulations may be amended,

And, if the Principal shall faithfully perform corrective action for each facility for which this bond guarantees corrective action, when required by and in accordance with the corrective action plan and other requirements of the permit, as the plan and permit may be amended, pursuant to all applicable laws, statutes, rules, and regulations, as such laws, statutes, rules, and regulations may be amended,

Or, if the Principal shall provide alternate financial assurance as specified in Minnesota Rules, parts 7045.0498 to 7045.0524, and obtain the Agency Commissioner's written approval of the assurance, within 90 days after the date notice of cancellation is received by both the Principal and the Agency Commissioner from the Surety(ies), then this obligation shall be null and void, otherwise it is to remain in full force and effect.

The Surety(ies) shall become liable on this bond obligation only when the Principal has failed to fulfill the conditions described above.

Upon notification by the Agency Commissioner that the Principal has been found in violation of the closure requirements of Minnesota Rules, parts 7045.0450 to 7045.0551 for a facility for which this bond guarantees performance of closure, the Surety(ies) shall either perform closure in accordance with the closure plan and other permit requirements or place the closure amount guaranteed for the facility into the standby trust fund as directed by the Agency Commissioner.

Upon notification by the Agency Commissioner that the Principal has been found in violation of the postclosure requirements of Minnesota Rules, parts 7045.0450 to 7045.0551 for a facility for which this bond guarantees performance of postclosure care, the Surety(ies) shall either perform postclosure care in accordance with the postclosure plan and other permit requirements or place the postclosure amount guaranteed for the facility into the standby trust fund as directed by the Agency Commissioner.

Upon notification by the Agency Commissioner that the Principal has been found in violation of the corrective action requirements of Minnesota Rules, parts 7045.0450 to 7045.0551 for a facility for which this bond guarantees performance of corrective action, the Surety(ies) shall either perform corrective action in accordance with the corrective action plan and other permit requirements or place the corrective action amount guaranteed for the facility into the standby trust fund as directed by the Agency Commissioner.

Upon notification by the Agency Commissioner that the Principal has failed to provide alternate financial assurance as specified in Minnesota Rules, parts 7045.0498 to 7045.0524 and obtain written approval of the assurance from the Agency Commissioner during the 90 days following receipt by both the Principal and the Agency of a notice of cancellation of

the bond, the Surety(ies) shall place funds in the amount guaranteed for the facility(ies) into the standby trust fund as directed by the Agency Commissioner.

The Surety(ies) hereby waive(s) notification of amendments to closure, postclosure, and corrective action plans, permits, applicable laws, statutes, rules, and regulations and agrees that no amendment shall in any way alleviate its (their) obligation on this bond.

The liability of the Surety(ies) shall not be discharged by any payment or succession of payments hereunder, unless and until the payment or payments shall amount in the aggregate to the penal sum of the bond, but in no event shall the obligation of the Surety(ies) hereunder exceed the amount of said penal sum.

The Surety(ies) may cancel the bond by sending notice of cancellation by certified mail to the owner or operator and to the Agency Commissioner, provided, however, that cancellation shall not occur during the 120 days beginning on the date of receipt of the notice of cancellation by both the Principal and the Agency Commissioner, as evidenced by the return receipts.

The Principal may terminate this bond by sending written notice to the Surety(ies), provided, however, that no notice shall become effective until the Surety(ies) receive(s) written authorization for termination of the bond by the Agency Commissioner.

[The following paragraph is an optional rider that may be included but is not required.]

Principal and Surety(ies) hereby agree to adjust the penal sum of the bond yearly so that it guarantees a new corrective action, closure, and/or postclosure amount, provided that the penal sum does not increase by more than 20 percent in any one year, and no decrease in the penal sum takes place without the written permission of the Agency Commissioner.

In Witness Whereof, the Principal and Surety(ies) have executed this Performance Bond and have affixed their seals on the date set forth above.

The persons whose signatures appear below hereby certify that they are authorized to execute this surety bond on behalf of the Principal and Surety(ies) and that the wording of this surety bond is identical to the wording specified in Minnesota Rules, part 7045.0524, subpart 3, as the part was constituted on the date this bond was executed.

Principal

[SIGNATURE(S)]

[NAME(S)]

[TITLE(S)]

[CORPORATE SEAL]

Corporate Surety(ies)

[NAME AND ADDRESS]

State of incorporation: \_\_\_\_\_

Liability limit: \$ \_\_\_\_\_

[SIGNATURE(S)]

[NAME(S) AND TITLE(S)]

[CORPORATE SEAL]

[For every cosurety, provide signature(s), corporate seal, and other information in the same manner as for Surety above.]

Bond premium: \$ \_\_\_\_\_

Subp. 4. **Letter of credit.** A letter of credit as specified in part 7045.0504, subpart 5; 7045.0508, subpart 5; 7045.0514, subpart 5; 7045.0612, subpart 4; or 7045.0616, subpart 4 must be worded as specified in this subpart, except that instructions in brackets must be replaced with the relevant information and the brackets deleted.

#### IRREVOCABLE STANDBY LETTER OF CREDIT

[Agency Commissioner]

Minnesota Pollution Control Agency

Dear Sir or Madam:

We hereby establish our Irrevocable Standby Letter of Credit No. \_\_\_\_\_ in your favor, at the request and for the account of [owner's or operator's name and address] up to the aggregate amount of [in words] U.S. dollars \$ \_\_\_\_\_, available upon presentation of:

1. your sight draft, bearing reference to this letter of Credit No. \_\_\_\_\_, and
2. your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to the State of Minnesota's hazardous waste rules."

This letter of credit is effective as of [date] and shall expire on [date at least one year later], but the expiration date shall be automatically extended for a period of [at least one year] on [date] and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify both you and the [owner's or operator's name] by certified mail that we have decided not to extend this letter of credit beyond the current expiration date. In the event you are so notified, any unused portion of the credit shall be available upon presentation of your sight draft for 120 days after the date of receipt by both you and [owner's or operator's name], as shown on the signed return receipts.

Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we shall duly honor the draft upon presentation to us, and we shall deposit the

amount of the draft directly into the standby trust fund of [owner's or operator's name] in accordance with your instructions.

We certify that the wording of this letter of credit is identical to the wording specified in Minnesota Rules, part 7045.0524, subpart 4, as the rules were constituted on the date shown immediately below.

[SIGNATURE(S) AND TITLE(S) OF OFFICIAL(S) OF ISSUING  
INSTITUTION]

[DATE]

This credit is subject to [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published by the International Chamber of Commerce," or "the Uniform Commercial Code published in Minnesota Statutes, chapter 336"].

Subp. 5. **Certificate of insurance.** A certificate of insurance, as specified in part 7045.0504, subpart 6; 7045.0508, subpart 6; 7045.0514, subpart 6; 7045.0612, subpart 5; or 7045.0616, subpart 5 must be worded as specified in this subpart, except that instructions in brackets must be replaced with the relevant information and the brackets deleted.

CERTIFICATE OF INSURANCE FOR CLOSURE OR POSTCLOSURE CARE OR  
CORRECTIVE ACTION

Name and Address of Insurer (herein called the "insurer"):

\_\_\_\_\_

Name and Address of Insured (herein called the "insured"):

\_\_\_\_\_

Facilities Covered: [List for each facility: the identification number, name, address, and the amount of insurance for closure and/or the amount for postclosure care, and/or the amount for corrective action (these amounts for all facilities covered must total the face amount shown below).]

Face Amount: \_\_\_\_\_

Policy Number: \_\_\_\_\_

Effective Date: \_\_\_\_\_

The insurer hereby certifies that it has issued to the insured the policy of insurance identified above to provide financial assurance for [insert "closure," "closure and postclosure care," "postclosure care," "closure and corrective action," "postclosure care and corrective action," "corrective action," or "closure, postclosure care, and corrective action"] for the facilities identified above. The insurer further warrants that the policy

conforms in all respects with the requirements of Minnesota Rules, part 7045.0504, subpart 6; 7045.0508, subpart 6; 7045.0514, subpart 6; 7045.0612, subpart 5; or 7045.0616, subpart 5 as applicable and as the rules were constituted on the date shown immediately below. It is agreed that any provision of the policy inconsistent with the rules is hereby amended to eliminate the inconsistency.

Whenever requested by the Minnesota Pollution Control Agency (Agency) Commissioner, the insurer agrees to furnish to the Agency Commissioner a duplicate original of the policy listed above, including all endorsements thereon.

I hereby certify that the wording of this certificate is identical to the wording specified in Minnesota Rules, part 7045.0524, subpart 5, as the rules were constituted on the date shown immediately below.

[AUTHORIZED SIGNATURE FOR INSURER]

[NAME OF PERSON SIGNING]

[TITLE OF PERSON SIGNING]

[SIGNATURE OF WITNESS OR NOTARY]

[DATE]

Subp. 6. **Letter from chief financial officer for corrective action, closure, and/or postclosure care.** A letter from the chief financial officer as specified in part 7045.0504, subpart 7; 7045.0508, subpart 7; 7045.0514, subpart 7; 7045.0612, subpart 6; or 7045.0616, subpart 6 must be worded as specified in this subpart, except that instructions in brackets must be replaced with the relevant information and the brackets deleted.

