**Section 326.APPENDIX F Wording for Parent Company Guarantee Documents**

a) A parent company guarantee, as specified in 32 Ill. Adm. Code 326.150, shall contain letters from the chief executive officer and the chief financial officer containing the following provisions, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

**CHIEF EXECUTIVE OFFICER**

I am the [chief executive officer or equivalent] of [name and address of firm], a [insert "proprietorship", "partnership", or "corporation"]. This letter is in support of this firm's use of the financial test to demonstrate financial assurance, as specified in 32 Ill. Adm. Code 326.

I hereby certify that [name of firm] is currently a going concern, and that it possesses positive tangible net worth in the amount of $\_\_\_\_\_\_\_\_.

This firm [insert "is required" or "is not required"] to file a Form 10K with the U.S. Securities and Exchange Commission for the latest fiscal year. The fiscal year of this firm ends on [month, day].

I hereby certify that the content of this letter is true and correct to the best of my knowledge.

[Signature]

[Below the signature, type or print that person's name and title]

[Date]

**CHIEF FINANCIAL OFFICER**

I am the [chief financial officer or equivalent] of [name and address of firm], a [insert "proprietorship", "partnership", or "corporation"]. This letter is in support of this firm's use of the financial test to demonstrate financial assurance, as specified in 32 Ill. Adm. Code 326.

[Complete the following paragraph regarding facility(ies) and associated cost estimates or amounts specified in 32 Ill. Adm. Code 326.70. For each facility, include its license number, name, address and current cost estimates for the specified activities.]

This firm guarantees, through the parent company guarantee submitted to demonstrate compliance under 32 Ill. Adm. Code 326, the reclamation of the following facility(ies) owned or operated by subsidiary(ies) of this firm. The current cost estimates or amounts specified in 32 Ill. Adm. Code 326.70, so guaranteed, are shown for each facility:

|  |  |  |
| --- | --- | --- |
| Name of Facility | Location of Facility | Cost Estimate or 326.70 Amounts |

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

The fiscal year of this firm ends on [month, day]. The figures for the financial test required by 32 Ill. Adm. Code 326.160 are derived from this firm's independently audited, year-end financial statements and footnotes for the latest completed fiscal year, ended [date].

[Insert completed financial test from subsection (c) of this Appendix F.]

I hereby certify that the content of this letter is true and correct to the best of my knowledge.

[Signature]

[Below the signature, type or print that person's name and title]

[Date]

b) A parent company guarantee, as specified in 32 Ill. Adm. Code 326.150, shall contain the following provisions, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

**PARENT COMPANY GUARANTEE**

Guarantee made this [date] by [name of guaranteeing entity], a [insert "proprietorship," "partnership," or "corporation"] organized under the laws of the State of [insert name of state], herein referred to as "guarantor," to the Illinois Emergency Management Agency (hereinafter called the Agency), on behalf of our subsidiary [licensee] of [business address].

Recitals

1) The guarantor has full authority and capacity to enter into this guarantee [if guarantor is a corporation, add the following phrase "under its bylaws, articles of incorporation, and the laws of the State of [insert licensee's state of incorporation], its state of incorporation."]. [If the guarantor has a Board of Directors, insert the following: "Guarantor has approval from its Board of Directors to enter into this guarantee."]

2) This guarantee is being issued to comply with regulations issued by the Agency, pursuant to the Radiation Protection Act of 1990. The Agency has promulgated regulations in 32 Ill. Adm. Code 326 that require that general or specific licensees provide assurance that funds will be available when needed for reclamation activities.

3) The guarantee is issued to provide financial assurance for reclamation activities for [identify licensed facility(ies)] as required by 32 Ill. Adm. Code 326. The reclamation costs are as follows: [insert the current cost estimates or amounts specified in 32 Ill. Adm. Code 326.70 guaranteed for each identified facility].

4) The guarantor meets or exceeds the financial test criteria specified in 32 Ill. Adm. Code 326.160 and agrees to comply with all notification requirements as specified in 32 Ill. Adm. Code 326.

5) The guarantor has majority control of the voting stock for the following licensee(s) covered by this guarantee. [For each facility, include its license number, name, address and current cost estimates for the specified activities.]

6) Reclamation activities as used in this Appendix F refers to the activities required by 32 Ill. Adm. Code 330 for reclamation of facility(ies) identified in this Appendix.

7) For value received from [licensee], [if the guarantor is a corporation, add "and pursuant to the authority conferred upon the guarantor by ["the unanimous resolution of its directors" or "the majority vote of its shareholders"], a certified copy of which is attached,"] the guarantor guarantees to the Agency that if the licensee fails to perform the required reclamation activities as required by 32 Ill. Adm. Code 330, the guarantor shall:

A) Carry out the required reclamation activities; or

B) Upon written notification from the Agency, pay the reclamation cost amount guaranteed for the facility(ies) to the Agency as directed by the Director.

