

Figure: 30 TAC §37.830(c)

## GUARANTEE

Guarantee made this (insert date) by (insert name of guaranteeing entity), a business entity organized under the laws of the state of (insert name of state), herein referred to as guarantor, to the Texas Commission on Environmental Quality (TCEQ) and to any and all third parties, and obligees, on behalf of (insert owner or operator) of (insert business address).

### Recitals

1. Guarantor meets or exceeds the financial test criteria of 30 TAC §37.825(b) or (c) and (d) and agrees to comply with the requirements for guarantors as specified in 30 TAC, §37.830(b).

2. (Insert owner or operator) owns or operates the following underground storage tank(s) covered by this guarantee: (List the number of tanks at each facility, the names(s) and address(es) and, for those facilities located in Texas, the TCEQ facility identification number of the facility(ies) where the tanks are located. If more than one instrument is used to assure different tanks at any one facility, for each tank covered by this instrument, list the tank identification number provided in the registration information submitted under 30 TAC §334.7, and the name and address of the facility.) This guarantee satisfies Chapter 37, Subchapter I of this title (relating to Financial Assurance for Petroleum Underground Storage Tank Systems) requirements for assuring funding for taking corrective action and compensating third parties for bodily injury and property damage caused by accidental releases arising from operating the above-identified underground storage tank(s) in the amount of (insert dollar amount) per occurrence and (insert dollar amount) annual aggregate.

3. (Insert appropriate phrase: "On behalf of our subsidiary" (if guarantor is corporate parent of the owner or operator) or "Incident to our business relationship with" (if guarantor is providing the guarantee as an incident to a substantial business relationship with owner or operator)) (insert owner or operator), guarantor guarantees to the TCEQ and to any and all third parties that:

In the event that (insert owner or operator) fails to provide alternate coverage within 60 days after receipt of a notice of cancellation of this guarantee and the Executive Director of the TCEQ has determined or suspects that a release has occurred at an underground storage tank covered by this guarantee, the guarantor, upon instructions from the Executive Director of the TCEQ, shall fund a standby trust fund in accordance with the provisions of §37.880 of this title (relating to Drawing on Financial Assurance Mechanisms), in an amount not to exceed the coverage limits specified above.

In the event that the Executive Director of the TCEQ determines that (insert owner or operator) has failed to perform corrective action for releases arising out of the operation of the above-identified tank(s) in accordance with Chapter 334, Subchapter D of this title (relating to Release Reporting and Corrective Action) of the guarantor upon written instructions from the executive director of the TCEQ shall fund a standby trust in accordance with the provisions of 30 TAC §37.880, in an amount not to exceed the coverage limits specified above.

If (insert 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 accidental releases 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 injury or damage, the guarantor, upon written instructions from the Executive Director of the TCEQ, shall fund a standby trust in accordance with the provisions of 30 TAC §37.880 to satisfy these judgement(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 30 TAC §37.825(b) or (c) and (d), the guarantor shall send within 120 days of this failure, by certified mail, notice to (insert owner or operator). The guarantee will terminate 120 days from the date of receipt of the notice by (insert owner or operator), as evidenced by the return receipt.

5. Guarantor agrees to notify (insert owner or operator) and the Executive Director of the TCEQ by certified mail of a voluntary or involuntary proceeding under Title 11 (Bankruptcy), United States 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 (insert owner or operator) under 30 TAC Chapter 334 of this title (relating to Underground and Aboveground Storage Tanks).

7. Guarantor agrees to remain bound under this guarantee for so long as (insert owner or operator) must comply with the applicable financial responsibility requirements of 30 TAC Chapter 37, Subchapter I for the above-identified tank(s), except that guarantor may cancel this guarantee by sending notice by certified mail to (insert owner or operator), this cancellation to become effective no earlier than 120 days after receipt of the notice by (insert 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 (insert owner or operator) under a workers' compensation, disability benefits, or unemployment compensation law or other similar law;

b. Bodily injury to an employee of (insert owner or operator) arising from, and in the course of, employment by (insert 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 (insert owner or operator) that is not the direct result of a release from a petroleum underground storage tank;

e. Bodily damage or property damage for which (insert 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 30 TAC §37.815.

9. Guarantor expressly waived notice of acceptance of this guarantee by the TCEQ, by any or all third parties, or by (insert owner or operator).

I hereby certify that the wording of this guarantee is identical to the wording specified in 30 TAC §37.830(c), as this regulation was constituted on the effective date shown immediately below.

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

(Insert name of guarantor) \_\_\_\_\_

(Insert authorized signature for guarantor) \_\_\_\_\_

(Insert name of person signing) \_\_\_\_\_

(Insert title of person signing) \_\_\_\_\_

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