



**SELF-BOND INDEMNITY AGREEMENT
AND ABSOLUTE CORPORATE GUARANTY**
State Form 51892 (R / 1-12)

INDIANA DEPARTMENT OF NATURAL RESOURCES
DIVISION OF RECLAMATION
14619 W. State Road 48
Jasonville, IN 47438

Bond Number _____

Parties

1) Indiana Department of Natural Resources (IDNR, DOR)
Division of Reclamation
402 W. Washington Street Room W291-W
Indianapolis IN 46204-2640

2) Applicant Name and Address:

3) Corporate Guarantor and Address:

Purpose

The purpose of this Agreement is to allow an applicant for a surface coal mining permit (and corporate guarantor, if applicable) to provide self-bonding according to the terms of I.C. 14-34-7, and it is intended that this Agreement be interpreted to hold the applicant and corporate guarantor to the full performance of all conditions listed in the applicable permits, I.C. 14-34, and 312 IAC 25, and at the very least, the applicant and corporate guarantor should be held liable to the extent a commercial surety would normally be held as a surety for the applicant.

If an applicant is eligible for self-bonding without the need for a corporate guarantor, then this Agreement shall be binding on the applicant as if it were the corporate guarantor as well as the applicant.

Self-Bond

The applicant and guarantor are hereby held and firmly bound to the State of Indiana, IDNR, DOR, for the performance of all conditions listed in the permit, and 312 IAC 25 et seq, for each of the following permits and bond amounts:

<u>Permit Number</u>	<u>Acres</u>	<u>Bond/Acre</u>	<u>Total Bond Liability</u>
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

This Agreement shall apply to any and all land affected or to be affected by the mining operation under the above referenced permits.

This Agreement is jointly and severally binding on the applicant and corporate guarantor, and as to all parties, this Agreement shall be binding upon the heirs, executors, administrators, successors and assigns, in addition to being binding on these parties.

Absolute Indemnification and Guaranty

The applicant and corporate guarantor make this absolute indemnification against liability and guaranty against liability to the IDNR, DOR. Any act or notice, or the failure of the IDNR, DOR to act or notify, which has or has the potential of injuring the rights of the applicant or corporate guarantor, shall not be construed as a release or discharge of their obligations under this Agreement.

Agreement is Non-Cancelable

This Agreement is non-cancelable by the applicant or the corporate guarantor, and liability hereunder shall continue:

- A) Until all of the applicant's or corporate guarantor's obligations under the above permits, I.C. 14-34, and 312 IAC 25 have been fully performed to the satisfaction of the IDNR, DOR, and bond release is authorized by the above statutes and rules.
- B) Until the applicant or guarantor sends a request for cancellation to the Director by certified mail at least ninety (90) days prior to the proposed cancellation date, and
 - 1) The applicant or corporate guarantor obtains a suitable replacement bond before the cancellation date (suitability being determined solely at the discretion of the Director as evidence in writing by the Director), or
 - 2) Cancellation has been requested on lands or portions of land that have not been disturbed.

- C) Until the applicant or corporate guarantor has paid the total bond liability to the IDNR, DOR and does not wish to contest bond forfeiture.
- D) Until the applicant or corporate guarantor has paid the total bond liability to the IDNR, DOR as a precondition to contesting bond forfeiture (See Bond Forfeiture Proceedings below), and the amount of bond liability is finally determined by bond forfeiture proceedings.

If the Agreement is terminated pursuant to clauses C or D above, any money remaining with the IDNR, DOR after the reclamation is completed shall be returned to the applicant or corporate guarantor.

Release of Existing Bonds

Upon this Agreement becoming effective, the IDNR, DOR shall deliver and execute, as necessary, to the applicant or corporate guarantor any and all documents and forms needed to allow the applicant or corporate guarantor to release any existing bonds, letters of credit, certificates of deposits, cash or government securities that are being replaced by this Agreement (if any).

Effective Date of Change

Any amendments to the mining permit(s), I.C. 14-34, or 312 IAC 25, shall also become part of this Agreement upon the effective date of said amendment.