LETTER FROM CHIEF FINANCIAL OFFICER FOR CORRECTIVE ACTION,  
CLOSURE, AND/OR POSTCLOSURE CARE

[Agency Commissioner]

Minnesota Pollution Control Agency

I am the chief financial officer of [name and address of firm]. This letter is in support of this firm's use of the financial test to demonstrate financial assurance for corrective action, closure, or postclosure costs, as specified in Minnesota Rules, parts 7045.0498 to 7045.0524 and 7045.0608 to 7045.0624.

[Fill out the following five paragraphs regarding facilities and associated cost estimates. If your firm has no facilities that belong in a particular paragraph, write "None" in the space indicated. For each facility, include its identification number, name, address, and current corrective action, closure, and/or postclosure cost estimates. Identify each cost estimate as to whether it is for corrective action, closure, or postclosure care.]

1. This firm is the owner or operator of the following facilities for which financial assurance for corrective action, closure, or postclosure care is demonstrated through the financial test specified in Minnesota Rules, parts 7045.0498 to 7045.0524 and 7045.0608 to 7045.0624. The current corrective action, closure, and/or postclosure cost estimates covered by the test are shown for each facility: \_\_\_\_\_.

2. This firm guarantees, through the corporate guarantee specified in Minnesota Rules, parts 7045.0498 to 7045.0524 and 7045.0608 to 7045.0624, the corrective action, closure, or postclosure care of the following facilities owned or operated by subsidiaries of this firm. The current cost estimates for the corrective action, closure, or postclosure care so guaranteed are shown for each facility: \_\_\_\_\_.

3. In states other than Minnesota, this firm, as owner or operator or guarantor, is demonstrating financial assurance for the corrective action, closure, or postclosure care of the following facilities either to the United States Environmental Protection Agency through the use of the financial test specified in Code of Federal Regulations, title 40, parts 264 or 265, subpart H, as amended, or to an authorized state through the use of a test equivalent or substantially equivalent to the specified financial test. The current corrective action, closure, and/or postclosure cost estimates covered by such a test are shown for each facility:

\_\_\_\_\_.

4. This firm is the owner or operator of the following hazardous waste management facilities for which financial assurance for corrective action, if required, closure, or if a disposal facility, postclosure care, is not demonstrated either to the United States Environmental Protection Agency or a state through the financial test or any other financial assurance mechanism specified in Code of Federal Regulations, title 40, parts 264 or 265, subpart H, as amended, or equivalent or substantially equivalent state mechanisms. The current corrective action, closure, and/or postclosure cost estimates not covered by such financial assurance are shown for each facility: \_\_\_\_\_.

5. This firm is the owner or operator of the following underground injection control (UIC) facilities for which financial assurance for plugging and abandonment is required under Code of Federal Regulations, title 40, part 144, as amended. The current closure cost estimates as required by Code of Federal Regulations, title 40, section 144.62, as amended, are shown for each facility.

This firm [insert "is required" or "is not required"] to file a Form 10K with the Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this firm ends on [month, day]. The figures for the following items marked with an asterisk are derived from this firm's independently audited, year end financial statements for the latest completed fiscal year, ended [date].

[Fill in Alternative I if the criteria of Minnesota Rules, part 7045.0504, subpart 7, item B; 7045.0508, subpart 7, item B; 7045.0514, subpart 7, item B; 7045.0612, subpart 6, item B; 7045.0616, subpart 6, item B are used. Fill in Alternative II if the criteria of Minnesota Rules, part 7045.0504, subpart 7, item C; 7045.0508, subpart 7, item C; 7045.0514, subpart 7, item C; or 7045.0612, subpart 6, item C; or 7045.0616, subpart 6, item C are used.]

### ALTERNATIVE I

- |      |   |          |       |    |
|------|---|----------|-------|----|
| 1.   | Sum of current corrective action, closure, and postclosure cost estimate<br>[total of all cost estimates shown in the five paragraphs above]  | \$ _____ |       |    |
| *2.  | Total liabilities [if any portion of the corrective actions, closure, or<br>postclosure cost estimates is included in total liabilities, you may<br>deduct the amount of that portion from this line and add that amount<br>to lines 3 and 4] | \$ _____ |       |    |
| *3.  | Tangible net worth  | \$ _____ |       |    |
| *4.  | Net worth   | \$ _____ |       |    |
| *5.  | Current assets  | \$ _____ |       |    |
| *6.  | Current liabilities   | \$ _____ |       |    |
| 7.   | Net working capital [line 5 minus line 6]   | \$ _____ |       |    |
| *8.  | The sum of net income plus depreciation, depletion, and amortization  | \$ _____ |       |    |
| *9.  | Total assets in United States (required only if less than 90 percent of<br>firm's assets are located in United States)  | \$ _____ |       |    |
|      |   |          | YES   | NO |
| 10.  | Is line 3 at least \$10,000,000?  | _____    | _____ |    |
| 11.  | Is line 3 at least 6 times line 1?  | _____    | _____ |    |
| 12.  | Is line 7 at least 6 times line 1?  | _____    | _____ |    |
| *13. | Are at least 90 percent of firm's assets located in the United States?<br>If not, complete line 14  | _____    | _____ |    |
| 14.  | Is line 9 at least 6 times line 1?  | _____    | _____ |    |
| 15.  | Is line 2 divided by line 4 less than 2.0?  | _____    | _____ |    |
| 16.  | Is line 8 divided by line 2 greater than 0.1?   | _____    | _____ |    |
| 17.  | Is line 5 divided by line 6 greater than 1.5?   | _____    | _____ |    |

### ALTERNATIVE II

- |     |  |          |
|-----|--|----------|
| 1.  | Sum of current corrective action, closure, and postclosure cost estimates [total of all cost estimates shown in the five paragraphs above]   | \$ _____ |
| 2.  | Current bond rating of most recent issuance of this firm and name of rating service  | _____    |
| 3.  | Date of issuance of bond   | _____    |
| 4.  | Date of maturity of bond   | _____    |
| *5. | Tangible net worth [if any portion of the corrective action, closure, and postclosure costs estimates is included in "total liabilities" on your firm's financial statements, you may add the amount of that portion to this line] | \$ _____ |
| *6  | Total assets in United States (required only if less than 90 percent of firm's assets are located in United States)  | \$ _____ |
|     |  | YES NO   |
| 7.  | Is line 5 at least \$10,000,000?   | _____    |
| 8.  | Is line 5 at least 6 times line 1?   | _____    |
| *9. | Are at least 90 percent of firm's assets located in United States? If not, complete line 10  | _____    |
| 10. | Is line 6 at least 6 times line 1?   | _____    |

I hereby certify that the wording of this letter is identical to the wording specified in Minnesota Rules, part 7045.0524, subpart 6, as such rules were constituted on the date shown immediately below.

[SIGNATURE]

[NAME]

[TITLE]

[DATE]

Subp. 7. **Letter from chief financial officer for liability coverage.** A letter from the chief financial officer as specified in part 7045.0518, subpart 6 or 7045.0620, subpart 5 must be worded as specified in this subpart, except that instructions in brackets must be replaced with the relevant information and the brackets deleted.

LETTER FROM CHIEF FINANCIAL OFFICER FOR LIABILITY COVERAGE  
OR LIABILITY COVERAGE, CORRECTIVE ACTION, CLOSURE, AND/OR  
POSTCLOSURE CARE

[Agency Commissioner]

Minnesota Pollution Control Agency

I am the chief financial officer of [firm's name and address]. This letter is in support of the use of the financial test to demonstrate financial responsibility for liability coverage [insert "and corrective action, closure, and/or postclosure care" if applicable] as specified in Minnesota Rules, parts 7045.0498 to 7045.0524 and 7045.0608 to 7045.0624.

[Fill out the following paragraph regarding facilities and liability coverage. If there are no facilities that belong in a particular paragraph, write "None" in the space indicated. For each facility, include its identification number, name, and address.]

The firm identified above is the owner or operator of the following facilities for which liability coverage for [insert "sudden" or "nonsudden" or "both sudden and nonsudden"] accidental occurrences is being demonstrated through the financial test specified in Minnesota Rules, parts 7045.0498 to 7045.0524 and 7045.0608 to 7045.0624:

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The firm identified above guarantees, through the corporate guarantee specified in Minnesota Rules, parts 7045.0498 to 7045.0524 and 7045.0608 to 7045.0624, liability coverage for [insert "sudden" or "nonsudden" or "both sudden and nonsudden"] accidental occurrences at the following facilities owned or operated by the following subsidiaries of the firm:

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[If you are using the financial test to demonstrate coverage of both liability and corrective action, closure, and postclosure care, fill in the following five paragraphs regarding facilities and associated corrective action, closure, and postclosure cost estimates. If there are no facilities that belong in a particular paragraph, write "None" in the space indicated. For each facility, include its identification number, name, address, and current corrective action, closure, and/or postclosure cost estimates. Identify each cost estimate as to whether it is for corrective action, closure, or postclosure care.]

