[SEQ CHAPTER \h \r 1]**CERCLA Financial Assurance Sample Letter of Credit for Use in Connection with Settlements**

NOTE: A letter of credit, as specified in the relevant settlement agreement, may be worded as follows, except that instructions in brackets should be replaced with the relevant information and the brackets deleted. Case teams should make sure that provisions in the letter of credit relating to EPA's ability to access funds guaranteed by the letter of credit are consistent with relevant settlement provisions.

[Letterhead of Issuing Institution]

IRREVOCABLE STANDBY LETTER OF CREDIT

IRREVOCABLE STANDBY LETTER OF CREDIT NUMBER: [**insert number**]

ISSUANCE DATE: [**insert date**]

MAXIMUM AMOUNT: $[**insert dollar amount**]

APPLICANT:
[**Insert name of PRP/Settling Defendant**]
[**Insert contact person(s), title(s), and contact information (address, phone, email, etc.)**]

BENEFICIARY:
U.S. Environmental Protection Agency Region [**insert number**]
c/o [**insert appropriate Regional official such as "Superfund Division Director"**]
[**Insert contact information (address, phone, email, etc.)**]

Dear Sir or Madam:

We hereby establish our Irrevocable Standby Letter of Credit No. [**insert number**] in your favor, at the request and for the account of [**insert name of PRP/Settling Defendant**] (the "Applicant"), in the amount of $[**insert amount**] (the "Maximum Amount"). We hereby authorize you, the United States Environmental Protection Agency (the "Beneficiary"), to draw at sight on us, [**insert name of issuing institution**], an aggregate amount equal to the Maximum Amount upon presentation of:

(1) Your sight draft, bearing reference to this Letter of Credit No. [**insert number**] (which may, without limitation, be presented in the form attached hereto as Exhibit A); and

(2) Your signed statement reading as follows: "I certify that the amount of the draft is payable pursuant to that certain [**insert as appropriate:** "Consent Decree," "Administrative Settlement Agreement and Order on Consent," or "Settlement Agreement"], dated [**insert date**], [**insert as appropriate:** civil action number for

consent decrees or EPA docket number for administrative agreements], between the United States and [**insert settling parties**], entered into by the parties thereto in accordance with the authority of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601-9675, relating to the [**insert site name [operable unit]**]."

This letter of credit is effective as of [**insert issuance date**] and shall expire on [**insert date that is at least 1 year later**], but such expiration date shall be automatically extended for a period of [**insert period of at least 1 year**] on [**insert date that is at least 1 year later**] and on each successive expiration date, unless, at least 120 days before the current expiration date, we notify both you and the Applicant by certified mail that we have decided not to extend this letter of credit beyond the current expiration date. In the event you are so notified, any unused portion of the credit shall immediately thereupon be available to you upon presentation of your sight draft for a period of at least 120 days after the date of receipt by both you and the Applicant of such notification, as shown on signed return receipts.

All notifications, requests, and demands required or permitted hereunder shall be given in writing, identify the site, and provide a contact person (and contact information).

Multiple and partial draws on this letter of credit are expressly permitted, up to an aggregate amount not to exceed the Maximum Amount. Whenever this letter of credit is drawn on, under, and in compliance with the terms hereof, we shall duly honor such draft upon presentation to us, and we shall deposit the amount of the draft in immediately available funds directly into such account or accounts as may be specified in accordance with your instructions.

All banking and other charges under this letter of credit are for the account of the Applicant.

This letter of credit is subject to the most recent edition of the Uniform Customs and Practice for Documentary Credits, published and copyrighted by the International Chamber of Commerce.

Very Truly Yours,

Date: _____

By [signature]: _____
Printed name: _____
Title: _____
Address: _____
Contact information: _____

Exhibit A - Form of Sight Draft
[EPA LETTERHEAD]

SIGHT DRAFT

TO: [**Insert name of issuing institution**]
[**Insert name and title of contact person(s)**]
[**Insert address**]

RE: Letter of Credit No. [**insert number**]

DATE: [**Insert date on which draw is made**]

TIME: [**Insert time of day at which draw is made**]

This draft is drawn under your Irrevocable Standby Letter of Credit No. [**insert number**]. I certify that the amount of the draft is payable pursuant to that certain [**insert as appropriate:** "Consent Decree," "Administrative Settlement Agreement and Order on Consent," or "Settlement Agreement"], dated [**insert date**], [**insert as appropriate:** civil action number for consent decrees, or EPA docket number for administrative agreements], between the United States and [**insert settling parties**], entered into by the parties thereto in accordance with the authority of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601-9675, relating to the [**insert site name [operable unit]**]. Pay to the order of the United States Environmental Protection Agency, in immediately available funds, the amount of $[**insert dollar amount of draw**] or, if no amount certain is specified, the total balance remaining available under such Irrevocable Standby Letter of Credit.

Pay such amount as is specified in the immediately preceding paragraph by [**insert payment instructions as appropriate, such as:** "Fedwire EFT, referencing Site/Spill ID Number [**insert number**] [and DJ Number [**insert number**]]. The Fedwire EFT payment must be sent as follows:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York NY 10045
Field Tag 4200 of the Fedwire message should read [D 68010727 Environmental Protection Agency]"]

The total amount paid shall be deposited by EPA in the [**insert site name [operable unit]**] Special Account to be retained and used to conduct or finance response actions at or in

connection with the site, or to be transferred by EPA to the EPA Hazardous Substance Superfund.

This Sight Draft has been duly executed by the undersigned, an authorized representative or agent of the United States Environmental Protection Agency, whose signature hereupon constitutes an endorsement.

By [signature]: _____
Printed name: _____
Title: _____
Address: _____
Contact information: _____