**[PERMITTEE NAME\*\*\*\*\*\*]**

**TRUST AGREEMENT FOR ADEQ FACILITY No.**

**AQUIFER PROTECTION PROGRAM PERMIT**

|  |
| --- |
| **Permittee**:  Legal name and business address of the person required to obtain an aquifer protection permit under Arizona Revised Statutes (A.R.S.) §49-241 and to demonstrate financial assurance under A.R.S. §49-243:  Legal Name    Business Address          Business Entity Type    State of Business Entity Filing        \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_  Authorized to do business in Arizona on date of execution of the Trust Agreement as:  □ Domestic or Foreign Corporation A.R.S. §10-128 Certificate of Good Standing and A.R.S. §10-501 Statutory agent in Arizona for service of process  □ Limited Liability Company A.R.S. §29-604 Statutory agent in Arizona for service of process and §29-614 Certificate of Good Standing  □ Limited Partnership, Limited Liability Partnership, or Limited Liability Limited Partnership certificate or certificate of registration on file at Arizona Secretary of State and Statutory agent in Arizona for service of process: Title 29 Arizona Revised Statutes  □ Individual or Sole Proprietorship doing business under a Certificate of Trade Name registered at Secretary of State pursuant to A.R.S. §44-1460.01 |
| **Trustee**:  Legal name and business address:        Authorized to do business in Arizona on date of execution of Surety Bond as:  □ Domestic or Foreign Corporation A.R.S. §10-128 Certificate of Good Standing and A.R.S. §10-501 Statutory agent in Arizona for service of process  □ Limited Liability Company A.R.S. §29-604 Statutory agent in Arizona for service of process and §29-614 Certificate of Good Standing  □ Limited Partnership, Limited Liability Partnership, or Limited Liability Limited Partnership certificate or certificate of registration on file at Arizona Secretary of State  Date of issuance of current A.R.S. § 6-851 *et seq.*, certificate to engage in trust business from the Superintendent of the Arizona Department of Financial Institutions: *[Month/Date/YEAR]*  or  □ National banking association authorized by Office of the Comptroller of the Currency pursuant to 12 U.S.C. 1 *et seq*.  □ International bank with U.S. operations regularly examined by the Federal Reserve pursuant to the Federal Reserve Act, 12 U.S.C. §§221 to 522. |

This TRUST AGREEMENT, (“Agreement”) is entered into as of [**MONTH**][**DATE**], [**YEAR**], by and between **[PERMITTEE NAME\*\*\*\*\*\*]**, (“ PERMITTEE”) and **[NAME\*\*\*\*\*\*]** Bank, (“Bank “ or “TRUSTEE”) for the benefit of the Arizona Department of Environmental Quality (“BENEFICIARY”).

WHEREAS, the Arizona Department of Environmental Quality (“ADEQ”), an agency of the State of Arizona, has established certain regulations applicable to **[PERMITTEE NAME\*\*\*\*\*\*]**, requiring that an owner or operator of a facility required to obtain an aquifer protection program permit pursuant to Title 49, Chapter 2, Article 3 of the Arizona Revised Statutes shall provide assurance that funds will be available when needed for **[OPTION IF NEEDED FOR DIRECTOR to approve financial competence** relevant to Permittee’s capability to comply with the permit terms and conditions: construction, operation, maintenance,**]** monitoring, installing and maintaining discharge control measures, closure and post-closure care of the facility pursuant to A.R.S. §49-243(N) and Arizona Administrative Code (A.A.C.) R18-9-A201(B)(5) and R18-9-A203(C)(4); and,

WHEREAS, the **[PERMITTEE NAME\*\*\*\*\*\*]** has elected to establish a trust to demonstrate all or part of such financial assurance of the facilities identified herein; and,

WHEREAS, the **[PERMITTEE NAME\*\*\*\*\*\*]**, acting through its duly authorized representatives *[if LLC, identify if signor has authority under either member or manager designation*], has selected the TRUSTEE to act as trustee under this Agreement and the TRUSTEE is willing to act as trustee and has the authority to act as a trustee and has been and its trust operations are regulated and examined by a Federal agency or an agency of the state in which the trust fund is established; and

WHEREAS, the TRUSTEE of the Trust Fund shall also meet the requirements for a Trustee as set forth in A.R.S. § 6-851 *et seq.*, be authorized to do business in Arizona, and have an active certificate to engage in trust business from the Superintendent of the Arizona Department of Financial Institutions unless it is a national bank or international bank authorized to engage in trust business under federal law;

WHEREAS, the Director of ADEQ shall instruct the TRUSTEE to refund the balance of the Trust Fund to the PERMITTEE when the Director determines the PERMITTEE has satisfied all requirements of the APP Permit.