1. The firm identified above owns or operates the following facilities for which financial assurance for corrective action, closure, or postclosure care is demonstrated through the financial test specified in Minnesota Rules, parts 7045.0498 to 7045.0524 and 7045.0608 to 7045.0624. The current corrective action, closure, and/or postclosure cost estimates covered by the test are shown for each facility:

---

2. The firm identified above guarantees, through the corporate guarantee specified in Minnesota Rules, part 7045.0498 to 7045.0524 and 7045.0608 to 7045.0624, the corrective action, closure, and postclosure care of the following facilities owned or operated by its subsidiaries. The current cost estimates for the corrective action, closure, or postclosure care so guaranteed are shown for each facility:

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3. In states other than Minnesota, this firm is demonstrating financial assurance for the corrective action, closure, or postclosure care of the following facilities either to the United States Environmental Protection Agency through the use of the financial test specified in Code of Federal Regulations, title 40, parts 264 or 265, subpart H, as amended, or to an authorized state through the use of a test equivalent or substantially equivalent to the specified financial test. The current corrective action, closure, and/or postclosure cost estimates covered by such a test are shown for each facility:

---

4. The firm identified above owns or operates the following hazardous waste management facilities for which financial assurance for corrective action, if required, closure, or, if a disposal facility, postclosure care, is not demonstrated either to the United States Environmental Protection Agency, or a state through the financial test or any other financial assurance mechanism specified in Code of Federal Regulations, title 40, parts 264 or 265, subpart H, as amended, or equivalent or substantially equivalent state mechanisms. The current corrective action, closure, and/or postclosure cost estimates not covered by such financial assurance are shown for each facility:

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5. The firm identified above owns or operates the following underground injection control (UIC) facilities for which financial assurance for plugging and abandonment is required under Code of Federal Regulations, title 40, part 144, as amended. The current closure cost estimates as required by Code of Federal Regulations, title 40, section 144.62, as amended, are shown for each facility:

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This firm [insert "is required" or "is not required"] to file a Form 10K with the Securities and Exchange Commission (SEC) for the latest fiscal year.

The fiscal year of this firm ends on [month, day]. The figures for the following items marked with an asterisk are derived from this firm's independently audited, year end financial statements for the latest completed fiscal year, ended [date].

[Fill in Part A if you are using the financial test to demonstrate coverage only for the liability requirements.]

Part A. Liability Coverage for Accidental Occurrences.

[Fill in Alternative I if the criteria of Minnesota Rules, part 7045.0518, subpart 6, item B or 7045.0620, subpart 5, item B are used. Fill in Alternative II if the criteria of Minnesota Rules, part 7045.0518, subpart 6, item C or 7045.0620, subpart 5, item C are used.]

ALTERNATIVE I

- 1. Amount of annual aggregate liability coverage to be demonstrated \$ \_\_\_\_\_
  - \*2. Current assets \$ \_\_\_\_\_
  - \*3. Current liabilities \$ \_\_\_\_\_
  - 4. Net working capital (line 2 minus line 3) \$ \_\_\_\_\_
  - \*5. Tangible net worth \$ \_\_\_\_\_
  - \*6. If less than 90 percent of assets are located in the United States,  
give total United States assets \$ \_\_\_\_\_
- |  | YES | NO  |
|--|-----|-----|
| 7. Is line 5 at least \$10,000,000?  | ___ | ___ |
| 8. Is line 4 at least 6 times line 1?  | ___ | ___ |
| 9. Is line 5 at least 6 times line 1?  | ___ | ___ |
| *10. Are at least 90 percent of assets located in the United States?<br>If not, complete line 11 | ___ | ___ |
| 11. Is line 6 at least 6 times line 1?   | ___ | ___ |

ALTERNATIVE II

- 1. Amount of annual aggregate liability coverage to be demonstrated \$ \_\_\_\_\_
- 2. Current bond rating of most recent issuance and name of rating  
service \_\_\_\_\_
- 3. Date of issuance of bond \_\_\_\_\_
- 4. Date of maturity of bond \_\_\_\_\_
- \*5. Tangible net worth \$ \_\_\_\_\_
- \*6. Total assets in United States (required only if less than 90 percent  
of assets located in the United States) \$ \_\_\_\_\_

	YES	NO
7. Is line 5 at least \$10,000,000?	___	___
8. Is line 5 at least 6 times line 1?	___	___
*9. Are at least 90 percent of assets located in the United States? If not, complete line 10	___	___
10. Is line 6 at least 6 times line 1?	___	___

Part B. Corrective Action, Closure, or Postclosure Care and Liability Coverage.

[Fill in Alternative I if the criteria of Minnesota Rules, parts 7045.0504, subpart 7, item B; 7045.0508, subpart 7, item B; 7045.0514, subpart 7, item B; and 7045.0518, subpart 6, item B are used or if the criteria of Minnesota Rules, parts 7045.0612, subpart 6, item B or 7045.0616, subpart 6, item B; and 7045.0620, subpart 5, item B are used. Fill in Alternative II if the criteria of Minnesota Rules, parts 7045.0504, subpart 7, item C; 7045.0508, subpart 7, item C; 7045.0514, subpart 7, item C; and 7045.0518, subpart 6, item C are used or if the criteria of Minnesota Rules, parts 7045.0612, subpart 6, item C; 7045.0616, subpart 6, item C; and 7045.0620, subpart 5, item C are used.]

ALTERNATIVE I

1. Sum of current corrective action, closure, and postclosure cost estimates (total of all cost estimates listed above) \$ \_\_\_\_\_
2. Amount of annual aggregate liability coverage to be demonstrated \$ \_\_\_\_\_
3. Sum of lines 1 and 2 \$ \_\_\_\_\_
- \*4. Total liabilities (if any portion of your current corrective action, closure, or postclosure cost estimates is included in your total liabilities, you may deduct that portion from this line and add that amount to lines 5 and 6) \$ \_\_\_\_\_
- \*5. Tangible net worth \$ \_\_\_\_\_
- \*6. Net worth \$ \_\_\_\_\_
- \*7. Current assets \$ \_\_\_\_\_
- \*8. Current liabilities \$ \_\_\_\_\_
9. Net working capital (line 7 minus line 8) \$ \_\_\_\_\_
- \*10. The sum of net income plus depreciation, depletion, and amortization \$ \_\_\_\_\_
- \*11. Total assets in United States (required only if less than 90 percent of assets are located in the United States) \$ \_\_\_\_\_

	YES	NO
12. Is line 5 at least \$10,000,000?	___	___
13. Is line 5 at least 6 times line 3?	___	___
14. Is line 9 at least 6 times line 3?	___	___
*15. Are at least 90 percent of assets located in the United States? If not, complete line 16	___	___
16. Is line 11 at least 6 times line 3?	___	___
17. Is line 4 divided by line 6 less than 2.0?	___	___
18. Is line 10 divided by line 4 greater than 0.1?	___	___
19. Is line 7 divided by line 8 greater than 1.5?	___	___

ALTERNATIVE II

1. Sum of current corrective action, closure, and postclosure cost estimates (total of all cost estimates listed above)	\$ _____	
2. Amount of annual aggregate liability coverage to be demonstrated	\$ _____	
3. Sum of lines 1 and 2	\$ _____	
4. Current bond rating of most recent issuance and name of rating service	_____	
5. Date of issuance of bond	_____	
6. Date of maturity of bond	_____	
*7. Tangible net worth (if any portion of the current corrective action, closure, or postclosure cost estimates is included in "total liabilities" on your financial statements you may add that portion to this line)	\$ _____	
*8. Total assets in the United States (required only if less than 90 percent of assets are located in the United States)	\$ _____	
	YES	NO
9. Is line 7 at least \$10,000,000?	___	___
10. Is line 7 at least 6 times line 3?	___	___
*11. Are at least 90 percent of assets located in the United States? If not, complete line 12	___	___
12. Is line 8 at least 6 times line 3?	___	___

I hereby certify that the wording of this letter is identical to the wording specified in Minnesota Rules, part 7045.0524, subpart 7, as the rules were constituted on the date shown immediately below.

[SIGNATURE]

[NAME]

[TITLE]

[DATE]

Subp. 8. **Corporate guarantee for corrective action, closure, or postclosure care.** A corporate guarantee as specified in part 7045.0504, subpart 7; 7045.0508, subpart 7; 7045.0514, subpart 7; 7045.0612, subpart 6; or 7045.0616, subpart 6 must be worded as specified in this subpart, except that instructions in brackets must be replaced with the relevant information and the brackets deleted.

