

**PRECEDENT AGREEMENT**

**Between  
SourceGas Storage LLC  
and**

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**Storage Expansion Project**

This Precedent Agreement dated as of its Effective Date, is between SourceGas Storage LLC, a Colorado limited liability company ("SGS") and \_\_\_\_\_, a \_\_\_\_\_ ("Shipper").

**RECITALS:**

**WHEREAS**, SGS proposes to purchase and then develop and/or expand the natural gas storage capabilities of certain facilities referred to as the "Oil Springs Storage Field" to satisfy the minimum natural gas storage capacities and receipt and withdrawal characteristics contemplated by this and other Precedent Agreements; and

**WHEREAS**, at the Oil Springs Storage Field location in Carbon County, Wyoming, SGS proposes to construct, own, and operate new compression and dehydration facilities, drill and operate additional injection / withdrawal wells, install additional gathering lines, and install additional surface facilities, each as required to facilitate such natural gas storage and interconnection capability, and interconnect with the pipeline facilities of SourceGas Distribution LLC ("SGD" and such pipeline facilities being the "SGD Pipeline"); and

**WHEREAS**, in connection therewith SGS proposes to construct, own, and operate pipeline facilities that will extend from the Oil Springs Storage Field location south and west approximately 21 miles to a proposed interconnect location, also in Carbon County, with the following interstate pipelines: Rockies Express Pipeline LLC ("REX"), Wyoming Interstate Company ("WIC"), Colorado Interstate Gas Company ("CIG" and together with REX and WIC, the "Interconnecting Pipelines"); and

**WHEREAS**, at this proposed interconnect location with the Interconnecting Pipelines which will be called the "Elk Mountain Station", SGS also proposes to construct, own and operate new compression and dehydration facilities to facilitate its interconnections with the Interconnecting Pipelines; and

**WHEREAS**, through these new facilities, SGS proposes to offer natural gas storage services which will allow for the injection, storage, and withdrawal of natural gas supplies received from and delivered to the Interconnecting Pipelines, as well as receipt from and deliveries to the SGD Pipeline; and

**WHEREAS**, through the combined design of the new facilities, Total Capacity (as defined below) is expected to be approximately 12.1 MMDth, based on an estimated average Btu factor of 1.040, capacities of which are intended to be designated to Shippers as described in the Open Season Notice; and

**WHEREAS**, to permit the foregoing, SGS and SGD intend to obtain from all governmental and regulatory authorities having competent jurisdiction over the Project, including the Wyoming Public Service Commission (the "WPSC") and the Federal Energy Regulatory Commission (the "FERC"), and from all third parties, the exemptions, permits, consents, and other authorizations ("Authorizations") that are necessary for the foregoing; and

**WHEREAS**, SGS shall conduct an Open Season soliciting bids from prospective "Anchor" and "Standard" Shippers, with such terms as defined in the Open Season Notice; and

**WHEREAS**, with respect to each of the foregoing recitals, SGS intends that the terms, conditions and actions described therein be completed in such a manner that SGS will be commercially able to satisfy the conditions to and perform in accordance with the terms and conditions of the Service Agreement (as defined below) (all of the foregoing being the "Project"); and

**WHEREAS**, SGS is willing to continue its efforts, as conditioned herein, to develop the Project, including proceeding with pursuing all of the necessary Authorizations to construct, own, and operate the required facilities in interstate commerce subject to FERC regulation, provided that SGS receives the commitments contemplated herein from Shipper and other Shippers pursuant to this and other Precedent Agreements; and

**WHEREAS**, this Precedent Agreement has been executed as evidence of the agreement between SGS and Shipper that, subject to the terms and conditions set forth below, the Parties will enter into a service agreement or service agreements (whether one or more, the "Service Agreement") substantially in the form of Exhibit A, attached hereto and made a part hereof, providing for firm storage service from the Project to be provided by SGS for Shipper.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements contained herein, and intending to be legally bound, SGS, and Shipper as a Standard Shipper, agree as follows:

**1. Effective Date and Term of Precedent Agreement**

This Precedent Agreement shall become effective on the date of its execution by both Parties (the "Effective Date") and shall remain in effect until the earlier of: (a) the Service Agreement Effective Date, or (b) the Early Termination Date.