NOW, THEREFORE, the PERMITTEE and the TRUSTEE agree as follows:

Section 1. Definitions as Used in this Agreement:

1. The Term “PERMITTEE” shall mean the **[PERMITTEE NAME\*\*\*\*\*\*]** as the owner or operator of the [**Facility/Facilities**] who enters into this Agreement and any of its successors or assigns.
2. The Term “TRUSTEE” shall mean the **[NAME\*\*\*\*\*\*]** Bank who enters into this Agreement and any successor Trustee.
3. The Term “BENEFICIARY” shall mean the Arizona Department of Environmental Quality [ADEQ].
4. The Term “Director” shall mean the Director of the Arizona Department of Environmental Quality and any successor Director of the Agency.
5. Establishment of the FUND shall be effective on the date of the issuance of the Approval to Operate.[[1]](#footnote-1)

Section 2. Identification of the Facilities

This Agreement pertains to the **[Facility/Facilities]** and related cost estimates identified on attached Schedule “A.” Establishment of the FUND shall be effective on the date of issuance of Approval to Operate.

Section 3. Establishment of FUND.

The PEMITTEE and the TRUSTEE hereby establish a trust fund, “FUND,” for the benefit of ADEQ. The PERMITTEE and the TRUSTEE intend that no third party has access to the FUND except as herein provided. The FUND is established with PERMITTEE’s initial deposit of $[**DOLLAR AMOUNT**]. The FUND shall also consist of any and all subsequent payments pursuant to this agreement, together with all earnings and profits thereon, less any payments or distributions made by the TRUSTEE pursuant to this Agreement. The FUND shall be held by the TRUSTEE, IN TRUST, as hereinafter provided. The TRUSTEE shall not be responsible, nor shall it undertake any responsibility for the amount or adequacy of, nor any duty to collect from the PERMITTEE, any payments necessary to discharge any liabilities of the PERMITTEE established by ADEQ. Any interest earned through deposit of the trust FUNDS shall accrue to the FUND during the period the applicant uses this trust agreement as a financial assurance mechanism and is returned to the PERMITTEE upon termination of the trust agreement as defined in Section 17 of this agreement.

The mechanisms used to demonstrate financial assurance must ensure that the funds necessary to meet the costs of **[OPTION IF NEEDED FOR DIRECTOR to approve financial competence relevant to Permittee’s capability to comply with the permit terms and conditions: construction, operation and maintenance,]** closure and post-closure care will be available whenever they are needed. A copy of this trust agreement shall be placed in PERMITTEE’s facility operating record.

Section 4. Payment for **[Option: construction, operation and maintenance,]** Closure and Post-Closure Care

The TRUSTEE shall make payments from the FUND as the ADEQ Director shall direct, in writing, to provide for the payment of the costs of **[Option: construction, operation and maintenance,]** closure and post-closure care of the facilities covered by this Agreement. The TRUSTEE shall reimburse the PERMITTEE or other persons as specified by the ADEQ Director from the FUND for **[Option: construction, operation and maintenance,]** closure and post-closure expenditures in such amounts as the ADEQ Director shall direct in writing. In addition, the TRUSTEE shall refund to the PERMITTEE such amounts as the ADEQ Director specifies in writing as noted in paragraph eighteen (18).

Section 5. Payments Comprising the FUND

Payments made to the TRUSTEE for the FUND shall consist of a cash[[2]](#footnote-2) deposit acceptable to the TRUSTEE and BENEFICIARY. Payments to the FUND are for: **[Option: construction, operation and maintenance,]** a.) closure and b.) post-closure costs.

The approved **[Option: construction, operation and maintenance,]** closure and post closure cost estimates for the year-end [**YEAR**] are calculated as $[**DOLLAR AMOUNT**] (see Schedule “A”) respectively. Schedule “A” attachment to this Agreement reflects the initial **[Option: construction, operation and maintenance,** closure and post closure costs.

i. Initial Payment: PERMITTEE shall make the initial payment for **[Option: construction, operation and maintenance,]** closure and post closure of $[**DOLLAR AMOUNT**] (see Schedule “A”) as agreed between the PERMITTEE and BENEFICAIRY, and such payment shall be made before the Department issues approval to operate. The initial payment is an amount at least equal to:

a. The cost estimate of the **[Option: construction, operation and maintenance,]** closure plan or strategy submitted under A.A.C. R18-9-A201(B)(5), or

b. For an existing facility, the amount specified in a compliance schedule approved in the permit, or

c. The A pro-rata amount, if used with another financial assurance mechanism.