CORPORATE GUARANTEE FOR CORRECTIVE ACTION, CLOSURE, OR  
POSTCLOSURE CARE

Guarantee made this [date] by [name of guaranteeing entity], a business corporation organized under the laws of the state of [insert name of state], herein referred to as guarantor, to the Minnesota Pollution Control Agency (Agency), obligee, on behalf of our subsidiary [owner or operator] of [business address].

Recitals

1. Guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting requirements for guarantors as specified in Minnesota Rules, parts 7045.0504, subpart 7; 7045.0508, subpart 7; 7045.0514, subpart 7; 7045.0612, subpart 6; and 7045.0616, subpart 6.

2. [Owner or operator] owns or operates the following hazardous waste management facility(ies) covered by this guarantee: [List for each facility: identification number, name, and address. Indicate for each whether guarantee is for corrective action, closure, postclosure care, or a combination of the three.]

3. "Closure plans" and "postclosure plans" as used below refer to the plans maintained as required by Minnesota Rules, parts 7045.0486 to 7045.0494 and 7045.0594 to 7045.0606 for the closure and postclosure care of facilities as identified above. "Corrective action plans" as used below refers to the plans maintained as required by Minnesota Rules, part 7045.0484, subpart 2, item D; and subpart 14 for corrective action for the facilities as identified above.

4. For value received from [owner or operator], guarantor guarantees to the Agency that in the event that [owner or operator] fails to perform [insert "corrective action," "closure,"

"postclosure care," or any combination of the three] of the above facility(ies) in accordance with the corrective action, closure, or postclosure plans and other permit or interim status requirements whenever required to do so, the guarantor shall do so or establish a trust fund as specified in Minnesota Rules, parts 7045.0498 to 7045.0524 or 7045.0608 to 7045.0624 as applicable, in the name of [owner or operator] in the amount of the current corrective action, closure, or postclosure cost estimates as specified in Minnesota Rules, parts 7045.0498 to 7045.0524 and 7045.0608 to 7045.0624.

5. Guarantor agrees that if, at the end of any fiscal year before termination of this guarantee, the guarantor fails to meet the financial test criteria, guarantor shall send within 90 days, by certified mail, notice to the Agency Commissioner and to [owner or operator] that he or she intends to provide alternate financial assurance as specified in Minnesota Rules, parts 7045.0498 to 7045.0524 or 7045.0608 to 7045.0624, as applicable, in the name of [owner or operator]. Within 120 days after the end of such fiscal year, the guarantor shall establish financial assurance unless [owner or operator] has done so.

6. The guarantor agrees to notify the Agency Commissioner by certified mail of a voluntary or involuntary proceeding under United States Code, title 11, Bankruptcy, as amended, naming guarantor as debtor, within ten days after commencement of the proceeding.

7. Guarantor agrees that within 30 days after being notified by the Agency Commissioner of a determination that guarantor no longer meets the financial test criteria or that he or she is disallowed from continuing as a guarantor of corrective action, closure, or postclosure care, the guarantor shall establish alternate financial assurance as specified in Minnesota Rules, parts 7045.0498 to 7045.0524 or 7045.0608 to 7045.0624, as applicable, in the name of [owner or operator] unless [owner or operator] has done so.

8. Guarantor agrees to remain bound under this guarantee notwithstanding any or all of the following: amendment or modification of the corrective action, closure or postclosure plan, amendment or modification of the permit, the extension or reduction of the time of performance of corrective action, closure, postclosure, or any other modification or alteration of an obligation of the owner or operator pursuant to Minnesota Rules, parts 7045.0450 to 7045.0649.

9. Guarantor agrees to remain bound under this guarantee for so long as [owner or operator] must comply with the applicable financial assurance requirements of Minnesota Rules, parts 7045.0498 to 7045.0524 and 7045.0608 to 7045.0624 for the above listed facilities, except that guarantor may cancel this guarantee by sending notice by certified mail to the Agency Commissioner and to [owner or operator], the cancellation to become effective no earlier than 120 days after receipt of notice by both the Agency Commissioner and [owner or operator], as evidenced by the return receipts.

10. Guarantor agrees that if [owner or operator] fails to provide alternate financial assurance as specified in Minnesota Rules, parts 7045.0498 to 7045.0524 or 7045.0608 to 7045.0624, as applicable, and obtain written approval of such assurance from the Agency Commissioner within 90 days after a notice of cancellation by the guarantor is received by the Agency Commissioner from guarantor, guarantor shall provide alternate financial assurance in the name of [owner or operator].

11. Guarantor expressly waives notice of acceptance of this guarantee by the Agency or by [owner or operator]. Guarantor also expressly waives notice of amendments or modifications of the corrective action, closure, and/or postclosure plan and of amendments or modifications of the facility permit(s).

I hereby certify that the wording of this guarantee is identical to the wording specified in Minnesota Rules, part 7045.0524, subpart 8, as such rules were constituted on the date first above written.

Effective date: \_\_\_\_\_

[NAME OF GUARANTOR]

[AUTHORIZED SIGNATURE FOR GUARANTOR]

[NAME OF PERSON SIGNING]

[TITLE OF PERSON SIGNING]

[SIGNATURE OF WITNESS OR NOTARY]

Subp. 8a. **Corporate guarantee for liability coverage.** A corporate guarantee as specified in part 7045.0518, subpart 7, or 7045.0620, subpart 6, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

#### CORPORATE GUARANTEE FOR LIABILITY COVERAGE

Guarantee made this [date] by [name of guaranteeing entity], a business corporation organized under the laws of [if incorporated within the United States, insert "the State of \_\_\_\_\_" and insert name of state; if incorporated outside the United States, insert the name of the country in which incorporated, the principal place of business within the United States, and the name and address of the registered agent in the state of the principal place of business], referred to in this guarantee as the guarantor. This guarantee is made on behalf of our subsidiary [owner or operator] of [business address], to any and all third parties who have sustained or may sustain bodily injury or property damage caused by [sudden and/or nonsudden] accidental occurrences arising from operation of the facility(ies) covered by this guarantee.

#### Recitals

1. Guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting requirements for guarantors as specified in Minnesota Rules, parts 7045.0518, subpart 7, and 7045.0620, subpart 6.

2. [Owner or operator] owns or operates the following hazardous waste management facility(ies) covered by this guarantee: [List for each facility: Identification Number, name, and address; and if guarantor is incorporated outside the United States, list the name and address of the guarantor's registered agent in each state.] This corporate guarantee satisfies RCRA third party liability requirements for [insert "sudden" or "nonsudden" or "both sudden and nonsudden"] accidental occurrences in above named owner or operator facilities for coverage in the amount of [insert dollar amount] for each occurrence and [insert dollar amount] annual aggregate.

3. For value received from [owner or operator], guarantor guarantees to any and all third parties who have sustained or may sustain bodily injury or property damage caused by [sudden and/or nonsudden] accidental occurrences arising from operations of the facility(ies) covered by this guarantee that in the event that [owner or operator] fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by [sudden and/or nonsudden] accidental occurrences, arising from the operation of the above named facilities, or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor will satisfy such judgment(s), award(s), or settlement agreement(s), up to the limits of coverage identified above.

4. Such obligation does not apply to any of the following:

(a) Bodily injury or property damage for which [insert owner or operator] is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that [insert owner or operator] would be obligated to pay in the absence of the contract or agreement.

(b) Any obligation of [insert owner or operator] under a workers' compensation, disability benefits, or unemployment compensation law, or any similar law.

(c) Bodily injury to:

(1) an employee of [insert owner or operator] arising from, and in the course of, employment by [insert owner or operator]; or

(2) the spouse, child, parent, brother, or sister of that employee as a consequence of, or arising from, and in the course of employment by [insert owner or operator]. This exclusion applies:

(A) whether [insert owner or operator] may be liable as an employer or in any other capacity; and

(B) to any obligation to share damages with or repay another person who must pay damages because of the injury to persons identified in paragraphs (1) and (2).

(d) Bodily injury or property damage arising out of the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft.

(e) Property damage to:

(1) any property owned, rented, or occupied by [insert owner or operator];

(2) premises that are sold, given away, or abandoned by [insert owner or operator] if the property damage arises out of any part of those premises;

(3) property loaned to [insert owner or operator];

(4) personal property in the care, custody, or control of [insert owner or operator]; or

(5) that particular part of real property on which [insert owner or operator] or any contractors or subcontractors working directly or indirectly on behalf of [insert owner or operator] are performing operations, if the property damage arises out of these operations.

5. Guarantor agrees that if, at the end of any fiscal year before termination of this guarantee, the guarantor fails to meet the financial test criteria, guarantor shall send within 90 days, by certified mail, notice to the commissioner and to [owner or operator] that (s)he intends to provide alternate liability coverage as specified in Minnesota Rules, parts 7045.0518 and 7045.0620, as applicable, in the name of [owner or operator]. Within 120 days after the end of that fiscal year, the guarantor shall establish the liability coverage unless [owner or operator] has done so.

6. The guarantor agrees to notify the commissioner by certified mail of a voluntary or involuntary proceeding under Title 11 (bankruptcy), United States Code, as amended, naming guarantor as debtor, within ten days after commencement of the proceeding.

