

DRAFT FORM OF CLOSURE PLAN PERFORMANCE BOND

Bond Number: _____

Amount (\$): _____

KNOW ALL PERSONS by these presents that [name of company] as principal (hereinafter called the Principal) whose place of business is at [company address] and [name of insurance company] (hereinafter called the Surety) whose place of business is at [insurance company address] are held and firmly bound unto His Majesty the King in Right of Ontario, his heirs and successors, as represented by the Minister of Energy and Mines, its successors and assigns (hereinafter called the Obligee) whose place of business is at 4th Floor - 933 Ramsey Lake Road, Sudbury, Ontario P3E 6B5 in the sum of [amount of bond] in lawful money of Canada for which payment we jointly and severally bind ourselves, our heirs, administrators and successors, and assigns, firmly by this instrument.

WHEREAS, the Principal will operate/operates a [mining activity] located at [legal property description] (locally known as _____) in accordance with a certified Closure Plan dated [date of plan] submitted by the Principal to the Obligee (hereinafter called the Closure Plan).

NOW, THEREFORE, the condition of this obligation is such that, if the Principal shall promptly and faithfully comply in all respects with the Closure Plan then this obligation shall be void; otherwise it shall remain in full force and effect, subject to the following conditions:

1. Whenever the Principal shall be in default and declared by the Obligee to be in default of the terms of the Closure Plan or any filed, certified amendments thereto, the Obligee shall send a registered letter to both the Principal and Surety, stating the facts leading to the default (hereinafter called the Notice of Default).
2. The Surety's obligation to the Obligee hereunder shall be to pay such amounts demanded by the Obligee in each Notice of Default and this bond will be totally exonerated by the Surety remitting to the Obligee such amounts demanded, provided however, the total liability of the Surety in respect of all Notices of Default shall in no event exceed the specified amount of this bond.
3. The Surety's obligation to pay the Obligee hereunder shall be absolute, unconditional and irrevocable, and shall be performed irrespective of (i) any lack of validity or enforceability of the Principal's obligations under the Closure Plan, (ii) any inaccuracy or omission contained in the Closure Plan or any other document presented thereunder, (iii) any release, substitution or addition of any third party in connection with performance of rehabilitation work pursuant to the Closure Plan, (iv) the fact that any bankruptcy, insolvency, reorganization or winding-up proceedings of the Principal or an injunction or other court order may prevent the Obligee from declaring a default or making a demand on the Principal under the Closure Plan, and (v) any other event or circumstances whatsoever that might, but for the provisions of this paragraph, constitute a legal or equitable discharge of, or provide a right of set-off against, the Surety's obligations hereunder.
4. The Obligee is not required, before submitting a Notice of Default, to first demand payment or performance from the Principal alone or to pursue any rights or remedies against, or take any action against the Principal or file any claim in any bankruptcy, insolvency,

reorganization or winding-up of the Principal. If the Principal makes multiple defaults, the Obligee may submit a Notice of Default hereunder for each such default.

5. The terms of this bond shall remain in full force and effect to the time of release of this bond by the Obligee.
6. If the Surety at any time gives at least 90 days prior notice in writing, by registered mail, to the Obligee and to the Principal of its intention to terminate this obligation (hereinafter called the Notice of Termination), then this obligation shall be deemed to be terminated on the date stated in the Notice of Termination, which date shall not be less than 90 days after the date of the receipt of the Notice of Termination by the said Obligee or by the said Principal, whichever is the later date of receipt, and provided that, should the Principal fail, within 60 days of the receipt by the Obligee of the Notice of Termination to provide a financial assurance in at least the same amount as this bond in a form acceptable to the Obligee, the Surety shall automatically and immediately pay the full amount of this bond to the Obligee.
7. Any suit or action on this bond against the Surety must be commenced by the Obligee within 120 days from the date of the Notice of Default.
8. The Surety is licensed under the *Insurance Act* or its successor to write surety and fidelity insurance.
9. In the event the Surety becomes unable to fulfill its obligations under this bond for any reason, notice shall be given immediately, by registered mail, to the Principal and the Obligee (hereinafter called the Notification of Incapacity). Within 30 days of the Obligee's receipt of the Notification of Incapacity and in any event within 45 days of the incapacity of the Surety by reason of bankruptcy, insolvency, or suspension or revocation of its license, the Principal shall be deemed to be without bond coverage and will be required to submit alternate financial assurance, subject to the approval of the Obligee and as required by the *Mining Act* or its successor.
10. Upon partial completion of the rehabilitation and reclamation of the applicable site, and the submission by the Principal of a written application pursuant to the requirements of the *Mining Act* or its successor, including technical supports and relevant information, the Obligee at its discretion may reduce the amount of this bond to an amount consistent with the financial requirements of the rehabilitation work left to be completed under the Closure Plan or any filed, certified amendments thereto.
11. This bond will be valid for the term of [date bond sealed] to [date 1 year hence] and shall be automatically renewed, without further documentation from year to year thereafter unless terminated as aforesaid, provided that the Surety may, if it wishes, issue certificates evidencing such renewal.
12. This bond shall be governed by the laws of the province of Ontario and the laws of Canada applicable therein.

Sealed with the respective seals of the Principal and of the Surety the ____ day of _____, 20__.

[NAME OF COMPANY]

By: _____ c/s

Name:

Title:

[NAME OF SURETY]

By: _____ c/s

Name:

Title: