



COMMONWEALTH OF VIRGINIA
 DEPARTMENT OF MINES, MINERALS AND ENERGY
 DIVISION OF MINED LAND RECLAMATION
 P. O. DRAWER 900; BIG STONE GAP, VA 24219
 TELEPHONE: (276) 523-8100

Permit Number:	
Application Number:	
Bond To Be Applied To (e.g. Increment #):	
Bond Number: (DMLR use only)	

INDEMNITY AGREEMENT—SELF BOND
(for a coal surface mine and/or associated facility)

KNOW ALL MEN BY THESE PRESENTS, THAT THE UNDERSIGNED

 (hereafter **INDEMNITOR**),

whose INDEMNITOR place of
 business is

Address: _____

City _____ State: _____ Zip: _____

and who does business in the Commonwealth of Virginia as a **[CHECK ONE ONLY]**:

- Corporation¹ Limited Partnership² (LP); Limited Liability Company (LLC);
 Partnership; or Sole Proprietorship³, is acting herein as **INDEMNITOR**.

This Indemnity Agreement is made this day between the above listed **INDEMNITOR** and the Department of Mines, Minerals and Energy, Division of Mined Land Reclamation (DMLR) as **INDEMNITEE**.

The **INDEMNITOR** whose authorized representatives have signed their names to this instrument, hereby agree that in the event of a bond forfeiture of Permit Number _____ it will immediately pay to the “Treasurer of Virginia” a sum certain of money, in the amount of \$ _____ (**USD**).

This indemnity agreement shall be a binding obligation, jointly and severally, on all who execute it.

¹ *If a corporation or limited liability company, at least two company officers are required to sign this Agreement. Such individual’s authority to sign the Indemnity Agreement shall be documented by resolution of the Board of Directors and attached herewith.*

² *If the company/principal is a partnership, all of its general partners and its parent organization or principal investors have signed the document. Principal investor or parent organization means anyone with a 10% or more beneficial ownership interest, directly or indirectly, in the business entity (see 4 VAC 25-130-801.13(b)(4)(ix) of the Virginia Coal Surface Mining Reclamation Regulations (VCSMRR)*

³ *The signature of the Applicant’s spouse [if married] is required if the company is a Sole Proprietorship.*

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THE CONDITION OF THE ABOVE OBLIGATION is such that:

WHEREAS, the **INDEMNITOR** proposes to commence coal surface mining operations to be known as _____ in _____ County(ies) of Virginia; and,

WHEREAS, the above-named **INDEMNITOR** has submitted [CHECK ONE ONLY]:

Permit Application Number or Permit Number _____, including a mining and reclamation plan, to conduct and reclaim a coal surface mining operation, as defined pursuant to the **VIRGINIA COAL SURFACE MINING CONTROL AND RECLAMATION ACT** (hereafter **ACT**), as amended, with its attendant regulations; and,

WHEREAS, the **INDEMNITOR** has chosen to file this performance bond as a guarantee that the reclamation of the land disturbed during this coal surface mining operation will be completed as required by the **ACT**, its attendant regulations, and as specified in the permit as issued; and,

WHEREAS, the **INDEMNITOR**, and their successors and assigns agree to guarantee the obligation and to indemnify, defend, and hold harmless **INDEMNITEE** from any and all losses and expenses which **INDEMNITEE** may sustain as a result of the **INDEMNITOR'S** failure to comply with the condition of the obligation; and

WHEREAS, obligations guaranteed by this performance bond shall be in effect for the following described lands approved as the permit area or increment upon which initial or succeeding operations will be conducted:

NOW, if the **INDEMNITOR** faithfully completes all reclamation and abatement requirements set forth in the **ACT** and its Permit issued in reliance on this Self Bond, including the mining and reclamation plan, then this obligation shall be void; otherwise, it shall remain in full force and effect beginning on the date of the approval and issuance of [CHECK ONE ONLY]:

Permit Application Number or Permit Number _____ pursuant to the **ACT** and continue until -

- (a) the permit has been completed to the satisfaction of the **INDEMNITEE**, or
- (b) the bond is released pursuant to the **ACT**, or
- (c) in the event neither (a) or (b) above applies, for a minimum period of five (5) years for a general permit. This shall be the minimum period of extended responsibility unless the bond is replaced in accordance with the **ACT**, or unless the permit has been sold, reassigned, or otherwise transferred in accordance with the **ACT**. It shall be further understood that if the **INDEMNITOR** performs any augmented seeding, fertilization, or other supplemental reclamation work on the site prior to bond release, the period of liability under this bond shall begin again subject to the exception found in the **ACT**

The failure of the **INDEMNITOR** to fulfill the obligations specified by the **ACT** and its permit shall result in a forfeiture of this performance bond according to the procedures described in the **ACT** and its attendant regulations.

The **INDEMNITOR** shall not cancel this bond at any time for any reason, including bankruptcy of the **INDEMNITOR** during the period of liability. The amount of the **INDEMNITOR'S** liability may be adjusted by the **INDEMNITEE** pursuant to the **ACT** and its attendant regulations for lands covered by this bond.

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The **INDEMNITOR** shall give prompt notice to the **INDEMNITEE** of any notice received or action filed alleging the insolvency or bankruptcy of the **INDEMNITOR**, or alleging any violations or regulatory requirements which could result in suspension or revocation of the **INDEMNITOR'S** license to do business.

In the event the **INDEMNITOR** becomes unable to fulfill its obligations under the bond for any reason, notice shall be given immediately to the **INDEMNITEE**. Any proceeding, legal or equitable, under this bond must be instituted in a Virginia court of competent jurisdiction and shall be governed by the laws of the Commonwealth of Virginia.