ii. Periodic Demonstration: Not more frequently than once every two years throughout the duration of the individual permit, at least 30 days prior to the anniversary date of establishment of the FUND, PERMITTEE shall demonstrate in writing to BENEFICIARY that this FUND is being maintained as scheduled in the permit and in this Trust Agreement[[3]](#footnote-3).

iii. Periodic Update of Cost Estimates and Inflation Factor Adjustments: Not more frequently than once every five years, at least 30 days prior to the anniversary date of establishment of the FUND, and throughout the duration of the individual permit, PERMITTEE shall update the cost estimates for **[Option: construction, operation and maintenance,],** closure and post-closure as necessary to reflect increased or decreased costs resulting from changes to the facility or to the facility closure strategy or plan, or to any other relevant conditions related to the permitted facility[[4]](#footnote-4), using Schedule “B” attached hereto. Not more frequently than once every five years throughout the duration of the individual permit[[5]](#footnote-5) , and at least forty-five (45) days prior to the anniversary date of establishment of the FUND, BENEFICIARY shall provide PERMITTEE with an Inflation Factor in writing. PERMITTEE shall adjust the cost estimates for inflation using Schedule “B” attached hereto. PERMITTEE agrees to deposit any required increase to the FUND with TRUSTEE no later than 15 business days after the anniversary date of establishment of the fund in such sixth calendar year.

Section 6. TRUSTEE Management

The TRUSTEE shall maintain the principal and income of the FUND and keep the FUND deposited as a single FUND, without distinction between principal and income, in accordance with Generally Accepted Accounting and Investment Principles and guidelines. The PERMITTEE may communicate in writing to the TRUSTEE from time to time subject to the provisions of this section. In maintaining and managing the FUND, the TRUSTEE shall discharge his/her duties with respect to the trust FUND solely in the interest of the BENEFICIARY and with the care, skill, prudence and diligence under the circumstances then prevailing which persons of prudence, acting in a like capacity and familiar with such matters, would use in the conduct of an enterprise of a like character and with like aims; except that:

1. Securities or other obligations of the PERMITTEE, or any other owner or operator of the facilities, or any of their affiliates as defined in the Investment Company Act of 1940, as amended, 15 U.S.C. 80a-2.(a), shall not be acquired or held.
2. The TRUSTEE is authorized to deposit the FUND in demand deposits of the TRUSTEE, to the extent insured by an agency of the Federal government; and
3. The TRUSTEE is authorized to hold cash for a reasonable time, not to exceed fifteen (15) days and without liability for the payment of interest thereon.

Section 7. Commingling and Investment

The TRUSTEE is prohibited from transferring any or all of the assets of the FUND to any common, commingled, or collective trust FUND. Such FUNDS shall not be deemed to be an asset of the TRUSTEE.

Section 8. Express Powers of TRUSTEE

Without in any way limiting the powers and discretions conferred upon the TRUSTEE by the other provisions of this Agreement or by law, the TRUSTEE is expressly authorized and empowered:

1. To make, execute, acknowledge, and deliver any and all documents of transfer and conveyance and any and all other instruments that may be necessary or appropriate to carry out the powers herein granted.
2. To deposit any cash in the FUND in interest-bearing accounts maintained and issued by the TRUSTEE, in its separate corporate capacity, or in any other banking institution affiliated with the TRUSTEE, to the extent insured by an agency of the Federal government.

Section 9. Taxes and Expenses

All taxes of any kind that may be assessed or levied against or in respect to the FUND and all brokerage commissions incurred by the FUND shall be paid from the FUND. All other expenses incurred by the TRUSTEE in connection with the administration of the Trust, including fees for legal services rendered to the TRUSTEE, the compensation of the TRUSTEE to the extent not paid directly by the PERMITTEE, and all other proper charges and disbursements of the TRUSTEE shall be paid from the Fund.