The applicant or corporate guarantor agree that any of the following shall not affect nor change or discharge the obligation of this Agreement:

- A) Any renewals, amendments, modifications or riders to the terms of the self-bond or permit(s) including increases or decreases in the dollar amount of the bond, or the lands to which it applies, in accordance with the requirements of the Indiana Surface Coal Mining and Reclamation Act and the rules promulgated there under.
- B) Any extension of time for performance of the whole or any part of the conditions of the self-bond or permit(s).
- C) Any changes, amendments, modifications or renewals to the terms of the permit(s) bonded under self-bond including the mining and reclamation plans contained therein.
- D) The acceptance by the State of Indiana of any collateral of any kind to further secure the self-bond.

The parties understand and agree that the procedures for the adjustment of the amount under this bond and the procedures for modification of the permit(s) are specified in Indiana Surface Coal Mining and Reclamation Act, I.C. 14-34, and applicable Department Rules 312 IAC 25, and that procedures governing the release of all or part of this bond are specified in I.C. 14-34 and Department Rules 312 IAC 25.

Notice

Any notices to the parties to this Agreement shall be deemed effective three (3) days after said notice is mailed by certified mail, to the party at the address listed above or the resident agent of said party, unless notice is actually received by the party on an earlier date. It is the duty of each party to advise the other parties, in writing, of any change of address.

For purpose of notification, the applicant is hereby appointed as an additional agent of the corporate guarantor. Any notice to or from the applicant will be binding upon the corporate guarantor, and knowledge of acts taken by or against the applicant is attributable to the corporate guarantor.

The corporate guarantor hereby waives any failure of the IDNR, DOR to notify the corporate guarantor, pursuant to any express or implied duty to notify, and agrees to be held to this Agreement as if such notice were in fact given to the corporate guarantor.

Duty to Update Information

It is the duty of each applicant and corporate guarantor to submit an update of all information required in the Initial Application for Self-Bonding within ninety (90) days after the close of their respective fiscal years. Failure to timely submit an annual update may, at the Director's discretion, be deemed bond forfeiture, but shall not in any manner relieve either the applicant or corporate guarantor of any obligations assumed herein.

The facts stated in the Initial Applicant for Self-Bonding as completed by the applicant and the corporate guarantor, and any and all annual updates thereof, are incorporated by reference as material facts which induced the IDNR, DOR to enter into and continue this Agreement.

Bond Forfeiture Proceedings

Procedures for the forfeiture of this bond are specified in I.C. 14-34 and 312 IAC 25.

In the event that bond forfeiture proceedings are brought against the applicant and/or corporate guarantor, and only with the consent of the IDNR, DOR, the corporate guarantor may complete the obligations of the applicant as established by the permit, I.C. 14-34, and 312 IAC 25.

If the IDNR, DOR does not consent to the corporate guarantor completing the obligations of the applicant, or if the corporate guarantor does not complete said obligations in a timely and satisfactory manner, then the above listed total bond liability, as adjusted for applicable increases and decreases, shall be paid in full to the IDNR, DOR as a precondition to the applicant's or corporate guarantor's right to contest any bond forfeiture proceeding.

It is understood that an action against the applicant is not a precondition to an action against the corporate guarantor.

In the event an order of forfeiture is entered by the Indiana Natural Resources Commission against the applicant or corporate guarantor, the IDNR, DOR may mail to the applicant or corporate guarantor written demand for payment of the amount of the self-bond which was so ordered forfeited and the applicant or corporate guarantor shall pay such amount in full to the IDNR, DOR within three (3) business days after receipt of such demand. If such order is vacated, reversed, or otherwise made unenforceable by court or administrative agency of competent jurisdiction, any amount previously paid to the IDNR, DOR by the applicant or corporate guarantor hereunder shall be refunded to the applicant or corporate guarantor in full within three (3) business days after receipt of a certified copy of the ruling, order to other action by such court or administrative agency.