Upon the incapacity of the **INDEMNITOR** by reason of bankruptcy, insolvency, or suspension or revocation of its license, the **INDEMNITOR** shall be deemed to be without bond coverage in violation of the **ACT** and subject to enforcement actions described in the **ACT** and its attendant regulations.

4VAC25-130-801.13(c) VCSMRR - Whenever a participant in the Pool Bond Fund applies for an additional permit or permits, the C.P.A. certification required by Paragraph (a)(2) or (b)(3) of this section shall be updated reflecting those prior reclamation obligations and self-bonding liabilities still in effect.

4VAC25-130-801.13(d) VCSMRR - If at any time the conditions upon which the self-bond was approved no longer prevail, the division shall require the posting of a surety or collateral bond before coal surface mining operations may continue. The permittee shall immediately notify the division of any change in his total liabilities or total assets, which would jeopardize the support of the self-bond. If the permittee fails to have sufficient resources to support the self-bond, he shall be deemed to be without bond coverage in violation of 4VAC25-130-800.11(b).

**For a Corporation, Limited Liability Company, or Sole Proprietorship complete Items I, IA, II, III, and IV.
For Limited Partnerships or Partnerships complete Items II, III, IV, and VI.**

I. BY COMPANY/INDEMNITOR – For a corporation or LLC, attach a copy of the Board of Directors'/Officers resolution authorizing the signing individual(s)⁴ to represent the corporation in executing the self-bond. The second signatures are to be affixed in Item IA.

<p>_____ (SEAL) By:</p> <p>Company/INDEMNITOR</p>	<p>_____</p> <p>Signature of Company/INDEMNITOR Official</p>
	<p>_____</p> <p>Print Name of Company/Indemnitor Official</p>
<p>_____</p> <p>Title</p>	<p>_____</p> <p>Date</p>
<p>Subscribed and sworn/affirmed to before me by _____</p>	
<p>this _____ day of _____, 20____, in the State of _____</p>	
<p>in the City/County of _____</p>	
<p>_____</p> <p>Notary Public Name (printed or typed)</p>	<p>_____ (Seal)</p> <p>Notary Public Signature⁵</p>
<p>My Commission expires _____</p>	<p>Registration No. _____</p>

⁴ Two signatures required if a corporation or LLC. For a Sole Proprietorship, the signature of the Indemnitor's spouse [if married] is required to be affixed in Item IA.

⁵ Pursuant to §47.1-15(3) of the Code of Virginia, as amended, the notarial certificate wording must be contained on the same page as the signature being notarized.

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IA. BY COMPANY/INDEMNITOR/SPOUSE	
_____ (SEAL) By:	_____
Company /INDEMNITOR	Signature of Company/INDEMNITOR Official

	Company/Indemnitor Official (printed)
_____	_____
Title	Date
Subscribed and sworn/affirmed to before me by _____	
this _____ day of _____, 20 _____, in the State of _____	
in the City/County of _____	
_____	_____ (Seal)
Notary Public Name (printed or typed)	Notary Public Signature
My Commission expires _____	Registration No. _____

II. Name of Suitable Agent to Receive Service of Process in the Commonwealth of Virginia:	
Agent's name:	_____
Agent's address:	_____

Telephone Number:	_____

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III. Certified Public Accountant: I, the undersigned Certified Public Accountant, do hereby certify, in an unqualified opinion, that the Company/Individual has a net worth of at least *One Million Dollars* after total liabilities are subtracted from total assets, including prior obligations. **ATTACH THE FINANCIAL STATEMENT VERIFYING THE NET WORTH OF THE COMPANY/INDIVIDUAL.**

_____ (SEAL) By: _____
 Certified Public Accountant (print) Certified Public Accountant (signature)

_____ Title _____ Date

Subscribed and sworn/affirmed to before me by _____
 this _____ day of _____, 20_____, in the State of _____
 in the City/County of _____

_____ (Seal)
 Notary Public Name (printed or typed) Notary Public Signature

My Commission expires _____ Registration No. _____

IV. Name and Address of the Certified Public Accountant Preparing the Statement Listed:

Accounting Firm's name: _____
 Accounting Firm's address: _____
 Certified Public Accountant's address: _____
 (if different than Accounting Firm's address) _____
 Certified Public Accountant number: _____
 Accounting Firm's Identification number: _____
 Office telephone number: _____

If the company/principal is not a Limited Partnership or Partnership, Item V (next page) is not required.

V. DIVISION APPROVAL (INDEMNITEE):

ACCEPTED: _____ Date: _____

 DMLR Representative's Name (printed or typed)

 DMLR Representative's Signature

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VI. PARTNERSHIP: If the company/principal is a partnership or limited partnership, all of its general partners and their parent organization or principal investors have signed the document. *Principal investor or parent organization means anyone with a 10% or more beneficial ownership interest, directly or indirectly, in the Applicant (4 VAC 25-130-801.13(b)(4)(ix) VACSMRR)*

_____ (SEAL) By: _____
 Company /INDEMNITOR Signature of Company/INDEMNITOR Official

_____ Title _____ Date

Subscribed and sworn/affirmed to before me by _____ (print)
 this _____ day of _____ 20 _____, in the State of _____
 in the City/County of _____

_____ (Seal)
 Notary Public Name (printed or typed) Notary Public Signature

My Commission expires _____ Registration No. _____

VI. A -PARTNERSHIP - Additional signatures - Copy and complete this part for each applicable partner or limited partnership general partner.

_____ (SEAL) By: _____
 Company /INDEMNITOR Signature of Company/INDEMNITOR Official

_____ Title _____ Date

Subscribed and sworn/affirmed to before me by _____ (print)
 this _____ day of _____ 20 _____, in the State of _____
 in the City/County of _____

_____ (Seal)
 Notary Public Name (printed or typed) Notary Public Signature

My Commission expires _____ Registration No. _____