Section 10. Updated Valuation

At least every two years, and at least thirty (30) days prior to the anniversary date of establishment of the FUND, The TRUSTEE shall, furnish to the PERMITTEE and the ADEQ Director a statement confirming the value of the Trust. The failure of the PERMITTEE to object in writing to the TRUSTEE within ninety (90) days after the statement has been furnished to the PERMITTEE and the ADEQ Director shall constitute a conclusively binding asset by the PERMITTEE, barring the PERMITTEE from asserting any claim or liability against the TRUSTEE with respect to matters disclosed in the statement. Such statement shall be delivered to ADEQ and the **[PERMITTEE NAME\*\*\*\*\*\*]** as follows and shall identify the account as TRUST AGREEMENT FOR ADEQ FACILITY No. :

Arizona Department of Environmental Quality

Attn: Assistant Director of Business and Finance

1110 W. Washington

Phoenix, Arizona 85007

Arizona Department of Environmental Quality

Attn: Ground Water Permitting

1110 W. Washington

Phoenix, Arizona 85007

The Arizona Office of the Attorney General

Environmental Enforcement Section

Attn: Assistant Attorney General Rick Zeise

1275 W. Washington St.

Phoenix, Arizona 85007

**[PERMITTEE NAME\*\*\*\*\*\*]**

**[Mailing Address]**

**[County][Town]** AZ [**Zip Code]**

Section 11. Advice of Counsel

The TRUSTEE may from time to time consult with counsel, who may be counsel to the PERMITTEE, with respect to any question arising as to the construction of this Agreement or any action to be taken hereunder. The TRUSTEE shall be fully protected, to the extent permitted by law, in acting upon the advice of counsel.

Section 12. TRUSTEE Compensation.

The TRUSTEE shall be entitled to reasonable compensation for its services as agreed upon in writing from time to time with the PERMITTEE.

Section 13. Successor TRUSTEE

The TRUSTEE may resign or the PERMITTEE may replace the TRUSTEE, but such resignation or replacement shall not be effective until the PERMITTEE has appointed a successor TRUSTEE and ADEQ and this successor TRUSTEE accepts the appointment. The successor TRUSTEE shall have the same powers and duties as those conferred upon the TRUSTEE hereunder. Upon the successor Trustee’s acceptance of the appointment, the TRUSTEE shall assign, transfer, and pay over to the successor TRUSTEE the FUNDS and properties then constituting the FUND. If for any reason the PERMITTEE cannot or does not act in the event of resignation of the TRUSTEE, the TRUSTEE may apply to a court of competent jurisdiction for the appointment of a successor TRUSTEE or for instructions. The successor TRUSTEE shall specify the date on which it assumes administration of the trust in a writing sent to the PERMITTEE, the ADEQ Director, and the present TRUSTEE by certified mail ten (10) days before such change becomes effective. Any expenses incurred by the TRUSTEE as a result of any of the acts contemplated by this Section shall be paid as provided in Sections 9 and 12.

Section 14. Instructions to the TRUSTEE

All orders, requests, and instructions by the ADEQ to the TRUSTEE shall be in writing, signed by the ADEQ Director and the TRUSTEE shall act and shall be fully protected in acting in accordance with such orders, requests, and instructions. The TRUSTEE shall have the right to assume, in the absence of written notice to the contrary, that no event constituting a change or a termination of the authority of any person to communicate on behalf of the PERMITTEE or act on behalf of ADEQ hereunder has occurred. The TRUSTEE shall have no duty to act in the absence of such orders, requests, and instructions from the ADEQ Director, except as provided for herein.

Section 15. Amendment of Agreement

This Agreement may be amended by an instrument in writing executed by the PERMITTEE, the TRUSTEE, and the ADEQ Director, or by the TRUSTEE and the ADEQ Director if the PERMITTEE ceases to exist.

Section 16. Irrevocability

Subject to the right of the parties to amend this Agreement as provided in Section 16, this Trust shall be irrevocable and shall continue until terminated at the written, dated agreement signed by the PERMITTEE and the TRUSTEE, and accepted by the written, dated and signed acceptance of the ADEQ Director, or by the TRUSTEE and the ADEQ Director, if the PERMITTEE ceases to exist.

Section 17. Termination

This Trust Agreement remains in effect until the date the PERMITTEE signs, dates, and returns the Release of Funds to ADEQ to present to the Financial Institution for payment. Please note, this agreement contractually binds all parties to its terms. Any violation of the terms of this agreement shall be considered a breach of the agreement subject to all contractual remedies available under the law.

The Financial Institution shall not release any or all funds to the PERMITTEE except upon receipt of a Release of Funds form signed and dated by ADEQ and PERMITTEE. This Trust Agreement remains in effect until the date the PERMITTEE signs, dates, and returns the Release of Funds to ADEQ to present to the Financial Institution for payment.