7. Guarantor agrees that within 30 days after being notified by the commissioner of a determination that guarantor no longer meets the financial test criteria or that (s)he is disallowed from continuing as a guarantor, (s)he shall establish alternate liability coverage as specified in Minnesota Rules, part 7045.0518 or 7045.0620 in the name of [owner or operator], unless [owner or operator] has done so.

8. Guarantor reserves the right to modify this agreement to take into account amendment or modification of the liability requirements established by Minnesota Rules, parts 7045.0518 and 7045.0620, but the modification becomes effective only if the commissioner does not disapprove the modification within 30 days of receipt of notification of the modification.

9. Guarantor agrees to remain bound under this guarantee for so long as [owner or operator] must comply with the applicable requirements of Minnesota Rules, parts 7045.0518 and 7045.0620 for the above listed facility(ies), except as provided in paragraph 10 of this agreement.

10. Guarantor may terminate this guarantee by sending notice by certified mail to the commissioner and to [owner or operator] but this guarantee may not be terminated unless and until [owner or operator] obtains, and the commissioner approves alternate liability coverage complying with Minnesota Rules, parts 7045.0518 and/or 7045.0620.

11. Guarantor hereby expressly waives notice of acceptance of this guarantee by any party.

12. Guarantor agrees that this guarantee is in addition to and does not affect any other responsibility or liability of the guarantor with respect to the covered facilities.

13. The guarantor shall satisfy a third-party liability claim only on receipt of one of the following documents:

(a) Certification from the principal and the third-party claimant(s) that the liability claim should be paid. The certification must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

#### Certification of Valid Claim

The undersigned, as parties [insert principal] and [insert name and address of third-party claimant(s)], hereby certify that the claim of bodily injury and/or property damage caused by a [sudden or nonsudden] accidental occurrence arising from operating [principal's hazardous waste treatment, storage, or disposal facility] should be paid in the amount of \$.....

[Signatures]

Principal

(Notary) Date

[Signatures]

Claimant(s)

(Notary) Date

(b) A valid final court order establishing a judgment against the principal for bodily injury or property damage caused by sudden or nonsudden accidental occurrences arising from the operation of the principal's facility or group of facilities.

14. In the event of combination of this guarantee with another mechanism to meet liability requirements, this guarantee will be considered [insert "primary" or "excess"] coverage.

I hereby certify that the wording of the guarantee is identical to the wording specified in Minnesota Rules, part 7045.0524, subpart 8a.

Effective date: \_\_\_\_\_

[Name of guarantor]

[Authorized signatures for guarantor]

[Names of persons signing]

[Titles of persons signing (Two corporate officers must sign for parent corporation.)]

Corporate resolution attached [(Attach resolution adopted by parent corporation authorizing parent corporation to provide the corporate guarantee for subsidiary)]

Signature of witness or notary:

\_\_\_\_\_

Subp. 9. **Hazardous waste facility liability endorsement.** A hazardous waste facility liability endorsement as required in part 7045.0518 or 7045.0620 must be worded as specified in this subpart, except that instructions in brackets must be replaced with the relevant information and the brackets deleted.

#### HAZARDOUS WASTE FACILITY LIABILITY ENDORSEMENT

1. This endorsement certifies that the policy to which the endorsement is attached provides liability insurance covering bodily injury and property damage in connection with the insured's obligation to demonstrate financial responsibility under Minnesota Rules, part 7045.0518 or 7045.0620. The coverage applies at [list identification number, name, and address for each facility] for [insert "sudden accidental occurrences," "nonsudden accidental occurrences," or "sudden and nonsudden accidental occurrences"]; if coverage is for multiple facilities and the coverage is different for different facilities, indicate which facilities are insured for sudden accidental occurrences, which are insured for nonsudden accidental occurrences, and which are insured for both]. The limits of liability are [insert the dollar amount of the "each occurrence" and "annual aggregate" limits of the insurer's liability] exclusive of legal defense costs.

2. The insurance afforded with respect to the occurrences is subject to all of the terms and conditions of the policy; provided, however, that any provisions of the policy inconsistent with a. to e. are hereby amended to conform with a. to e.

a. Bankruptcy or insolvency of the insured shall not relieve the insurer of its obligations under the policy to which this endorsement is attached.

b. The insurer is liable for the payment of amounts within any deductible applicable to the policy with a right of reimbursement by the insured for any such payment made by the insurer. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated as specified in Minnesota Rules, part 7045.0518, subpart 6 or 7045.0620, subpart 5.

c. Whenever requested by the Minnesota Pollution Control Agency (Agency) Commissioner, the insurer agrees to furnish to the Agency Commissioner a signed duplicate original of the policy and all endorsements.

d. Cancellation of this endorsement, whether by the insurer or the insured, will be effective only upon written notice and only after the expiration of 60 days after a copy of written notice is received by the Agency Commissioner.

e. Any other termination of this endorsement will be effective only upon written notice and only after the expiration of 30 days after a copy of written notice is received by the Agency Commissioner.

Attached to and forming part of policy number \_\_\_\_\_ issued by [name of insurer], herein called the insurer, of [address of insurer] to [name of insured] of [address] this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_. The effective date of said policy is \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

I hereby certify that the wording of this endorsement is identical to the wording specified in Minnesota Rules, part 7045.0524, subpart 9, as the rule was constituted on the date first above written and that the insurer is licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more states.

[SIGNATURE OF AUTHORIZED REPRESENTATIVE OF INSURER]

[TYPE NAME]

[TITLE], Authorized Representative of [NAME OF INSURER]

[ADDRESS OF REPRESENTATIVE]

Subp. 10. **Hazardous waste facility certificate of liability insurance.** A certificate of liability insurance as required in part 7045.0518 or 7045.0620 must be worded as specified in this subpart, except that instructions in brackets must be replaced with the relevant information and the brackets deleted.

#### HAZARDOUS WASTE FACILITY CERTIFICATE OF LIABILITY INSURANCE

1. [Name of insurer], (the "insurer"), of [address of insurer] hereby certifies that it has issued liability insurance covering bodily injury and property damage to [name

of insured], (the "insured"), of [address of insured] in connection with the insured's obligation to demonstrate financial responsibility under Minnesota Rules, part 7045.0518 or 7045.0620. The coverage applies [list identification number, name, and address for each facility] for [insert "sudden accidental occurrences," "nonsudden accidental occurrences," or "sudden and nonsudden accidental occurrences"; if coverage is for multiple facilities and the coverage is different for different facilities, indicate which facilities are insured for sudden accidental occurrences, which are insured for nonsudden accidental occurrences, and which are insured for both]. The limits of liability are [insert the dollar amount of the "each occurrence" and "annual aggregate" limits of the insurer's liability], exclusive of legal defense costs. The coverage is provided under policy number \_\_\_\_\_, issued on [date]. The effective date of the policy is [date].

2. The insurer further certifies the following with respect to the insurance described in 1.:

a. Bankruptcy or insolvency of the insured shall not relieve the insurer of its obligations under the policy.

b. The insurer is liable for the payment of amounts within any deductible applicable to the policy with a right of reimbursement by the insured for any such payment made by the insurer. This provision does not apply with respect to that amount of any deductible for which coverage is demonstrated as specified in Minnesota Rules, part 7045.0518, subpart 6 or 7045.0620, subpart 5.

c. Whenever requested by the Minnesota Pollution Control Agency (Agency) Commissioner, the insurer agrees to furnish to the Agency Commissioner a signed duplicate original of the policy and all endorsements.

d. Cancellation of the insurance, whether by the insurer or the insured, will be effective only upon written notice and only after the expiration of 60 days after a copy of written notice is received by the Agency Commissioner.

e. Any other termination of the insurance will be effective only upon written notice and only after the expiration of 30 days after a copy of written notice is received by the Agency Commissioner.

I hereby certify that the wording of this instrument is identical to the wording specified in Minnesota Rules, part 7045.0524, subpart 10, as the rule was constituted on the date first above written, and that the insurer is licensed to transact the business of insurance, or eligible to provide insurance as an excess or surplus lines insurer, in one or more states.

