State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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September 6, 2006

Mr. David Bernd
Kimberly Clark
126 N. Commercial St.
Neenah, WI 54956

Subject: Green Tier Acceptance Letter for Tier 1

Dear Mr. Bernd:

The Department of Natural Resources (DNR) is pleased to approve your application and accept you into the Green Tier program. This letter of acceptance covers the Kimberly Clark Experimental Mill (identified in your application). This letter of acceptance is authorized by the Environmental Results Program Act, 299.83, Wis. Stats., created by 2003 Wisconsin Act 276 (effective on May 1, 2004), which is commonly called the "Green Tier Law".

This letter of acceptance recognizes the work described in your application. Your participation in the Green Tier program is dependant upon your continuing commitment to superior environmental performance and continuous improvement. If future circumstances necessitate stepping back from this commitment, please notify us.

At a minimum, you have agreed to the following examples of superior environmental performance:

- Implementation of an EMS consistent with ISO 14001
- Continued reduction of water and energy consumption
- Continued waste minimization efforts
- Commitment to X-Mill Environmental Policy Statement
- Commitment to advancing groundwater remediation
- Commitment to training employees on their roles to assist in maintaining a facility that is environmentally compliant

With this letter, you are authorized to use the Green Tier logo on written materials that are related to your facility. You will receive a unique certificate that recognizes you for participating in the Green Tier Program. The DNR will work with you to annually celebrate your participation in the Green Tier Program through a joint press release to local newspapers and will maintain your company's name on a list of participants that is available on the DNR's website.

As a participant in the Green Tier Program, you are entitled to Deferred Civil Enforcement, as described in 299.83(6m)(d). In brief, this means that if you discover either a non-conformance in your EMS, or you discover a violation with an existing environmental requirement, and if you provide us notice of your discovery along with a corrective action plan that conforms to the requirements in the statute, and if you

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successfully and timely implement the corrective action plan, we will not seek to impose penalties on Kimberly Clark Experimental Mill for the non-conformance or violation. You are reminded that nothing in this acceptance letter replaces any obligation that you have to report on, and correct, any violation of law or regulation.

In addition, once Kimberly Clark establishes either a functionally equivalent EMS, or an ISO 14001 certified EMS, the DNR commits to inspect the Kimberly Clark Experimental Mill at the lowest frequency permitted by law, unless the DNR believes you to be out of compliance. If you choose not to certify your EMS under ISO 14000, please document that your EMS is functionally equivalent to an ISO 14000 EMS by following the guidance attached. As you know, Kimberly Clark Experimental Mill needs to have in place within one year of this letter an EMS that either is demonstrated to be functionally equivalent to an ISO 14001 EMS, or is certified to ISO 14001. As a reminder, you also need to have audited your EMS by the end of the first year of this agreement.

You are also asked to update the DNR annually, beginning in January 2007 on your consultation with interested persons in the area. You are also asked to update the DNR annually, beginning in January 2007 on your progress in meeting your objectives and targets and implementing your EMS. Both of these requirements can be incorporated into your annual report to the DNR on your environmental performance accomplishments, and any EMS non-conformances or violations. Please also provide the DNR with documentation of your management review of your environmental management system at that time.

We would encourage you, as part of your annual report, to prepare an executive summary of your accomplishments over the last year that can be placed on the DNR's web site, and which could also be posted on Kimberly Clark's web site.

As a reminder, by the third year of your participation in the Green Tier program you must have your EMS audited by an outside environmental auditor. The results of this audit should also be reported to the DNR.

We also ask that you use the attached list of indicators to gather information on the overall success of the Green Tier program. The information that you gather on the broad indicators is designed to supplement any measures that you gather to demonstrate the effectiveness of your EMS.

Finally, if you have any questions about your interaction as a Tier 1 participant with the DNR, Jennifer Borski has been assigned as your single point of contact. Please coordinate with Jennifer on an annual meeting that will be used to brief the DNR on your environmental performance, and the progress made on the objectives and targets. This meeting shall also be used for the DNR to provide input on the objectives and targets to be set for the coming year.

Your acceptance into the Green Tier Program is good for 5 years, and your status as a Green Tier company can be extended for additional amounts that we mutually agree to. You may withdraw from the program at any time by notifying us of your decision to withdraw. We may also withdraw you from the program if we believe that it is in the best interest of the Green Tier Program to end the relationship that is created with this letter.

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I want to welcome you as a Tier 1 company and encourage you to work towards Tier 2 status in the future.

As of October 25, 2010 the five year acceptance provision for Kimberly Clark has been lifted. Kimberly Clark's acceptance into the Green Tier Program will extend indefinitely.