Litigation Costs

In the event the IDNR, DOR initiates, pursues or is brought into litigation, as a result of attempts to enforce this Agreement, the applicant or corporate guarantor agree to pay all litigation costs, including reasonable attorneys fees incurred by the IDNR, DOR in any successful effort to enforce this Agreement against the applicant or corporate 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 rules and regulations for self-bonding against the applicant or corporate 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 applicant or corporate guarantor's self-bond. The applicant and corporate guarantor agree that vouchers or other third party invoices or receipts shall be conclusive evidence of the fact and amount of liability of such costs.

Right to Require Supplemental Bond

The parties agree that the Director of IDNR, DOR may require a substitution of this self-bond by good and corporate surety licensed to do business in the State of Indiana if the Director of IDNR, DOR determines in writing that the self-bond fails to provide the protection consistent with the objectives and purposes of the Act.

The right to require supplemental bond, when invoked, shall supersede the IDNR, DOR's duty to release any existing bonds.

Indiana Law Applies

This Agreement is an Indiana contract and shall be construed subject to the laws of the State of Indiana.

Agreement Complete and Severable

This Agreement is the complete and final written agreement between the parties, and no modification shall be binding upon the IDNR, DOR unless it is in writing and signed by the IDNR, DOR.

In the event any provision or provisions within this Agreement are deemed to be unenforceable, it is intended that the unenforceable provision(s) shall be severable, and the remaining provisions shall continue in full force and effect as granted by law.

Warranty of Authority

The applicant and corporate guarantor each warrant and represent that they have full authority under the laws of the State of Indiana as well as any other applicable laws, to enter into this Agreement.

SIGNATURE PAGE FOR CORPORATION

NOTE: To be binding upon the Department of Natural Resources, Division of Reclamation, under I.C. 14-34, at least two officers from each corporation must sign this Self-Bond Indemnity Agreement and Absolute Corporate Guaranty (or Rider thereto), and these officers must present authorization to bind their corporation. The Parties agree that any party's failure to properly execute this signature page shall not affect that party's liability hereunder.

Corporation: _____

By: _____
Title

Date (*month, day, year*): _____

By: _____
Title

Date (*month, day, year*): _____

STATE OF INDIANA

COUNTY OF _____

Before me, a notary public for the State of Indiana, personally appeared

_____ and _____, each of whom

acknowledge their signature, and affirm under penalty of perjury that:

- a) They are officers of the above listed corporation, and
- b) They are authorized by the Board of Directors of said corporation to this Self-Bond Indemnity Agreement and Corporate Guaranty, and
- c) Attached hereto is a true and accurate copy of the authorization of the Board of Directors.

Witness My Hand and Seal

Signature

Printed Name

Date (*month, day, year*)

My Commission Expires (*month, day, year*): _____

My County of Residence: _____

SIGNATURE PAGE FOR NON-CORPORATION

NOTE: To be binding upon the Department of Natural Resources, Division of Reclamation, under I.C. 14-34, each partner, person, or party who has any beneficial or actual interest in the sole proprietorship, partnership, joint venture, syndicate, or other form of non-corporate business entity, must sign this Self-Bond Indemnity Agreement and Absolute Corporate Guaranty (or Rider thereto). The Parties agree that any party's failure to properly execute this signature page shall not affect that party's liability hereunder.

Name of Business: _____

<u>Signatures</u>	<u>Printed Name</u>	<u>Date (month, day, year)</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

STATE OF INDIANA

COUNTY OF _____

Before me, a notary public for the State of Indiana, personally appeared the following Individuals:

_____	_____
_____	_____
_____	_____

Each of whom acknowledge their signature, and affirm under penalty of perjury that the above signatures are all of the persons, partners, or parties who have any actual or beneficial interest, directly or indirectly, in the sole proprietorship, partnership, joint venture, syndicate, or other form of non-corporate business entity which by their collective signatures has become bound to this Self-Bond Indemnity Agreement and Absolute Corporate Guaranty.

Witness My Hand and Seal

Signature

Printed Name

Date (month, day, year)

My Commission Expires (month, day, year): _____

My County of Residence: _____