8) The guarantor agrees to submit revised financial statements, financial test data and an auditor's special report and reconciling schedule annually within 90 days after the close of the parent guarantor's fiscal year.

9) The guarantor agrees that if, at the end of any fiscal year before termination of this guarantee, it fails to meet the financial test criteria, the licensee shall send within 90 days after the end of the fiscal year, by certified mail, return receipt requested, notice to the Agency that the licensee intends to provide alternative financial assurance as specified in 32 Ill. Adm. Code 326.170. Within 120 days after the end of the fiscal year, the guarantor shall establish such financial assurance if [the licensee] has not done so.

10) The guarantor agrees to notify the Agency promptly if the ownership of the licensee or parent firm is transferred and to maintain this guarantee until the new parent firm or the licensee provides alternative financial assurance acceptable to the Agency.

11) The guarantor agrees that, within 30 days after it determines that it no longer meets the financial test criteria or it is disallowed from continuing as a guarantor for [the licensee], it shall establish an alternative financial assurance as specified in 32 Ill. Adm. Code 326.170 as applicable, in the name of [licensee] unless [licensee] had done so.

12) The guarantor as well as its successors and assigns shall remain bound jointly and severally under this guarantee notwithstanding any or all of the following: amendment or modification of the license or Agency-approved reclamation funding plan for that facility, the extension or reduction of the time of performance of required activities, or any other modification or alteration of an obligation of the licensee pursuant to 32 Ill. Adm. Code 326.

13) The guarantor agrees that all bound parties shall be jointly and severally liable for all litigation costs incurred by the Agency in any successful effort to enforce the agreement against the guarantor.

14) The guarantor shall remain bound under this guarantee for as long as [licensee] must comply with the applicable financial assurance requirements of 32 Ill. Adm. Code 326 for the previously listed facility(ies), except that the guarantor may cancel this guarantee by meeting the requirements of 32 Ill. Adm. Code 326.170.

15) The guarantor agrees that if [licensee] fails to provide alternative financial assurance as specified in 32 Ill. Adm. Code 326.170, the guarantor shall provide such alternative financial assurance in the name of [licensee] or make full payment under this guarantee.

16) If the guarantor files financial reports with the U.S. Securities and Exchange Commission, then it shall promptly submit them to the Department during each year in which this guarantee is in effect.

I hereby certify that the content of this guarantee is true and correct to the best of my knowledge.

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

[Name of guarantor]

[Signature of chief executive officer or equivalent]

[Below the signature, type or print that person's name and title]

Signature of witness or notary: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

c) Financial test documentation for parent company guarantee (Complete either Alternative 1 or Alternative 2):

Alternative 1

1) Current reclaiming and decommissioning cost estimates or certified amounts

|  |  |  |  |
| --- | --- | --- | --- |
| A) | Current reclaiming cost estimate or certified amount for all decommissioning activities covered by this parent company guarantee | $ |  |
|  |  |  |  |
| B) | Total reclaiming cost estimates or certified amounts for all decommissioning activities covered by other NRC or Agreement State guarantees, parent company guarantees or self-guarantees | $ |  |
|  |  |  |  |
| C) | Total amounts for all decommissioning activities under parent company guarantees, self-guarantees and commitments to other regulatory agencies (e.g., USEPA) | $ |  |
| Total for line 1 | $ |  |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| 2) | \* | Total liabilities (if any portion of the cost estimates for reclaiming or decommissioning is included in total liabilities on your firm's financial statements, you may deduct the amount of that portion from this line and add that amount 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 firm's assets are located in the United States) | $ |  |
|  |
|  |  |  | Yes | No |
| 10) |  | Is line 3 at least $10 million? | [ ]  | [ ]  |
|  |
| 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 the firm's assets located in the United States? If not, complete line 14 | [ ]  | [ ]  |
|  |
| 14) |  | Is line 9 at least 6 times line 1? | [ ]  | [ ]  |
|  |
| Guarantor shall meet two of the following three ratios: |
|  |
| 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? | [ ]  | [ ]  |

\* Denotes figures derived from financial statements.

\*\* Tangible net worth is defined as net worth minus goodwill, patents, trademarks and copyrights.