[SIGNATURE OF AUTHORIZED REPRESENTATIVE OF INSURER]

[TYPE NAME]

[TITLE], Authorized Representative of [NAME OF INSURER]

[ADDRESS OF REPRESENTATIVE]

Subp. 11. **Letter of credit for liability coverage.** A letter of credit, as specified in part 7045.0518, subpart 8, or 7045.0620, subpart 7, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

#### IRREVOCABLE STANDBY LETTER OF CREDIT

[Name and Address of Issuing Institution]

[Agency Commissioner]

Minnesota Pollution Control Agency

Dear Sir or Madam: We hereby establish our Irrevocable Standby Letter of Credit No. ... in the favor of ["any and all third-party liability claimants" or insert name of trustee of the standby trust fund], at the request and for the account of [owner or operator's name and address] for third-party liability awards or settlements of \_\_\_\_\_ [insert dollar amount of the letter of credit] per occurrence and the annual aggregate amount of \_\_\_\_\_ [insert dollar amount of the letter of credit] for sudden accidental occurrences and/or for third-party liability awards or settlements of \_\_\_\_\_ [insert dollar amount of the letter of credit] per occurrence and the annual aggregate amount of \_\_\_\_\_ [insert dollar amount of the letter of credit] for nonsudden accidental occurrences available on presentation of a sight draft bearing reference to this letter of credit No. ..., and [insert the following language if the letter of credit is being used without a standby trust fund:

"(1) a signed certificate reading as follows:

#### CERTIFICATE OF VALID CLAIM

The undersigned, as parties [insert principal] and [insert name and address of third party claimant(s)], hereby certify that the claim of bodily injury and/or property damage caused by a [sudden or nonsudden] accidental occurrence arising from operations of [principal's] hazardous waste treatment, storage, or disposal facility should be paid in the amount of \$..... We hereby certify that the claim does not apply to any of the following:

(a) Bodily injury or property damage for which [insert principal] is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that [insert principal] would be obligated to pay in the absence of the contract or agreement.

(b) Any obligation of [insert principal] under a workers' compensation, disability benefits or unemployment compensation law or any similar law.

(c) Bodily injury to:

(1) an employee of [insert principal] arising from, and in the course of, employment by [insert principal]; or

(2) the spouse, child, parent, brother, or sister of that employee as a consequence of, or arising from, and in the course of employment by [insert principal].

This exclusion applies:

(A) whether [insert principal] may be liable as an employer or in any other capacity; and

(B) to any obligation to share damages with or repay another person who must pay damages because of the injury to persons identified in paragraphs (1) and (2).

(d) Bodily injury or property damage arising out of the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft.

(e) Property damage to:

(1) any property owned, rented, or occupied by [insert principal];

(2) premises that are sold, given away, or abandoned by [insert principal] if the property damage arises out of any part of those premises;

(3) property loaned to [insert principal];

(4) personal property in the care, custody, or control of [insert principal]; or

(5) that particular part of real property on which [insert principal] or any contractors or subcontractors working directly or indirectly on behalf of [insert principal] are performing operations, if the property damage arises out of these operations.

[Signatures]

Grantor

[Signatures]

Claimant(s)

; or

(2) a valid final court order establishing a judgment against the Grantor for bodily injury or property damage caused by sudden or nonsudden accidental occurrences arising from the operation of the Grantor's facility or group of facilities.

This letter of credit is effective as of [date] and shall expire on [date at least one year later], but such expiration date shall be automatically extended for a period of [at least one year] on [date] and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify you, the commissioner, and [owner's or operator's name]

by certified mail that we have decided not to extend this letter of credit beyond the current expiration date.

Whenever this letter of credit is drawn on under and in compliance with the terms of this credit, we shall duly honor such draft upon presentation to us.

[Insert the following language if a standby trust fund is not being used: "In the event that this letter of credit is used in combination with another mechanism for liability coverage, this letter of credit shall be considered [insert "primary" or "excess" coverage."]

We certify that the wording of this letter of credit is identical to the wording specified in Minnesota Rules, part 7045.0524, subpart 11, as such rule was constituted on the date shown immediately below. [Signature(s) and title(s) of official(s) of issuing institution] [Date].

This credit is subject to [insert "the most recent edition of the Uniform Customs and Practice for Documentary Credits, published and copyrighted by the International Chamber of Commerce," or "the Uniform Commercial Code"].

**Subp. 12. Trust agreement for liability coverage.**

A. A trust agreement, as specified in part 7045.0518, subpart 9, or 7045.0620, subpart 8, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

**TRUST AGREEMENT**

Trust Agreement, the "Agreement," entered into as of [date] by and between [name of the owner or operator] a [name of State] [insert "corporation," "partnership," "association," or "proprietorship"], the "Grantor," and [name of corporate trustee], [insert "incorporated in the State of \_\_\_\_\_" or "a national bank"], the "trustee."

Whereas, the Minnesota Pollution Control Agency (Agency), an agency of the state of Minnesota, has established certain rules applicable to the Grantor, requiring that an owner or operator of a hazardous waste management facility or group of facilities must demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden accidental and/or nonsudden accidental occurrences arising from operations of the facility or group of facilities.

Whereas, the Grantor has elected to establish a trust to assure all or part of such financial responsibility for the facilities identified herein.

Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee.

Now, therefore, the Grantor and the Trustee agree as follows:

**Section 1. Definitions.** As used in this Agreement:

(a) The term "Grantor" means the owner or operator who enters into this Agreement and any successors or assigns of the Grantor.

(b) The term "Trustee" means the Trustee who enters into this Agreement and any successor Trustee.

**Section 2. Identification of Facilities.** This agreement pertains to the facilities identified on attached schedule A [on Schedule A, for each facility list the EPA Identification Number, name, and address of the facility(ies) and the amount of liability coverage, or portions thereof, if more than one instrument affords combined coverage as demonstrated by this Agreement].

**Section 3. Establishment of Fund.** The Grantor and the Trustee hereby establish a trust fund, hereinafter the "Fund," for the benefit of any and all third parties injured or damaged by [sudden and/or nonsudden] accidental occurrences arising from operation of the facility(ies) covered by this guarantee, in the amounts of \_\_\_\_\_ [insert dollar amount of the fund] per occurrence and \_\_\_\_\_ [insert dollar amount of the fund] annual aggregate for sudden accidental occurrences and \_\_\_\_\_ [insert dollar amount of the fund] per occurrence and \_\_\_\_\_ [insert dollar amount of the fund] annual aggregate for nonsudden occurrences, except that the Fund is not established for the benefit of third parties for the following:

(a) Bodily injury or property damage for which [insert Grantor] is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that [insert Grantor] would be obligated to pay in the absence of the contract or agreement.

(b) Any obligation of [insert Grantor] under a workers' compensation, disability benefits, or unemployment compensation law or any similar law.

(c) Bodily injury to:

(1) an employee of [insert Grantor] arising from, and in the course of, employment by [insert Grantor]; or

(2) the spouse, child, parent, brother, or sister of that employee as a consequence of, or arising from, and in the course of employment by [insert Grantor].

This exclusion applies:

(A) whether [insert Grantor] may be liable as an employer or in any other capacity; and

(B) to any obligation to share damages with or repay another person who must pay damages because of the injury to persons identified in paragraphs (1) and (2).

(d) Bodily injury or property damage arising out of the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft.

(e) Property damage to:

- (1) any property owned, rented, or occupied by [insert Grantor];
- (2) premises that are sold, given away, or abandoned by [insert Grantor] if the property damage arises out of any part of those premises;
- (3) property loaned to [insert Grantor];
- (4) personal property in the care, custody, or control of [insert Grantor]; or
- (5) that particular part of real property on which [insert Grantor] or any contractors or subcontractors working directly or indirectly on behalf of [insert Grantor] are performing operations, if the property damage arises out of these operations.

In the event of combination with another mechanism for liability coverage, the fund shall be considered [insert "primary" or "excess"] coverage.

The Fund is established initially as consisting of the property, which is acceptable to the Trustee, described in Schedule B attached hereto. Such property and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor established by the Agency.

**Section 4. Payment for Bodily Injury or Property Damage.** The Trustee shall satisfy a third party liability claim by making payments from the Fund only upon receipt of one of the following documents:

(a) Certification from the Grantor and the third party claimant(s) that the liability claim should be paid. The certification must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

#### CERTIFICATION OF VALID CLAIM

The undersigned, as parties [insert Grantor] and [insert name and address of third party claimant(s)], hereby certify that the claim of bodily injury and/or property damage caused by a [sudden or nonsudden] accidental occurrence arising from operating [Grantor's] hazardous waste treatment, storage, or disposal facility should be paid in the amount of \$[.....].

[Signatures]

Grantor

[Signatures]

Claimant(s)

(b) A valid final court order establishing a judgment against the Grantor for bodily injury or property damage caused by sudden or nonsudden accidental occurrences arising from the operation of the Grantor's facility or group of facilities.

**Section 5. Payments Comprising the Fund.** Payments made to the Trustee for the Fund shall consist of cash or securities acceptable to the Trustee.

**Section 6. Trustee Management.** The Trustee shall invest and reinvest the principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge his duties with respect to the trust fund solely in the interest of the beneficiary and with the care, skill, prudence, and diligence under the circumstance then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; except that:

(a) securities or other obligations of the Grantor, or any other owner or operator of the facilities, or any of their affiliates as defined in the Investment Company Act of 1940, as amended, 15 U.S.C. 80a-2.(a), shall not be acquired or held unless they are securities or other obligations of the Federal or State government;

(b) the Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the Federal or State government; and

(c) the Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

**Section 7. Commingling and Investment.** The Trustee is expressly authorized in its discretion:

(a) to transfer from time to time any or all of the assets of the Fund to any common commingled, or collective trust fund created by the Trustee in which the fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and

(b) to purchase shares in any investment company registered under the Investment Company Act of 1940, 15 U.S.C. 81a-1 et seq., including one which may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

**Section 8. Express Powers of Trustee.** Without in any way limiting the powers and discretions conferred upon the Trustee by the other provisions of this Agreement or by law, the Trustee is expressly authorized and empowered:

(a) to sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;

(b) to make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(c) to register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;

(d) to deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the Federal or State government; and

(e) to compromise or otherwise adjust all claims in favor of or against the Fund.