Sincerely,

/s/ Scott Hassett

Scott Hassett, Secretary
WI Department of Natural Resources

Attachment: Tier 1 Application
Certificate of Recognition
Environmental Results Program Logo
Functional Equivalency Guidance
Generic Suite of Green Tier Indicators

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Proving EMS Functional Equivalency

Draft Final Guidance

Environmental Management Systems (EMS) are the foundation for Green Tier participation. Participants are expected to utilize an EMS that either meets the requirements of the ISO 14001:2004 standard or has been determined to be functionally equivalent to an ISO 14001 EMS. If an applicant has an ISO 14001 EMS, conformance to this requirement can be demonstrated by providing an ISO 14001 certificate of registration issued by a certification body that has been accredited by an International Accreditation Forum (IAF) member. If an applicant has a functionally equivalent EMS, they shall choose one of the options below.

Wis.Stats. §299.83(1)(dg)

(dg) "Functionally equivalent environmental management system" means an environmental management
system that includes all of the following elements and any other elements that the department determines are essential elements of International Organization for Standardization standard 14001:

1. Adoption of an **environmental policy** that includes a commitment to compliance with environmental requirements, pollution prevention, and continual improvement in environmental performance.
2. An analysis of the **environmental aspects and impacts** of an entity's activities.
3. Plans and procedures to achieve **compliance** with environmental requirements and to maintain that compliance.
4. Identification of all **environmental requirements** applicable to the entity.
5. A process **for setting environmental objectives** and **developing appropriate action plans** to meet the objectives.
6. Establishment of a structure for **operational control** and responsibility for environmental performance.
7. An employee **training program** to develop awareness of and competence to manage environmental issues.
8. A plan for taking actions to prevent environmental problems and for taking **emergency response** and **corrective actions** when environmental problems occur.
9. A **communication plan** for collaboration with employees, the public, and the department on the design
of projects and activities to achieve continuous improvement in environmental performance.
10. Procedures for **control of documents** and for keeping records related to environmental performance.
11. Environmental management system **audits**.
12. A plan for **continually improving environmental performance** and provision for senior **management review** of the plan.

For Tier 1:

At the time of application to the Green Tier program, if a Tier 1 applicant has an EMS in place that is not an ISO 14001 EMS, it shall document that its EMS is functionally equivalent under either Option A or Option B below. If the applicant does not have an EMS in place at the time of application, it will need to develop an EMS within one year from the date of application to the program, and either submit a certificate of registration under the ISO 14001 standard or document that their EMS is functionally equivalent under either Option A or B below as part of the first annual progress report. It is important to understand that in order to demonstrate functional equivalence, the EMS must have been audited and the audit results must have been reviewed by management and corrective action must have been taken (if needed).

Tier 1 – Option A:

The applicant provides documentation that the components in its EMS satisfy each of the 12 components identified under Wis.Stats. §299.83(1)(dg) (see box). The applicant chooses the means of documentation and has the responsibility for supplying evidence that demonstrates conformance to each requirement. All of the documentation supplied under this option will be a matter of public record and may be put on the DNR web site. The documentation is to be accompanied by a declaration from the senior

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manager that signed the Green Tier application. This declaration shall include the following, *"I have reviewed the information provided. I find that the information provided conforms to each of the 12 requirements in Wis.Stats. §299.83(1)(dg) as a functionally equivalent environmental management system."*

Tier 1 – Option B:
The applicant shall submit to a third party, evidence that their EMS conforms to the 12 components identified in the statute. The third party must demonstrate to the DNR that it (the third party) is both objective and competent*. The third party will then submit to the DNR a declaration, signed by a senior manager from the third party, that they have examined the evidence provided by the applicant and that the EMS conforms to each of the 12 components. This declaration shall include the following: *"I have reviewed the information submitted by the participant, and as an independent third party, I find that the information provided conforms to each of the 12 requirements in Wis.Stats. §299.83(1)(dg) as a functionally equivalent environmental management system."* All of the documentation supplied under this option will be a matter of public record and may be put on the DNR web site.

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***<u>Objective and Competent Third Party for Tier 1</u>** - RABQSA certified auditors have already produced evidence of competence to an objective third party and are considered qualified to make the functional equivalency determination. Others seeking to make the determination shall submit a demonstration of competence to DNR or a Department designee (contractor, review board, volunteers, etc.) prior to the Department accepting a functional equivalence determination. A demonstration of competence shall include documentation of attendance at an accredited ISO 14001 lead auditor training session and documentation of training or experience in the environmental laws that apply to the applicant. Knowledge and skills in the following areas will help demonstrate a third party's competence:

- environmental terminology,
- environmental management principles and their application, and
- environmental management tools (such as environmental aspect/impact evaluation, life cycle assessment, environmental performance evaluation, etc.).

If an objective and competent third party provides the declaration described above, and the DNR determines that the auditor made a false or biased determination, the DNR will not accept any additional declarations from that party.