Alternative 2

1) Current reclaiming and decommissioning cost estimates or certified amounts

|  |  |  |  |
| --- | --- | --- | --- |
| A) | Current reclaiming cost estimate or certified amount for all decommissioning activities covered by this parent company guarantee | $ |  |
|  |  |  |  |
| B) | Total reclaiming cost estimates or certified amounts for all decommissioning activities covered by other NRC or Agreement State guarantees, parent company guarantees or self-guarantees | $ |  |
|  |  |  |  |
| C) | Total amounts for all decommissioning activities under parent company guarantees, self-guarantees and commitments to other regulatory agencies (e.g., USEPA) | $ |  |
| Total for line 1 | $ |  |

2) Current bond rating of most recent unsecured, uncollateralized and unencumbered issuance of this firm

|  |  |  |  |
| --- | --- | --- | --- |
|  | Rating  |  |  |
|  |  |  |
|  | Name of rating service |  |
|  |  |  |
| 3) | Date of issuance of bond  |  |
|  |  |  |
| 4) | Date of maturity of bond |  |  |
|  |  |  |
| 5) | Tangible net worth\*\* (if any portion of estimates for reclaiming or decommissioning 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 the United States) | $ |  |

|  |  |  |  |
| --- | --- | --- | --- |
|  |  | Yes | No |
| 7) | Is line 5 at least $10 million? | [ ]  | [ ]  |
|  |  |  |  |
| 8) | Is line 5 at least 6 times line 1? | [ ]  | [ ]  |
|  |  |  |  |
| 9) | Are at least 90 percent of the firm's assets located in the United States? If not, complete line 10 | [ ]  | [ ]  |
|  |  |  |  |
| 10) | Is line 6 at least 6 times line 1? | [ ]  | [ ]  |
|  |  |  |  |
| 11) | Is the rating specified on line 2 BBB or better (if issued by Standard & Poor's) or Baa or better (if issued by Moody's)? | [ ]  | [ ]  |

\* Denotes figures derived from financial statements.

\*\* Tangible net worth is defined as net worth minus goodwill, patents, trademarks and copyrights.

d) A parent company guarantee, as specified in 32 Ill. Adm. Code 326.150, shall include submission of an auditor's special report containing the following provisions, except that instructions in brackets are to be replaced with the relevant information and the brackets deleted:

**AUDITOR'S CONFIRMATION OF CHIEF FINANCIAL OFFICER'S LETTER**

We have examined the financial statements of [name of parent guarantor] ("Company") for the year ended [insert date], and have issued our report thereon dated [date]. Our examination was made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary.

The Company has prepared documents to demonstrate its financial responsibility under the Illinois Emergency Management Agency's financial assurance regulations, 32 Ill. Adm. Code 326. This letter is furnished to assist the licensee [insert Agency license number and name] in complying with these regulations and should not be used for other purposes.

The attached schedule reconciles the specified information furnished in the chief financial officer's (CFO's) letter with the company's financial statements. In connection therewith, we have:

1) Confirmed that the amounts in the column "Per Financial Statements" agree with amounts contained in the company's financial statements for the year ended [date];

2) Confirmed that the amounts in the column "Per CFO's Letter" agree with the amounts in the chief financial officer's letter;

3) Confirmed that the amounts in the column "Reconciling Items" are adequately explained in the attached schedule, that each reconciling item represents an appropriate adjustment to the financial data, and that the amount of each reconciling item is accurate; and

4) Recomputed the totals and percentages. Because the procedures in paragraphs (1)-(4) above do not constitute a full examination made in accordance with generally accepted auditing standards, we do not express an opinion on the manner in which the amounts were derived in the items referred to above. In connection with the procedures referred to above, no matters came to our attention that cause us to believe that the chief financial officer's letter and supporting information should be adjusted.

|  |  |  |
| --- | --- | --- |
| Signature |  | Date |

**AUDITOR'S SCHEDULE RECONCILING AMOUNTS IN CFO'S LETTER**

[COMPANY]

Year ended [date]

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Line # in CFO's Letter |  |  |  | Per Financial Statements |  | Reconciling Items |  | Per CFO's Letter |
| 6 |  | Total current liabilities |  | X |  |  |  |  |
|  |  | Long-term debt |  | X |  |  |  |  |
|  |  | Deferred income taxes |  | X |  |  |  |  |
|  |  |  |  | XX |  |  |  |  |
|  |  | Accrued decommissioning costs included in current liabilities |  |  |  | X |  |  |
|  |  | Total liabilities (less accrued decommissioning costs) |  |  |  |  |  | X |
| 4 |  | Net worth  |  | XX |  |  |  |  |
|  |  | Less: Cost in excess of value of tangible assets acquired |  | X |  |  |  |  |
|  |  |  |  | XX |  |  |  |  |
|  |  | Accrued decommissioning costs Included in current liabilities |  |  |  | X |  |  |
|  |  | Tangible net worth (plus decommissioning costs) |  |  |  |  |  | XX |

(Balance of schedule is not illustrated.)

AGENCY NOTE: This illustrates the form of schedule that is contemplated. Details and reconciling items will differ in specific situations.

(Source: Amended at 29 Ill. Reg. 20781, effective December 16, 2005)