**Section 9. Taxes and Expenses.** All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements of the Trustee shall be paid from the Fund.

**Section 10. Annual Valuations.** The Trustee shall annually, at least 30 days prior to the anniversary date of establishment of the Fund, furnish to the Grantor and to the Agency Commissioner a statement confirming the value of the Trust. Any securities in the Fund shall be valued at market value as of no more than 60 days prior to the anniversary date of establishment of the Fund. The failure of the Grantor to object in writing to the Trustee within 90 days after the statement has been furnished to the Grantor and the Agency

Commissioner shall constitute a conclusively binding assent by the Grantor barring the Grantor from asserting any claim or liability against the Trustee with respect to matters disclosed in the statement.

**Section 11. Advice of Counsel.** The Trustee may from time to time consult with counsel, who may be counsel to the Grantor with respect to any question arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

**Section 12. Trustee Compensation.** The Trustee shall be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor.

**Section 13. Successor Trustee.** The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment, the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the trust in a writing sent to the Grantor, the Agency Commissioner, and the present Trustee by certified mail ten days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this section shall be paid as provided in Section 9.

**Section 14. Instructions to the Trustee.** All orders, requests, and instructions by the Grantor to the Trustee shall be in writing, signed by such persons as are designated in the attached Exhibit A or such other designees as the Grantor may designate by amendments to Exhibit A. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. All orders, requests, and instructions by the Agency Commissioner to the Trustee shall be in writing, signed by the Agency Commissioner, or the Commissioner's designees, and the Trustee shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or the Agency hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or the Agency, except as provided for herein.

**Section 15. Notice of Nonpayment.** If a payment for bodily injury or property damage is made under Section 4 of this trust, the Trustee shall notify the Grantor of such payment and the amount(s) thereof within five (5) working days. The Grantor shall, on

or before the anniversary date of the establishment of the Fund following such notice, either make payments to the Trustee in amounts sufficient to cause the trust to return to its value immediately prior to the payment of claims under Section 4, or shall provide written proof to the Trustee that other financial assurance for liability coverage has been obtained equaling the amount necessary to return the trust to its value prior to the payment of claims. If the Grantor does not either make payments to the Trustee or provide the Trustee with such proof, the Trustee shall within ten working days after the anniversary date of the establishment of the Fund provide a written notice of nonpayment to the Agency Commissioner.

**Section 16. Amendment of Agreement.** This Agreement may be amended by an instrument in writing executed by the Grantor, the Trustee, and the Agency Commissioner, or by the Trustee and the Agency Commissioner if the Grantor ceases to exist.

**Section 17. Irrevocability and Termination.** Subject to the right of the parties to amend this Agreement as provided in Section 16, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee, and the Agency Commissioner, or by the Trustee and the Agency Commissioner, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be delivered to the Grantor.

The Agency Commissioner will agree to termination of the Trust when the owner or operator substitutes alternate financial assurance as specified in this section.

**Section 18. Immunity and Indemnification.** The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor or the Agency Commissioner issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

**Section 19. Choice of Law.** This Agreement shall be administered, construed, and enforced according to the laws of the State of Minnesota.

**Section 20. Interpretation.** As used in Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each section of this Agreement shall not affect the interpretation or the legal efficacy of this Agreement.

In Witness Whereof the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals to be hereunto affixed and attested as of the date first above written. The parties below certify that the wording of

this Agreement is identical to the wording specified in part 7045.0524, subpart 12, as such regulations were constituted on the date first above written.

[Signature of Grantor]

[Title]

Attest:

[Title]

[Seal]

[Signature of Trustee]

Attest:

[Title]

[Seal]

B. The following is an example of the certification of acknowledgment which must accompany the trust agreement for a trust fund as specified in parts 7045.0518, subpart 9, or 7045.0620, subpart 8.

State of \_\_\_\_\_

County of \_\_\_\_\_

On this [date], before me personally came [owner or operator] to me known, who, being by me duly sworn, did depose and say that she/he resides at [address], that she/he is [title] of [corporation], the corporation described in and which executed the above instrument; that she/he knows the seal of said corporation; that the seal affixed to such instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that she/he signed her/his name thereto by like order.

[Signature of Notary Public]

**Subp. 13. Standby trust agreement for liability coverage.**

A. A standby trust agreement, as specified in part 7045.0518, subpart 8, or 7045.0620, subpart 7, must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

**STANDBY TRUST AGREEMENT**

Trust Agreement, the "Agreement," entered into as of [date] by and between [name of the owner or operator] a [name of a State] [insert "corporation," "partnership," "association," or "proprietorship"], the "Grantor," and [name of corporate trustee], [insert, "incorporated in the State of \_\_\_\_\_" or "a national bank"], the "trustee."

Whereas, the Minnesota Pollution Control Agency (Agency), an agency of the State of Minnesota, has established certain regulations applicable to the Grantor, requiring that an owner or operator of a hazardous waste management facility or group of facilities must demonstrate financial responsibility for bodily injury and property damage to third parties caused by sudden accidental and/or nonsudden accidental occurrences arising from operations of the facility or group of facilities.

Whereas, the Grantor has elected to establish a standby trust into which the proceeds from a letter of credit may be deposited to assure all or part of such financial responsibility for the facilities identified herein.

Whereas, the Grantor, acting through its duly authorized officers, has selected the Trustee to be the trustee under this agreement, and the Trustee is willing to act as trustee.

Now, therefore, the Grantor and the Trustee agree as follows:

**Section 1. Definitions.** As used in this Agreement:

(a) The term Grantor means the owner or operator who enters into this Agreement and any successors or assigns of the Grantor.

(b) The term Trustee means the Trustee who enters into this Agreement and any successor Trustee.

**Section 2. Identification of Facilities.** This Agreement pertains to the facilities identified on attached Schedule A [on Schedule A, for each facility list the identification number, name, and address of the facility(ies) and the amount of liability coverage, or portions thereof, if more than one instrument affords combined coverage as demonstrated by this Agreement].

**Section 3. Establishment of Fund.** The Grantor and the Trustee hereby establish a standby trust fund, hereafter the "Fund," for the benefit of any and all third parties injured or damaged by [sudden and/or nonsudden] accidental occurrences arising from operation of the facility(ies) covered by this guarantee, in the amounts of \_\_\_\_\_ [insert dollar amount of the fund] per occurrence and \_\_\_\_\_ [insert dollar amount of the fund] annual aggregate for sudden accidental occurrences and \_\_\_\_\_ [insert dollar amount of the fund] per occurrence and \_\_\_\_\_ [insert dollar amount of the fund] annual aggregate for nonsudden occurrences, except that the Fund is not established for the benefit of third parties for the following:

(a) Bodily injury or property damage for which [insert Grantor] is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that [insert Grantor] would be obligated to pay in the absence of the contract or agreement.

(b) Any obligation of [insert Grantor] under a workers' compensation, disability benefits, or unemployment compensation law or any similar law.

(c) Bodily injury to:

(1) an employee of [insert Grantor] arising from, and in the course of, employment by [insert Grantor]; or

(2) the spouse, child, parent, brother, or sister of that employee as a consequence of, or arising from, and in the course of employment by [insert Grantor].

This exclusion applies:

(A) whether [insert Grantor] may be liable as an employer or in any other capacity; and

(B) to any obligation to share damages with or repay another person who must pay damages because of the injury to persons identified in paragraphs (1) and (2).

(d) Bodily injury or property damage arising out of the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft.

(e) Property damage to:

(1) any property owned, rented, or occupied by [insert Grantor];

(2) premises that are sold, given away, or abandoned by [insert Grantor] if the property damage arises out of any part of those premises;

(3) property loaned by [insert Grantor];

(4) personal property in the care, custody, or control of [insert Grantor]; or

(5) that particular part of real property on which [insert Grantor] or any contractors or subcontractors working directly or indirectly on behalf of [insert Grantor] are performing operations, if the property damage arises out of these operations.

In the event of combination with another mechanism for liability coverage, the fund shall be considered [insert "primary" or "excess"] coverage.

The Fund is established initially as consisting of the proceeds of the letter of credit deposited into the Fund. Such proceeds and any other property subsequently transferred to the Trustee is referred to as the Fund, together with all earnings and profits thereon, less any payments or distributions made by the Trustee pursuant to this Agreement. The Fund shall be held by the Trustee, IN TRUST, as hereinafter provided. The Trustee shall not be responsible nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the Grantor, any payments necessary to discharge any liabilities of the Grantor established by the Agency.

