

STATE OF FLORIDA STORAGE TANK GUARANTEE

Reference: 40 CFR 280.96(c)

Guarantee made this _____ by _____,
[Date] [Name of guaranteeing entity]

a business entity organized under the laws of the State of _____, herein referred to as guarantor,
[Name of state]
to the Florida Department of Environmental Protection (DEP) and to any and all third parties and obligees, on behalf of

_____, herein referred to as "owner or operator",
[Name of owner or operator or enter "See attached list of owners and operators." The attachment should be titled "[Guarantor's name] list of owners and operators" and include their business addresses]

of _____
[Business address of owner or operator or enter "See attached"]

Recitals.

(1) Guarantor meets or exceeds the financial test criteria of 40 CFR 280.95 (b) or (c) and (d) and agrees to comply with the requirements for guarantors as specified in 40 CFR 280.96(b).

(2) The owner or operator owns or operates storage tank(s) covered by this guarantee. These facilities and tanks are listed on the Financial Test (Self Insurance) form that accompanies this guarantee. If more than one owner or operator is included under this guarantee, the owners and/or operators are identified on the Facility/Tank Schedule.

This guarantee satisfies 40 CFR Part 280, Subpart H requirements for assuring funding for

_____ arising from operating the above identified storage
[Insert "taking corrective action" and/or "compensating third parties for bodily injury and property damage caused by"]
_____ arising from operating the above identified storage
[Insert "accidental discharges" or "sudden accidental discharges" or "nonsudden accidental discharges" or leave blank if only corrective action is covered]

tank(s) in the amount of:

Per Occurrence: \$ _____ **Annual Aggregate:** \$ _____

(3) _____, guarantor guarantees to the DEP and to any and all

[Insert appropriate phrase from the following:
"On behalf of our subsidiary, the owner or operator" (if guarantor is corporate parent of the owner or operator); or
"On behalf of our affiliate, the owner or operator" (if guarantor is a related firm of the owner or operator); or
"Incident to our business relationship with the owner or operator" (if guarantor is providing the guarantee as an incident to a substantial business relationship with owner or operator)]

third parties that:

In the event that the owner or operator fails to provide alternate coverage within 60 days after receipt of a notice of cancellation of this guarantee and the DEP Secretary or the Secretary's designee ("designee") has determined or suspects that a discharge has occurred at a storage tank covered by this guarantee, the guarantor, upon instructions from the DEP Secretary or designee shall fund a standby trust fund in accordance with the provisions of 40 CFR 280.112, in an amount not to exceed the coverage limits specified above.

In the event that the DEP Secretary or designee determines that the owner or operator failed to perform corrective action (if covered) for discharges arising out of the operation of the above identified tank(s) in accordance with the requirements of 40 CFR Part 280 Subpart F, the guarantor, upon written instructions from the DEP Secretary or designee shall fund a standby trust in accordance with the provisions of 40 CFR 280.112, in an amount not to exceed the coverage limits specified above.

If the owner or operator fails to satisfy a judgment or award based on a determination of liability for bodily injury or property damage to third parties caused by _____
[Insert "accidental discharges" or "sudden accidental discharges" or "nonsudden accidental discharges" or leave blank if only corrective action is covered and this paragraph is not applicable]

arising from the operation of the above identified tank(s), or fails to pay an amount agreed to in settlement of a claim arising from or alleged to arise from such injury or damage, the guarantor, upon written instructions from the DEP Secretary or designee, shall fund a standby trust in accordance with the provisions of 40 CFR 280.112 to satisfy such judgment(s), award(s), or settlement agreement(s) up to the limits of coverage specified above.

- (4) Guarantor agrees that if, at the end of any fiscal year before cancellation of this guarantee, the guarantor fails to meet the financial test criteria of 40 CFR 280.95 (b) or (c) and (d), guarantor shall send within 120 days of such failure, by certified mail, notice to the owner or operator. The guarantee will terminate 120 days from the date of receipt of the notice by the owner or operator as evidenced by the return receipt.
- (5) Guarantor agrees to notify the owner or operator by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), U.S. Code naming guarantor as debtor, within 10 days after commencement of the proceeding.
- (6) Guarantor agrees to remain bound under this guarantee notwithstanding any modification or alteration of any obligation of the owner or operator pursuant to 40 CFR Part 280.
- (7) Guarantor agrees to remain bound under this guarantee for so long as the owner or operator must comply with the applicable financial responsibility requirements of 40 CFR Part 280, Subpart H for the above identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to the owner or operator, such cancellation to become effective no earlier than 120 days after receipt of such notice by the owner or operator as evidenced by the return receipt.
- (8) The guarantor's obligation does not apply to any of the following:
 - (a) Any obligation of the owner or operator under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;
 - (b) Bodily injury to an employee of the owner or operator arising from, and in the course of, employment by the owner or operator;
 - (c) Bodily injury or property damage arising from the ownership, maintenance, use, or entrustment to others of any aircraft, motor vehicle, or watercraft;
 - (d) Property damage to any property owned, rented, loaned to, in the care, custody, or control of, or occupied by the owner or operator that is not the direct result of a discharge from a storage tank;
 - (e) Bodily damage or property damage for the owner or operator is obligated to pay damages by reason of the assumption of liability in a contract or agreement other than a contract or agreement entered into to meet the requirements of 40 CFR 280.93 and/or paragraph 62-762.421(3)(c), F.A.C.
- (9) Guarantor expressly waives notice of acceptance of this guarantee by the DEP, by any or all third parties, or by the owner or operator.

The person whose signature appears below hereby certifies that the wording of this instrument is identical to the wording as adopted and incorporated by reference in Rule(s) 62-761.420 and/or 62-762.421, F.A.C.

[Name of Guarantor]

[Authorized Signature for Guarantor]

[Name and Title]

[Phone Number]

[Email Address]

[Signature of Witness or Notary]

[Printed Name of Witness or include Notary Seal]

[Date of Witness or Notary]

[Each identified Owner or Operator must maintain a Standby Trust Fund Agreement, per 40 CFR 280.111(3).]