

SELF BOND or THIRD PARTY GUARANTEE INDEMNITY AGREEMENT

This Agreement of Indemnity, by and between the Arkansas Department of Environmental (ADEQ) as *indemnitor*, and

Name of Operator

Address of Operator

City State Zip Code

And if applicable,

Name of Guarantor

Address of Guarantor

City State Zip Code

as *indemnitor*;

WHEREAS, the above listed Operator has filed an application to ADEQ for a permit to conduct surface coal mining operations in the State of Arkansas;

WHEREAS, as applicable, the above listed Operator or Guarantor has indicated that it will guarantee the Operator’s performance under the Arkansas Surface Coal Mining and Reclamation Act with a reclamation self-bond in the amount of _____ Dollars (\$ _____);

WHEREAS, the Operator and as applicable, the Guarantor have the full authority under their articles of incorporation and bylaws to enter into this Agreement;

WHEREAS, ADEQ has the legal authority to administer the bonding requirements for surface coal mine operations in the State of Arkansas;

NOW THEREFORE, effective upon the execution of this agreement by all parties, it is agreed by and between the parties as follows:

- A. This Agreement is governed by the laws of the State of Arkansas.
- B. The Operator and the Guarantor make this absolute indemnification against liability and guaranty against liability to ADEQ. Any act or notice, or the failure of ADEQ to act or notify, which has the potential of injuring the rights of the Operator or the Guarantor, shall not be

construed as a release or discharge of their obligations under this agreement.

- C. This agreement is jointly and severally binding on all parties and this Agreement shall be binding upon the heirs, executors, administrators, successors and assigns.
- D. The Operator or the Guarantor agree that any of the following shall not affect or change or discharge the obligation of this Agreement:
 - a. Any renewals, amendments, modifications or riders to the terms of the self-bond or permit including increases or decreases in the dollar amount of the bond, or the lands to which it applies, in accordance with the Arkansas Surface Coal Mining Act and Regulation No. 20.
 - b. Any extension of time for performance of the whole or any part of the conditions of the self-bond or the permit.
 - c. Any changes, amendments, modifications or renewals to the terms of the permit bonded under self-bond including the mining and reclamation plans therein.
 - d. The acceptance by ADEQ of any collateral of any kind to further secure the self-bond.
- E. It is the duty of each Operator or Guarantor to submit an update of all of the information found in the Self Bonding section of Regulation No. 20 within ninety (90) days after the close of their respective fiscal years. This information is required for ASDEQ to annually verify that the Operator and the Guarantor continue to qualify for self-bonding.
- F. Regulation No. 20 contains the procedures that will be used in case of a bond forfeiture proceeding. In the event that bond forfeiture proceedings are brought against the Operator and/or the Guarantor, the Guarantor may complete the obligations of the Operator as established in the permit only with the written consent of ADEQ.

In the event that the Arkansas Pollution Control and Ecology Commission upholds the order of bond forfeiture, ADEQ may mail to the Operator or the Guarantor a written demand for the payment of the amount of the self-bond which is ordered forfeited. The Operator or Guarantor shall pay such amount in full to ADEQ within twenty (20) business days after receipt of the written demand. If the order of bond forfeiture is vacated, reversed, or otherwise made unenforceable by a court of competent jurisdiction, the amount paid to ADEQ by the Operator or the Guarantor shall be refunded to the Operator or the Guarantor in full within twenty (20) business days after receipt of a certified copy of the ruling, order or other action by the court.

- G. In the event ADEQ initiates, pursues or is brought into litigation, as a result of attempts to enforce this Agreement, the Operator or the Guarantor agree to pay all litigation costs, including reasonable attorneys fees by ADEQ in any successful effort to enforce this Agreement against the Operator or the Guarantor with respect to the operation or activity for which this Agreement is made. This Agreement pertains to all costs reasonably connected to the litigation and all administrative costs reasonably incurred in the course of enforcing or in

preparation to enforce the regulations for self-bonding against the Operator or the Guarantor with respect to the operation or activity for which this Agreement is made. Liability for payment of litigation costs shall not be limited by the principal amount of the Operator or Guarantor's self-bond. The Operator and Guarantor agree that vouchers or other third party invoices shall be conclusive evidence of fact and the amount of liability of such costs.

H. This agreement shall be deemed terminated in whole or in part:

- a. When and as ADEQ certifies in writing to the Operator that the Operator has successfully completed the required reclamation at the surface coal mining operation. This certification in writing will include reduction in the needed bond as each phase of reclamation has been completed and approved by ADEQ.
- b. When the Operator has elected to replace this Agreement in whole or in part with other acceptable reclamation bond instruments.

Dated this _____ day of _____, _____

Operator _____

by _____
Signature of 1st Operator Officer

by _____
Signature of 2nd Operator Officer

Name of 1st Operator Officer _____

Name of 2nd Operator Officer _____

Position of 1st operator Officer _____

Position of 2nd Operator Officer _____

Dated this _____ day of _____, _____

Guarantor _____

by _____
Signature of 1st Guarantor Officer

by _____
Signature of 2nd Guarantor Officer

Name of 1st Guarantor Officer _____

Name of 2nd Guarantor Officer _____

Position of 1st Guarantor Officer _____

Position of 2nd Guarantor Officer _____

Accepted by the Arkansas Department of Environmental Quality on _____
Date

Representative signature: _____

Name of Representative: _____

Representative Title: _____