**Section 4. Payment for Bodily Injury or Property Damage.** The Trustee shall satisfy a third-party liability claim by drawing on the letter of credit described in Schedule B and by making payments from the Fund only upon receipt of one of the following documents:

(a) Certification from the Grantor and the third-party claimant(s) that the liability claim should be paid. The certification must be worded as follows, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

#### CERTIFICATION OF VALID CLAIM

The undersigned, as parties [insert Grantor] and [insert name and address of third party claimant(s)], hereby certify that the claim of bodily injury and/or property damage caused by a [sudden or nonsudden] accidental occurrence arising from operating [Grantor's] hazardous waste treatment, storage, or disposal facility should be paid in the amount of \$[\_\_\_\_\_].

[Signature] Grantor

[Signature(s)] Claimant(s)

(b) A valid final court order establishing a judgment against the Grantor for bodily injury or property damage caused by sudden or nonsudden accidental occurrences arising from the operation of the Grantor's facility or group of facilities.

**Section 5. Payments Comprising the Fund.** Payments made to the Trustee for the Fund shall consist of the proceeds from the letter of credit drawn upon by the Trustee in accordance with the requirements of Minnesota Rules, part 7045.0524, subpart 11, and Section 4 of this Agreement.

**Section 6. Trustee Management.** The Trustee shall invest and reinvest the principal and income, in accordance with general investment policies and guidelines which the Grantor may communicate in writing to the Trustee from time to time, subject, however, to the provisions of this Section. In investing, reinvesting, exchanging, selling, and managing the Fund, the Trustee shall discharge the trustee's duties with respect to the trust fund solely in the interest of the beneficiary and with the care, skill, prudence, and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; except that:

(a) securities or other obligations of the Grantor, or any other owner or operator of the facilities, or any of their affiliates as defined in the Investment Company Act of 1940, as amended, United States Code, title 15, section 80a-2(a), shall not be acquired or held, unless they are securities or other obligations of the Federal or State government;

(b) the Trustee is authorized to invest the Fund in time or demand deposits of the Trustee, to the extent insured by an agency of the Federal or a State government; and

(c) the Trustee is authorized to hold cash awaiting investment or distribution uninvested for a reasonable time and without liability for the payment of interest thereon.

**Section 7. Commingling and Investment.** The Trustee is expressly authorized in its discretion:

(a) to transfer from time to time any or all of the assets of the Fund to any common, commingled, or collective trust fund created by the trustee in which the Fund is eligible to participate, subject to all of the provisions thereof, to be commingled with the assets of other trusts participating therein; and

(b) to purchase shares in any investment company registered under the Investment Company Act of 1940, United States Code, title 15, section 80a-1 et seq., including one which may be created, managed, underwritten, or to which investment advice is rendered or the shares of which are sold by the Trustee. The Trustee may vote such shares in its discretion.

**Section 8. Express Powers of Trustee.** Without in any way limiting the powers and discretions conferred upon the Trustee by the other provisions of the Agreement or by law, the Trustee is expressly authorized and empowered:

(a) to sell, exchange, convey, transfer, or otherwise dispose of any property held by it, by public or private sale. No person dealing with the Trustee shall be bound to see to the application of the purchase money or to inquire into the validity or expediency of any such sale or other disposition;

(b) to make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted;

(c) to register any securities held in the Fund in its own name or in the name of a nominee and to hold any security in bearer form or in book entry, or to combine certificates representing such securities with certificates of the same issue held by the Trustee in other fiduciary capacities, or to deposit or arrange for the deposit of such securities in a qualified central depository even though, when so deposited, such securities may be merged and held in bulk in the name of the nominee of such depository with other securities deposited therein by another person, or to deposit or arrange for the deposit of any securities issued by the United States Government, or any agency or instrumentality thereof, with a Federal Reserve Bank, but the books and records of the Trustee shall at all times show that all such securities are part of the Fund;

(d) to deposit any cash in the Fund in interest-bearing accounts maintained or savings certificates issued by the Trustee, in its separate corporate capacity, or in any other banking institution affiliated with the Trustee, to the extent insured by an agency of the Federal or State government; and

(e) to compromise or otherwise adjust all claims in favor of or against the Fund.

**Section 9. Taxes and Expenses.** All taxes of any kind that may be assessed or levied against or in respect of the Fund and all brokerage commissions incurred by the Fund shall be paid from the Fund. All other expenses incurred by the Trustee in connection with the administration of this Trust, including fees for legal services rendered to the Trustee, the compensation of the Trustee to the extent not paid directly by the Grantor, and all other proper charges and disbursements to the Trustee shall be paid from the Fund.

**Section 10. Advice of Counsel.** The Trustee may from time to time consult with counsel, who may be counsel to the Grantor, with respect to any question arising as to the construction of this Agreement or any action to be taken hereunder. The Trustee shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

**Section 11. Trustee Compensation.** The Trustee shall be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the Grantor.

**Section 12. Successor Trustee.** The Trustee may resign or the Grantor may replace the Trustee, but such resignation or replacement shall not be effective until the Grantor has appointed a successor trustee and this successor accepts the appointment. The successor trustee shall have the same powers and duties as those conferred upon the Trustee hereunder. Upon the successor trustee's acceptance of the appointment; the Trustee shall assign, transfer, and pay over to the successor trustee the funds and properties then constituting the Fund. If for any reason the Grantor cannot or does not act in the event of the resignation of the Trustee, the Trustee may apply to a court of competent jurisdiction for the appointment of a successor trustee or for instructions. The successor trustee shall specify the date on which it assumes administration of the trust in a writing sent to the Grantor, the Agency Commissioner and the present Trustee by certified mail ten days before such change becomes effective. Any expenses incurred by the Trustee as a result of any of the acts contemplated by this Section shall be paid as provided in Section 9.

**Section 13. Instructions to the Trustee.** All orders, requests, certifications of valid claims, and instructions to the Trustee shall be in writing, signed by such persons as are designated in the attached Exhibit A or such other designees as the Grantor may designate by amendments to Exhibit A. The Trustee shall be fully protected in acting without inquiry in accordance with the Grantor's orders, requests, and instructions. The Trustee shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to act on behalf of the Grantor or the Agency Commissioner hereunder has occurred. The Trustee shall have no duty to act in the absence of such orders, requests, and instructions from the Grantor and/or the Agency, except as provided for herein.

**Section 14. Amendment of Agreement.** This Agreement may be amended by an instrument in writing executed by the Grantor, the Trustee, and the Agency Commissioner, or by the Trustee and the Agency Commissioner if the Grantor ceases to exist.

**Section 15. Irrevocability and Termination.** Subject to the right of the parties to amend this Agreement as provided in Section 14, this Trust shall be irrevocable and shall continue until terminated at the written agreement of the Grantor, the Trustee, and the Agency Commissioner, or by the Trustee and the Agency Commissioner, if the Grantor ceases to exist. Upon termination of the Trust, all remaining trust property, less final trust administration expenses, shall be paid to the Grantor.

The Agency Commissioner will agree to termination of the Trust when the owner or operator substitutes alternative financial assurance as specified in this section.

**Section 16. Immunity and Indemnification.** The Trustee shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the Grantor and the Agency Commissioner issued in accordance with this Agreement. The Trustee shall be indemnified and saved harmless by the Grantor or from the Trust Fund, or both, from and against any personal liability to which the Trustee may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the Grantor fails to provide such defense.

**Section 17. Choice of Law.** This Agreement shall be administered, construed, and enforced in accordance with the laws of the State of Minnesota.

**Section 18. Interpretation.** As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings for each Section of this Agreement shall not affect the interpretation of the legal efficacy of this Agreement.

In Witness Whereof, the parties have caused this Agreement to be executed by their respective officers duly authorized and their corporate seals to be hereunto affixed and attested as of the date first above written. The parties below certify that the wording of this Agreement is identical to the wording specified in Minnesota Rules, part 7045.0524, subpart 13, as such rule was constituted on the date first above written.

[Signature of Grantor]

[Title]

Attest:

[Title]

[Seal]

[Signature of Trustee]

Attest:

[Title]

[Seal]

B. The following is an example of the certification of acknowledgment which must accompany the trust agreement for a standby trust fund as specified in parts 7045.0518, subpart 8, or 7045.0620, subpart 7.

State of \_\_\_\_\_

County of \_\_\_\_\_

On this [date], before me personally came [owner or operator] to me known, who, being by me duly sworn, did depose and say that she/he resides at [address], that she/he is [title] of [corporation], the corporation described in and which executed the above instrument; that she/he knows the seal of said corporation; that the seal affixed to such instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation, and that she/he signed her/his name thereto by like order.

[Signature of Notary Public]

**Statutory Authority:** *MS s 116.07*

**History:** *9 SR 115; 11 SR 2415; L 1987 c 186 s 15; 13 SR 577; 17 SR 1279; 20 SR 715; 22 SR 5; 29 SR 947; 33 SR 2042*

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