Section 18. Immunity and Indemnification

The TRUSTEE shall not incur personal liability of any nature in connection with any act or omission, made in good faith, in the administration of this Trust, or in carrying out any directions by the PERMITTEE or the ADEQ Director issued in accordance with this Agreement. The TRUSTEE shall be indemnified and saved harmless by the PERMITTEE or from the FUND, or both, from and against any personal liability to which the TRUSTEE may be subjected by reason of any act or conduct in its official capacity, including all expenses reasonably incurred in its defense in the event the PERMITTEE fails to provide such defense.

Section 19. Choice of Law

This Agreement shall be governed, interpreted, and enforced according to the laws of the State of Arizona.  The parties agreed that venue is proper in Maricopa County under A.R.S. § 12-401(17) and A.R.S. §§ 49-768, 784.

Section 21. Interpretation

As used in this Agreement, words in the singular include the plural and words in the plural include the singular. The descriptive headings before each Section of the Agreement shall not affect the interpretation or the legal efficacy of the Agreement.

Section 21. Notices

All notices, requests, demands or other communications provided for in this Agreement, except bankruptcy notices, shall be in writing and shall be deemed to have been given at the time when personally delivered or mailed in a registered or certified prepaid envelope, return receipt requested, or sent by overnight courier who regularly provides receipts and addressed to the addressees below:

PERMITTEE: **[NAME\*\*\*\*\*\*]**

**[Mailing Address]**

**[County][Town]** AZ [**Zip Code]**

TRUSTEE: **[NAME\*\*\*\*\*\*]** Bank

**[Mailing Address]**

**[County][Town][State][Zip Code]**

BENEFICIARY: Arizona Department of Environmental Quality

Attention: Ground Water Permitting

1110 West Washington Street

Phoenix, Arizona 85007

Arizona Department of Environmental Quality

Attn: Assistant Director of Business and Finance

1110 W. Washington

Phoenix, Arizona 85007

Or at such other address as hereafter may be notified in writing by one party to the other. Service by mail shall be deemed complete at the date of delivery as shown by the registered or certified mail receipt.

Trustee Bankruptcy Notices

The TRUSTEE and PERMITTEE agree that in the event the Financial Institution closes or is placed in receivership, any FDIC insurance proceeds received for the benefit of the PERMITTEE on any account maintained with the Financial Institution, shall first be applied to fund the assignment to the ADEQ. The Financial Institution shall notify the PERMITTEE and the ADEQ Director in writing within 10 (ten) days after its filing for bankruptcy, and PERMITTEE shall demonstrate to the ADEQ Director within 30 (thirty) days after the filing for bankruptcy of the Financial Institution an alternative financial assurance mechanism. [[6]](#footnote-6)

Permittee Bankruptcy Notices

The PERMITTEE shall notify the Director within five (5) days after the filing of a bankruptcy by PERMITTEE, or after receiving notice from the Financial Institution of its filing of a bankruptcy at the following address:[[7]](#footnote-7)

Arizona Department of Environmental Quality

Attention: Director

1110 West Washington Street

6th Floor

Phoenix, Arizona 85007

IN WITNESS WHEREOF, the parties have caused the Agreement to be executed by their respective officers duly authorized and their corporate seals to be hereunto affixed and attested as of the date first above written.

ATTEST:

PERMITTEE: **[NAME\*\*\*\*\*\*]**

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**[Printed Name]**

TITLE:

STATE OF ARIZONA )

) ss.

COUNTY OF )

The above instrument was acknowledged before this \_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_, by

**[Printed Name]** as **[TITLE]** of the **[PERMITTEE NAME\*\*\*\*\*\*]**, Arizona.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public

Seal:

ATTEST:

TRUSTEE:

**[NAME\*\*\*\*\*\*]** BANK

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**[Printed Name]**

TITLE: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

STATE OF ARIZONA )

) ss.

COUNTY OF )

The above instrument was acknowledged before this \_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_, by

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ as \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public

Seal:

ACCEPTED BY:

AS BENEFICIARY

STATE OF ARIZONA

ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY

(Note two signatures required)

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

TITLE: Assistant Director

Office of Business and Financial Services

STATE OF ARIZONA )

) ss.

COUNTY OF )

The above instrument was acknowledged before this \_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_, by

[Signatory Name] as Assistant Director of Business and Finance at ADEQ.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public

Seal:

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**[Printed Name]**

TITLE: Director

Water Quality Division

STATE OF ARIZONA )

) ss.

