

SAMPLE

IRREVOCABLE LETTER OF CREDIT

(For use with Coal Bonds)

The \_\_\_\_\_ Bank of \_\_\_\_\_

P.O. Box \_\_\_\_\_  
\_\_\_\_\_, Colorado \_\_\_\_\_

Tel. \_\_\_\_\_

LETTER OF CREDIT NUMBER:  
\_\_\_\_\_

Amount U.S. \$ \_\_\_\_\_

Beneficiary: \_\_\_\_\_

Applicant: \_\_\_\_\_

STATE OF COLORADO  
MINED LAND RECLAMATION BOARD (and United States of America/OSMRE for federal mines)  
215 CENTENNIAL BUILDING  
1313 SHERMAN STREET  
DENVER, COLORADO 80203

Date of Issue:

Initial Expiration Date:

\_\_\_\_\_

\_\_\_\_\_

Gentlemen:

We hereby issue and establish our irrevocable letter of credit, the amount of which is available by beneficiary's draft or drafts drawn upon us, which shall be paid at sight, when accompanied by the following document:

1. A written statement of the Director ("the Director") of the Division of Reclamation, Mining and Safety of the State of Colorado ("the Division") certifying that he is a duly authorized official acting on behalf of the State of Colorado and that the amount of the accompanying sight draft is due and payable to the State of Colorado pursuant to applicable provisions of Colorado statutes governing mined land reclamation and that

\_\_\_\_\_ Company or its successor has neglected, failed, or refused to pay such amount although requested to do so by the Director; OR

2. A signed and dated statement from the Department of Interior, Office of Surface Mining, Bond Approving Officer and the Director of the Colorado Division of Reclamation, Mining and Safety in the following form: "The undersigned hereby advise that the State-Federal Cooperative Agreement between the Governor of the State of Colorado and the Secretary of the United States Department of the Interior has been terminated under the provisions of 30 CFR 745.15, and the operator, \_\_\_\_\_, has failed to comply with the provisions of 30 CFR 740.15(b) and/or 30 CFR 800.11(a). The sight drafts which this statement accompanies have been signed in behalf of the U.S. Office of Surface Mining Reclamation and Enforcement (OSM) in the amount due to OSM to the extent that lands covered by the Federal lands program are involved in Permit No. \_\_\_\_\_ and in behalf of the State of Colorado in an amount due to the State of Colorado for the remaining permitted lands.

Each sight draft so drawn and presented shall be honored by us if presented prior to the close of business on the expiration date of this letter of credit. This credit refers to \_\_\_\_\_ Company's application for a permit to engage in mining and reclamation activities within the State of Colorado.

It is an express condition of this letter of credit that it shall be automatically extended for successive additional periods of one year each, from the initial and each future expiration date unless the \_\_\_\_\_ Bank of \_\_\_\_\_ ("the Bank") shall notify the Director at least 90 days prior to an expiration date in writing by registered mail, at the above address, that the Bank elects not to extend the credit for such additional period. In such event, in addition to his power to draw here on under the preceding paragraphs, the Director may draw the full or any lesser amount hereof at any time prior to such expiration date by sight draft, or drafts, accompanied by the written statement of the Director certifying that the amount drawn will be held as a cash deposit in lieu of financial warranty, as provided in applicable Colorado statutes governing mined land and reclamation.

The original signed letter of credit will be presented to the Bank by the beneficiary along with any draft presented pursuant to this letter of credit, and will be surrendered to the Bank with any draft which draws the full amount, or the balance remaining available, under this letter of credit.

If any expiration date specified herein shall fall upon a day other than a regular business day of the Bank, the expiration date shall ipso facto be extended to the close of business on the next successive business day of the Bank.

The bank will give prompt notice to the permittee and the Division of any notice received or action filed alleging the insolvency or bankruptcy of the bank, or alleging any violations of regulatory requirements which could result in the suspension or revocation of the bank's charter or license to do business.

In the event the bank becomes unable to fulfill its obligations under the Letter of Credit for any reason, notice shall be given immediately to the permittee and the Division.

The \_\_\_\_\_ Bank of

By  
Authorized signature

NOTES:

1. The Letter of Credit must not be in excess of 10 percent of the bank's capital surplus account or in excess of 30 percent if the applicant has more than one Letter of Credit for different permits. To demonstrate this requirement, the issuing bank should provide a balance sheet certified by a Certified Public Accountant. Generally, this is available in the Bank's Annual Report.
2. The Letter of Credit should be submitted on the Bank's letterhead.
3. The letter may be issued by a bank organized or authorized to do business in the U.S. and located in the state of Colorado, except that the bank need not be located in the state of Colorado if the letter of credit can be exercised at an affiliate or subsidiary located in the state of Colorado, or is confirmed by a bank located in the state of Colorado.

(Rev. 1/01)

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