

**TRUST FUND AGREEMENT IN LIEU OF BOND**

Whereas, under the provisions of the **Code of Alabama (1975)**, a bond is required of public warehouses (Section 8-15-7); grain dealers (Section 2-31-4 et seq.); and weighmasters (Section 8-16-56); and pursuant to the provisions of **Code of Alabama (1975)**, Section 2-2-71, a trust fund agreement based upon cash may be substituted in lieu of said bond, and

Whereas \_\_\_\_\_,  
hereinafter known as principal, is engaged in the business as a \_\_\_\_\_  
as defined in the above referenced **Code of Alabama (1975)**.

Now, therefore, the sum of \_\_\_\_\_dollars  
(\$ \_\_\_\_\_ ) invested as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

is hereby deposited by said principal with \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

as depository, with the **Commissioner of Agriculture and Industries, State of Alabama** as trustee for the above funds.

Any interest of dividends accruing from the above funds are the property of the principal and shall be paid by the depository to whom and in the manner as directed by the principal.

Said above funds are to be used as provided under \_\_\_\_\_  
**Code of Alabama (1975)**, for the faithful compliance with all laws and rules and regulation relating to the operation of a \_\_\_\_\_ and also to pay to the State of Alabama all expenses of any successful litigation which the State institutes to compel compliance with the laws and regulation relative to \_\_\_\_\_.

The following conditions and agreements are expressly made part of this agreement:

1. Any claim for recovery under this agreement must be filed in writing with the trustee at the State Department of Agriculture and Industries, 1445 Federal Drive, Montgomery, Alabama 36107-1123 within 120 days of the date of the transaction upon which said claim is filed. Failure to file within the above time will relieve the trustee of any obligation to pay said claim.

2. The above trust funds shall only be used for incidents covered under \_\_\_\_\_, **Code of Alabama (1975)**, and this agreement which occurs after the date of this agreement.

3. Payment of the trustee to a claimant in settlement of one or more claims shall discharge the trustee as to those specific claims and shall reduce the amount of the fund to the extent of such payments.

4. The acts, omissions, or failures of authorized agents of the principal, or persons whom said principal shall be taken and construed to be the acts, omissions, or failures of said principal to fall under the provisions of this agreement to the same extent and in the same manner as if they were the personal acts of said principal.

5. This agreement may be terminated by either the principal, trustee or the depository by delivering written notice to all parties (principal, trustee and depository) at least 60 days prior to termination. Notwithstanding this method of termination, the above funds may not be returned to the principal until the trustee shall have determined to his satisfaction that no more liability for which the above fund is set up exists.

6. This trust fund agreement shall become effective on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ and continue until terminated as provided in this agreement.

\_\_\_\_\_  
Principal

\_\_\_\_\_  
Trustee

The depository, named herein, agrees to hold the funds deposited hereby as evidenced by securities identified as \_\_\_\_\_

\_\_\_\_\_ and further covenants that none of the principal amount of said funds shall be paid out except pursuant to written authorization by the trustee or pursuant to a lawful court order.

\_\_\_\_\_  
Depository

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

Its \_\_\_\_\_

**TRUST FUND AGREEMENT TO BE USED WITH THE LETTER OF CREDIT**

**Public Warehouses**

Whereas, under the provisions of Act No. 89-692, **Acts of Alabama** (1989), an irrevocable letter of credit may be substituted in lieu of the bond required under § 8-15-7, **Code of Alabama** (1975), for a public warehouse to be permitted, and

Whereas, \_\_\_\_\_  
Name and Address

hereinafter known as “principal”, is engaged in the business of a public warehouse, and has elected to offer the services of an irrevocable letter of credit, subject to the terms and conditions set out in this trust agreement.

Now, therefore, the principal has obtained an irrevocable letter of credit in the amount of \$ \_\_\_\_\_, issued by \_\_\_\_\_  
Name and Address

Hereinafter called “lending institution”, dated \_\_\_\_\_, bearing a letter of credit No. \_\_\_\_\_, and said letter of credit is expressly made a part of this trust agreement and subject to all conditions set out in this agreement.

