

# Corporate Guarantee for Closure or Postclosure Care

Guarantee made this \_\_\_\_\_ by \_\_\_\_\_ ,  
(date) (name of guaranteeing entity)

a business corporation organized under the laws of the State of \_\_\_\_\_ , herein referred to as guarantor,  
(insert name of State)  
to the Division of Waste Management in the Kentucky Energy and Environment Cabinet, obligee.

This guarantee is made on behalf of \_\_\_\_\_  
(owner or operator)

Of \_\_\_\_\_  
(business address)

which is (delete all that do not apply) our subsidiary/a subsidiary of \_\_\_\_\_  
(name and address of common parent corporation)

of which guarantor is a subsidiary/an entity with which guarantor has a substantial business relationship, as defined in 401 KAR 39:090 to the Division of Waste Management in the Energy and Environment Cabinet.

## Recitals

1. Guarantor meets or exceeds the financial test criteria and agrees to comply with the reporting requirements for guarantors as specified in 401 KAR 39:090.

2. \_\_\_\_\_ owns or operates the following hazardous  
(owner or operator)

waste site or facility(ies) covered by this guarantee: (List for each facility: EPA Identification Number, name, and address. Indicate for each whether guarantee is for closure, postclosure care, or both.)

_____ (EPA ID Number)	_____ (Name and Address)	_____ (C, PC, or B)
_____ (EPA ID Number)	_____ (Name and Address)	_____ (C, PC, or B)
_____ (EPA ID Number)	_____ (Name and Address)	_____ (C, PC, or B)
_____ (EPA ID Number)	_____ (Name and Address)	_____ (C, PC, or B)

3. "Closure plans" and "postclosure plans" as used below refer to the plans maintained as required by 401 KAR 39:090 for the closure and postclosure care of facilities as identified above.

4. For value received from \_\_\_\_\_ guarantor guarantees  
(owner or operator)

to the Division of Waste Management that in the event that \_\_\_\_\_  
(owner or operator)

fails to perform \_\_\_\_\_  
(insert "closure," "postclosure care" or "closure and postclosure care")

of the above facility or facilities in accordance with the 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 401 KAR 39:090, as applicable, in the name of \_\_\_\_\_

(owner or operator)

in the amount of the current closure or postclosure cost estimates as specified in 401 KAR 39:090.

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 Division of Waste Management and to \_\_\_\_\_ that he intends

(owner or operator)

to provide alternate financial assurance as specified in 401 KAR 39:090, as applicable, in the name of \_\_\_\_\_.

(owner or operator)

Within 120 days after the end of such fiscal year, the guarantor shall establish such financial assurance unless \_\_\_\_\_ has done so.

(owner or operator)

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

7. Guarantor agrees that within thirty (30) days after being notified by the Division of Waste Management of a determination that guarantor no longer meets the financial test criteria or is disallowed from continuing as a guarantor of closure or postclosure care, it shall establish alternate financial assurance as specified in 401 KAR 39:090, as applicable, in the name of

(owner or operator) unless \_\_\_\_\_ has done so.

(owner or operator)

8. Guarantor agrees to remain bound under this guarantee notwithstanding any or all of the following: amendment or modification of the closure or postclosure plan, amendment or modification of the permit, the extension or reduction of the time of performance of closure or postclosure, or any other modification or alteration of an obligation of the owner or operator pursuant to 401 KAR Chapter 39.

9. Guarantor agrees to remain bound under this guarantee for so long as \_\_\_\_\_ must comply with the applicable financial assurance requirements of

(owner or operator)

401 KAR 39:090 for the above-listed facilities, except as provided in paragraphs 10 and 11 below.

10. If the guarantor is (a) a direct or higher-tier corporate parent, or (b) a firm whose parent corporation is also the parent corporation of the owner or operator, the guarantor may terminate this guarantee by sending notice by certified mail to the Division of Waste Management and to \_\_\_\_\_,

(owner or operator)

provided that this guarantee may not be terminated unless and until \_\_\_\_\_

(owner or operator)

obtains, and the Division of Waste Management approves, alternate closure and/or postclosure care coverage which complies with 401 KAR 39:090.

If the guarantor is a firm qualifying as a guarantor due to its "substantial business relationship", as defined in 401 KAR 39:090 with the owner as operator, the guarantor may terminate this guarantee 120 days following receipt of notification, through certified mail by both the Division of Waste Management and by

\_\_\_\_\_, as evidenced by the return receipts.

(owner or operator)

11. Guarantor agrees that if \_\_\_\_\_ fails to provide

(owner or operator)

alternate financial assurance as specified in 401 KAR 39:090, as applicable, and obtain written approval of such assurance from the Division of Waste Management within ninety (90) days after a notice of cancellation by the guarantor is received by the Division of Waste Management from guarantor, guarantor shall provide such alternate financial assurance in the name of \_\_\_\_\_.

(owner or operator)

12. Guarantor expressly waives notice of acceptance of this guarantee by the Division of Waste Management or by \_\_\_\_\_ . Guarantor also expressly waives notice of amendments  
(owner or operator)  
or modifications of the closure and/or postclosure plan and of amendments or modifications of the facility permits(s).

I hereby certify that the wording of this guarantee is identical to the wording specified in 401 KAR 39:090 as such regulations were constituted on the date first above written.

Effective Date:

\_\_\_\_\_  
(Name of guarantor, typed)

\_\_\_\_\_  
(Authorized signature for guarantor)

\_\_\_\_\_  
(Name of person signing, typed)

\_\_\_\_\_  
(Title of person signing, typed)

\_\_\_\_\_  
(Signature of Witness or Notary Public)

\_\_\_\_\_  
(Date Notary Public's Commission Expires)

(Seal of Notary Public)

DWM-6035H1, effective 2/22/18

(Note: Use of this language is required by KAR 39:090).

(Note: Attach "Letter from Chief Financial Officer (to Demonstrate Assurance of Closure or Postclosure Care), DWM-6035F)