COUNTY OF )

The above instrument was acknowledged before this \_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_, by

[Signatory Name] as Assistant Director of Business and Finance at ADEQ.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Notary Public

Seal:

7054596

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**SCHEDULE "A"**

**FACILITY NAME:**

**Address:**

**As described in Aquifer Permit Program identification number:**

ADEQfacility permit No.

**OPTION: Initial Construction Estimate as of [YEAR]; $[DOLLAR AMOUNT]**

**OPTION: Initial Operation Cost Estimate as of [YEAR]; $[DOLLAR AMOUNT]**

**OPTION: Initial Construction Estimate as of [YEAR]; $[DOLLAR AMOUNT]**

**Initial Closure Cost Estimate as of [YEAR]:** $**[DOLLAR AMOUNT]**

**Initial Post Closure Cost Estimate as of [YEAR]:** $**[DOLLAR AMOUNT]**

**Initial Grand Total as of [year]:** $**[SUM OF DOLLAR AMOUNTS]**

|  |  |  |
| --- | --- | --- |
| **INITIAL PAYMENT**  **Due before issuance of approval to operate** | | |
| **MONTH/YEAR** | **DEPOSIT** | **FINANCIAL ASSURANCE BALANCE** |
|  | $ | $ |
|  | | |

**PERMITTEE DESIGNEE:**

**Title:**

**SCHEDULE “B”**

|  |  |
| --- | --- |
| **[PERMITTEE NAME\*\*\*\*\*]**  **5-Year Closure/Post-Closure Cost Estimate Update** | |
| **Last Updated Cost Estimate** | |
| Initial value of the trust | $[**DOLLAR AMOUNT**] |
| Last Cost Estimates Grand Total (Closure/Post-Closure) | $[**DOLLAR AMOUNT**] |
| Estimated Closure Date | **[YEAR]** |
| The first year the Facility was/Facilities were required to provide FA | **[YEAR]** |
| Last Update Year | **[YEAR]** |
| Last Updated Funded Trust balance before New Update | **$[DOLLAR AMOUNT]** |
| **New Update** | |
| New Update Year | **[YEAR]** |
| 5-Year Inflation Factor  A.R.S. § 49-243(N)(3)(a) | [**ADEQ to Provide**] |
| Other increase or decrease to cost estimates \*  A.R.S. § 49-243(N)(3)(a) | $[**DOLLAR AMOUNT**] |
| Adjusted Cost Estimates Grand Total before applying Inflation Factor | $[**DOLLAR AMOUNT**] |
| Adjusted Cost Estimates multiplied by Inflation Factor (Closure/Post-Closure) | $[**DOLLAR AMOUNT**] |
| New Updated Trust Fund requirement in **YEAR** | **$**[**DOLLAR AMOUNT**] |

\*Attach written documentation of basis for cost adjustment

**DIFFERENCE BETWEEN FUNDED TRUST AND NEW UPDATED TRUST FUND REQUIREMENT**:

$ [**DOLLAR AMOUNT**]

Date Difference is Paid into Trust Fund, if requirement increased: [**DATE**]

**SCHEDULE “C”**

**CERTIFICATE OF INCUMBENCY**

For

**[PERMITTEE NAME\*\*\*\*\*\*]**

The following individuals are authorized to represent the **[PERMITTEE NAME\*\*\*\*\*\*]**

in all communications with ADEQ as Beneficiary and **[PERMITTEE NAME\*\*\*\*\*\*]** Bank as Trustee for all accounts related to the **[PERMITTEE NAME\*\*\*\*\*\*]** Trust Agreement.

|  |  |  |
| --- | --- | --- |
| **Printed Name** | **Title** | **Signature** |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

**[PERMITTEE NAME\*\*\*\*\*\*]**

By:

Name:

Title:

Date:

1. See A.R.S. § 49-243 (N)(6) [↑](#footnote-ref-1)
2. Cash shall be in the form of: bank draft, business check, cashier’s check, certified check, money order or an electronic funds transfer [↑](#footnote-ref-2)
3. A.R.S. § 49-243(N)(4) [↑](#footnote-ref-3)
4. A.R.S. § 49-243(N)( 2)(a) [↑](#footnote-ref-4)
5. A.R.S. § 49-243(N)(2)(a) [↑](#footnote-ref-5)
6. See: A.R.S. § 49-243(N) and A.A.C. R18-9-A203 [↑](#footnote-ref-6)
7. See: A.A.C. R18-9-A207(C) [↑](#footnote-ref-7)