\_\_\_\_\_, representing the State Department of Agriculture and Industries, hereinafter known as trustee, is granted authority, subject to the terms and conditions of this agreement, and § 8-15-7, **Code of Alabama** (1975), to draw funds by draft, sight draft, or any other approved method of withdrawal from the lending institution up to the maximum amount of the letter of credit.

These funds that are allowed to be drawn from the lending institution by the trustee are to be used as provided under § 8-15-7, **Code of Alabama** (1975), where there is a failure of the principal to faithfully comply with all laws and regulations relating to the operation of a public warehouse, and to also pay to the State of Alabama all expenses of any successful litigation which the State institutes to compel compliance with the laws and regulations relative to public warehouses.

The following conditions and agreements are expressly made a part of this agreement:

1. The lending institution shall not be responsible for the disposition of the funds drawn upon it by the trustee.

2. Any claim for recovery under this agreement must be filed in writing with the trustee at the State Department of Agriculture and Industries, 1445 Federal Drive, Montgomery, Alabama 36107-1123, within 120 days of the date of the transaction upon which said claim is filed. Failure to file within the above time will relieve the trustee of any obligation to pay said claim.
3. The funds with drawn by the trustee shall only be used for incidents covered under § 8-15-7, **Code of Alabama** (1975), and this agreement, which occurs after the date of this agreement.
4. Payment of the trustee to a claimant in settlement of one or more claims shall discharge the trustee as to those specific claims and shall reduce the amount of the fund to the extent of such payments.
5. The acts, omissions, or failures of authorized agents of the principal, or persons whom said principal shall knowingly permit to represent themselves as acting for said principal, shall be taken and construed to be the acts, omissions, or failures of said principal to fall under the provisions of this agreement to the same extent and in the same manner as if they were the personal acts of said principal.
6. This agreement may be terminated or cancelled by either the principal, trustee or the lending institution by delivering written notice to all parties (principal, trustee or lending institution) at least 60 days prior to termination or cancellation. Notwithstanding this method of termination, the irrevocable letter of credit, identified above, may not be cancelled, terminated, or cancelled by either the lending institution or the principal until the trustee shall have determined to his satisfaction that no more liability of which the letter of credit is set up exists.
7. In the event this agreement is cancelled or terminated as provided in Paragraph No 6 above, then the trustee is empowered immediately upon being notified of intention to cancel or terminate said agreement to, by draft or sight draft, or any other approved method, withdraw the entire amount of the funds represented by the letter of credit. The authority of the trustee to withdraw said funds is wholly within his discretion upon his determination that liability of the principal may exist for the reasons set out in this agreement.
8. Any funds withdrawn by the trustee will be used for payment to claimants filing under the provisions of this agreement and § 8-15-7, **Code of Alabama**, and any rules promulgated there under. Any funds remaining after all claims against the principal have been paid will be returned by the trustee to the lending institution to the credit of the principal.
9. During times when the trustee holds funds withdrawn from the letter of credit, the trustee shall invest such funds in banks insured by the Federal Deposit Insurance Corporation, but trustee shall

not be obligated to maximize or even to attempt to receive interest on said funds. Any interest, though, received on said funds after deduction for reasonable expenses shall be paid to claimants if they have not been fully satisfied on their legitimate claims filed under the terms of this agreement. Any interest then remaining after the above will be returned to the lending institution to be credited to the principal.

- 10. It is expressly agreed and understood by all parties that the lending institution has no liability to the principal, trustee any claimant or to anyone else for acting under the terms of this agreement, so long as said lending institution immediately honors any draft, sight draft, or any other approved method of withdrawal, presented by the trustee for the withdrawal of funds represented by the letter of credit.
- 11. This trust fund agreement shall become effective on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ and continue until terminated as provided in this agreement.

\_\_\_\_\_  
Principal/Public Warehouseman

\_\_\_\_\_  
Trustee