For Tier 2:
At the time of application to the Green Tier program, if a Tier 2 applicant has an EMS in place that is not an ISO 14001 EMS, they shall document that their EMS is functionally equivalent under either Option A or Option B below.

Tier 2 – Option A:
The applicant provides documentation that the components in its EMS satisfy each of the 12 components identified under Wis.Stats. §299.83(1)(dg) (see box). The applicant is responsible for demonstrating how its system satisfies each of the twelve components of the statute, and for documenting the effectiveness of its system. Baseline information must be provided, along with at least one year of additional results to indicate effectiveness and performance. All of the

documentation supplied under this option will be a matter of public record and may be put on the DNR web site. The documentation is to be accompanied by a declaration from the senior manager that signed the Green Tier application. This declaration shall include the following, *"I have reviewed the information provided. I find that the information provided conforms to each of the 12 requirements in Wis.Stats. §299.83(1)(dg) as a functionally equivalent environmental management system."*

Tier 2 – Option B:

Prior to submitting an application, the applicant shall provide evidence to an outside environmental auditor (§299.83(9)(1)(dr) and §299.83(7m) (see box) that their EMS conforms to the 12 components identified in §299.83(1)(dg) (see above). The outside environmental auditor shall review the evidence submitted and evidence of the effectiveness of the EMS and certify that each of the 12 components are satisfied. This certification should accompany the application, and will become part of the public record and may be included on the DNR's Green Tier web site. This certification shall be signed by a senior manager of the outside environmental auditor and shall include the following: *"I have reviewed the information submitted by the participant, and as an outside environmental auditor, I find that the EMS conforms to each of the 12 requirements in 299.83(1)(dg) as a functionally equivalent environmental management system."*

Wis.Stats. §299.83(9)(1)(dr)

§299.83(9)(1)(dr) "Outside environmental auditor" means an auditor who is functionally or administratively independent of the facility or activity being audited, but who may be employed by the entity that owns the facility being audited or that owns the unit that conducts the activity being audited.

Wis.Stats. §299.83(7m)

§299.83(7m) ENVIRONMENTAL AUDITORS. The department may not approve an outside environmental auditor for the purposes of sub. (3) (d) 4. or (5) (c) 2. unless the outside environmental auditor is certified by the Registrar Accreditation Board or meets criteria concerning education, training, experience, and performance that are equal to the criteria in International Organization for Standardization guidance 19011.

Upon receipt of a certification of functional equivalency for either a Tier 1 or a Tier 2 application,, the DNR project manager shall review the certification and determine whether the environmental management system is a functionally equivalent environmental management system.

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The following Indicators are proposed for all Green Tier participants. In addition to this Generic List, it is expected that other indicators/metrics will come out of your Environmental Management System and would be used to document accomplishments. This Generic List is meant to help Kimberly-Clark Experimental Mill and the DNR document the relative success of the program.

Environmental Indicators

Some of the environmental indicators are already provided to the DNR. You would not be asked to report this information again if you have already reported it.

1.1 Water
1.1.1 Total water use
1.1.2 Total amount of phosphorous released into water
1.1.3 Total waste water produced

1.2 Air Emissions
1.2.1 Total greenhouse gas emissions
1.2.2 Total emissions of ozone-depleting substances
1.2.3 Total air emissions

1.3 Waste
1.3.1 Total solid waste produced
1.3.2 Total percentage of material ending up as waste
1.3.3 Amount/percentage of waste that is hazardous
1.3.4 Amount of mercury lost or released into the environment
1.3.5 Amount/percentage of waste recycled

1.4 Energy
1.4.1 Total energy used, listed by source
1.4.2 Amount/percentage of energy from renewable resources

1.5 Transportation
1.5.1 Total fuel consumption
1.5.2 Amount/percentage of vehicles using alternative fuels

1.6 Spills
1.6.1 Number of spills
1.6.2 Total amount of hazardous substances released due to spills

1.7 Land Use
1.7.1 Total amount of land owned and percentage that is permeable (not paved or covered)

1.8 TRI
1.8.1 Total TRI emissions

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Economic Metrics

2.1 Total sales
2.1.1 Revenue brought in from annual sales before subtracting any costs.

2.2 Profit or loss
2.2.1 Quantify the profit or loss during the most recent fiscal year

2.3 Workforce changes
2.3.1 Number of people employed, and the change over the previous year (using Jan 31 as the baseline date)

Social Metrics

3.1 Alternative Transportation
3.1.1 Amount provided to support alternative transportation options for employees

3.2 Income inequality
3.2.1 The multiple between lowest paid employee and highest paid employee

3.3 In-State purchases
3.3.1 Percent of purchases made from companies in the state

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