

SAMPLE Contract



STATE OF MINNESOTA AGRICULTURAL WATER QUALITY CERTIFICATION AGREEMENT

This agreement is between _____ (“Producer”) and the Minnesota Department of Agriculture (“MDA”), which is authorized to sign on behalf of the Minnesota Pollution Control Agency, Minnesota Department of Natural Resources, and the Board of Water and Soil Resources pursuant to Minnesota Governor’s Executive Order 14-09.

This contract is governed by Minnesota Statutes Sections 17.9891-17.993 which outline procedures for implementing the Minnesota Agricultural Water Quality Certification Program. All parties agree that the Minnesota Agricultural Water Quality Certification Program is in the public interest as it enhances the water quality of Minnesota’s rivers, lakes, streams, wetlands and groundwater, as well as promotes and accelerates environmental stewardship by Minnesota’s farmers.

A. TERMS OF AGREEMENT:

Agreement start date is _____ and expires on _____.

B. PRODUCER’S DUTIES:

Producer, upon completing a formal water quality assessment of all land in Producer’s agricultural operation, achieving a passing score using the certification instrument, and having the assessment approved by a MDA-accredited certifying agent, agrees to the following:

1. Maintain compliance with all water quality rules and regulations in place at the time of certification, and if Producer is adjudicated to be in violation of said laws and regulations anytime during the certification period of this agreement, Producer has the affirmative duty to notify MDA within 30 days. Further, if Producer knows, or has reason to know, of a violation of said laws and regulations anytime during the certification period of this agreement, even though it has not been adjudicated, Producer has the affirmative duty to report the violation to MDA within 30 days.

Minnesota Agricultural Water Quality Certification Agreement

SAMPLE Contract

2. Disclose to the certifying agent all land comprising Producer's agricultural operation. Land comprising the agricultural operation is land that may be possessed by ownership, written lease, or other legal agreement that Producer operates.
3. Perform the management practices on land as outlined in the Certification Instrument Report, which is attached and incorporated into this agreement as Exhibit A.
4. Upon the purchasing of any additional agricultural land after the start date of this agreement, notify a certifying agent and obtain certification of the additional land within one year of the purchase of said agricultural land.
5. Upon leasing any additional agricultural land after the start date of this agreement, notify a certifying agent before performing any farming practices on the additional land.
 - a. Producer is not required to implement practices that permanently alter the landscape of the leased land in order to be certified or remain certified if leased land is added after the start date of this agreement.
 - b. Producer shall demonstrate, to the satisfaction of MDA or its agents, sufficient practices utilizing non-structural and non-permanently landscape-altering management and conservation practices.
6. Retain all records regarding this certification, such as, but not limited to, certification records; Federal, State, or Local technical and financial agreements for conservation practice assistance and implementation; records of implementation of nutrient, fertilizer and pest management plans; and receipts for supplies and equipment.

C. INABILITY TO PERFORM:

If Producer is unable to comply with the agreement due to circumstances Producer believes is beyond Producer's control, Producer shall notify a certifying agent within 30 days. The certifying agent shall then determine whether conditions exist such that Producer cannot comply with certification agreement due to circumstances beyond Producer's control and is therefore allowed to forgo Producer's requirements for one year, that conditions exist that Producer cannot comply with requirements but that there are alternative practices that Producer can perform sufficient to accomplish the same goals, or that Producer can accomplish the requirements outlined in certification agreement. The certifying agent will report findings and recommendations to MDA within 30 days of being notified by Producer. Within 30 days of receiving findings and recommendations from the certifying agent, MDA will determine whether Producer shall suspend, modify or continue the agreement requirements as is. Until MDA determines in writing that Producer shall suspend or modify the agreement requirements, Producer must comply with all of the original requirements. If Producer disagrees with MDA's determination, Producer has 30 days to appeal pursuant to section E of this agreement. If MDA finds that Producer is required to modify or continue the original terms of the agreement and Producer appeals those findings, Producer has the burden of proving by a preponderance of the evidence that Producer is unable to comply with MDA's findings.

D. PRODUCER CERTAINTY:

As long as Producer is certified and maintains certification status, Producer is deemed in compliance with any new state water quality laws and rules that take affect during the agreement period. As long as

SAMPLE Contract

Producer is certified and maintains certification status, Producer is presumed to be meeting Producer's contribution to any targeted reduction of pollutants during the certification period. Prior to recertification, or upon expiration or termination of this agreement, Producer is required to comply with all water quality laws and rules. This certification does not preclude enforcement of a local rule or ordinance by a local unit of government.

E. VIOLATIONS:

If Producer is found to have violated any terms of this agreement, MDA reserves the right to terminate this agreement or prescribe corrective action, and MDA may seek reimbursement of any monetary benefit a producer may have received due to certification. Producer has 30 days from date of termination or prescribed corrective action to appeal. If Producer appeals, MDA shall hold an administrative hearing before an impartial hearing officer of the Department within 30 days to determine whether the certification is terminated or corrective action is prescribed. The length of time may be extended by agreement of the parties. MDA or MDA's delegate shall issue an opinion within 30 days of holding a hearing. If Producer notifies MDA that Producer intends to contest MDA's opinion, the Office of Administrative Hearings shall conduct a hearing in accordance with Minnesota Statutes Chapter 14.

F. AMENDMENTS:

Any amendment to this agreement must be in writing and will not be effective until it has been executed and approved by Producer and MDA, its agents, or their successors in office. An amendment to this agreement shall not constitute a recertification of Producer.

G. ASSIGNMENT:

Producer may neither assign nor transfer any rights, benefits, or obligations under this agreement.

H. LIABILITY:

In the performance of this agreement by Producer, or Producer's agents or employees, Producer must indemnify, save, and hold harmless the State, its agents, and employees, from any claims or causes of action, including attorney's fees incurred by the State, to the extent caused by Producer's:

- a. Intentional, willful, or negligent acts or omissions; or
- b. Actions that give rise to strict liability; or
- c. Breach of contract or warranty.

I. JURISDICTION:

Minnesota law, without regard to its choice-of-law provisions, governs this agreement. Venue for all legal proceedings out of this agreement, or its breach, must be in the appropriate state or federal court with competent jurisdiction in Ramsey County, Minnesota.

J. AUDITS:

Pursuant to Minnesota Statutes Section 17.9898, Producer's books, records, documents, and practices relevant to the performance of this agreement are subject to examination by MDA or its agents. Any

SAMPLE Contract

EXHIBIT A: CERTIFICATION RECORDS