Missouri specific wording template for closure and/or post-closure

Replace wording in brackets and italics as instructed

*Wording is similar to 40 CFR 264.151(h)(1)*

 **CORPORATE GUARANTEE FOR CLOSURE**

 **OR POST-CLOSURE 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 Missouri Department of Natural Resources (the department), obligee, on behalf of the ***[owner/operator]*** of ***[business address]*** which is ***[one of the following: “our subsidiary” or “a subsidiary of [name and address of common parent corporation]”]***.

RECITALS

1. Guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting requirements for guarantors as specified in 10 CSR 25-7.264 and 265.

2. ***[Owner/operator]*** owns or operates the following hazardous waste management facility(ies) covered by this guarantee: ***[List for each facility the EPA and State identification number, name, and address. Indicate for each whether guarantee is for closure, post-closure care, or both]****.*

3. "Closure plans" and "post-closure plans" as used below refer to the plans maintained as required by 10 CSR 25-7.264 and 265 for the closure and post-closure care of facilities as identified above.

4. For value received from ***[owner/operator]***, guarantor guarantees to the department that in the event that ***[owner/operator]*** fails to perform ***[insert "closure", "post-closure care" or "closure and post-closure care"]*** of the above facility(ies) in accordance with the closure or post-closure 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 10 CSR 25-7.264 and 265, as applicable, in the name of ***[owner/operator]***in the amount of the current closure or post-closure cost estimates as specified in 10 CSR 25-7.264 and 265.

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 director of the department and to ***[owner/operator]*** that he intends to provide alternate financial assurance as specified in 10 CSR 25-7.264 and 265, as applicable, in the name of ***[owner/operator]***. Within 120 days after the end of such fiscal year, the guarantor shall establish such financial assurance unless ***[owner/operator]*** has done so.

6. The guarantor agrees to notify the director of the department by certified mail, of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code, naming guarantor as debtor, within 10 days after commencement of the proceeding.

7. Guarantor agrees that within 30 days after being notified by the director of the department of a determination that guarantor no longer meets the financial test criteria or that he is disallowed from continuing as a guarantor of closure or post-closure care, he shall establish alternate financial assurance as specified in 10 CSR 25-7.264 and 265, as applicable, in the name of ***[owner/operator****]* unless ***[owner/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 closure or post-closure plan, amendment or modification of the permit, the extension or reduction of the time of performance of closure or post-closure, or any other modification or alteration of an obligation of the owner/operator pursuant to 10 CSR 25-7.264 and 265.

 9. Guarantor agrees to remain bound under this guarantee for so long as ***[owner/operator]*** must comply with the applicable financial assurance requirements of 10 CSR 25-7.264 and 265 for the above-listed facilities, except as provided in paragraph 10 of this agreement.

10. Guarantor may cancel this guarantee by sending notice by certified mail to the director of the department and to ***[owner/operator]***, provided that this guarantee may not be terminated unless and until***[the owner/operator]*** obtains and the department approves, alternate closure and/or post-closure care coverage complying with 10 CSR 25-7.264 and 265.

11. Guarantor agrees that if ***[owner/operator]*** fails to provide alternate financial assurance as specified in 10 CSR 25-7.264 and 265, as applicable, and obtain written approval of such assurance from the director of the department within 90 days after a notice of cancellation by the guarantor is received by the director of the department from the guarantor, guarantor shall provide such alternate financial assurance in the name of ***[owner/operator]***.

 12. Guarantor expressly waives notice of acceptance of this guarantee by the department or by ***[owner/operator]***. Guarantor also expressly waives notice of amendments or modifications of the closure and/or post-closure 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 10 CSR 25-7.264 and 265 as such regulations 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: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_