**2. Definitions**

As used herein, terms which are defined throughout this Precedent Agreement have the meanings given them either in the text of this Agreement or the following definitions, with all volumetric amounts measured and set forth in MMDth based on an estimated average Btu factor of 1.040:

"Acceptable Shipper Guaranty" means, at Shipper's option, either (i) a guaranty of Shipper's obligations under this Precedent Agreement and the Service Agreement granted to SGS by Shipper's parent or affiliate or a third party guarantor in the form contained in Exhibit D, Form of Shipper Parent Guaranty, or such other form as is mutually agreed to by the Parties, or (ii) a prepayment of twenty-four (24) months of Shipper's Reservation Charges calculated on the quantities and rates stated in the Service Agreement.

“Agreement Year” shall mean each successive 12 calendar month period beginning on the Service Agreement Effective Date.

“Anchor Shipper” shall have the meaning provided thereto in the Open Season Notice.

“Authorizations” shall be as defined in the WHEREAS’ section.

“Btu” shall mean a British Thermal Unit.

“CIG” shall mean the Colorado Interstate Gas Company.

“Designated Capacity” shall mean the volumetric amount ultimately designated to Shipper pursuant to the terms of the Open Season procedures outlined in the Open Season Notice and this Precedent Agreement.

“Dth” shall mean one dekatherm.

“Early Termination Date” shall mean the date this Precedent Agreement is terminated through either Party’s exercise of its termination rights pursuant to this Precedent Agreement.

“Effective Date” shall be as defined in Paragraph 1.

“Elk Mountain Station” shall mean the proposed interconnect location with the Interconnecting Pipelines.

“FERC” shall mean the Federal Energy Regulatory Commission.

“FSS” shall mean Firm Storage Service.

“FSSA” shall mean Firm Storage Service Agreement.

“In-Service Date” shall mean a date selected by SGS on which the Project is materially complete and SGS is able operationally and lawfully to provide firm storage service to Shipper in accordance with the requirements of the Service Agreement.

“Interconnecting Pipelines” shall mean the proposed interconnecting pipelines – REX, WIC and CIG.

“Interim Service” shall be as defined in Paragraph 3.

“ISS” shall mean interruptible storage service.

“MASCA” shall mean a shipper’s Maximum Annual Storage Cycling Activity volume.

“MDDQ” shall mean Maximum Daily Delivery Quantity.

“MDRQ” shall mean Maximum Daily Receipt Quantity.

“MMDth” shall mean a million dekatherms.

“Minimum Acceptable Credit Rating” shall mean a credit rating of at least “BBB-” by Standard and Poor’s or an equivalent rating by Moody’s.

“Minimum DDQ” shall mean Minimum Daily Delivery Quantity.

“Minimum DRQ” shall mean Minimum Daily Receipt Quantity.

“Minimum SQ” shall mean a shipper’s minimum requested Storage Quantity.

“MSQ” shall mean a shipper’s Maximum Storage Quantity, and shall be equal to such shipper’s Designated Capacity.

“Open Season Notice” shall mean the SourceGas Storage LLC Open Season Procedures For New Interstate Natural Gas Storage Capacity.

“Party” or “Parties” shall mean SGS or Shipper, individually or collectively, respectively.

“Released Capacity” shall mean a volumetric amount equal to the capacity released by a shipper pursuant to Appendix B to Exhibit A.

“Reservation Rate” shall be as defined in Paragraph 3, and as set forth in Appendix B to Exhibit A.

“REX” shall mean the Rockies Express Pipeline Company.

“Service Agreement” shall mean the Form of Storage Service Agreement Applicable to Firm Storage Service Under Rate Schedule FSS-1 attached hereto as Exhibit A, including its Appendices A and B.

“Service Agreement Effective Date” shall mean the date when both the In-Service Date has occurred and the Service Agreement has been executed and is in full force and effect.

“SGD” shall mean SourceGas Distribution LLC.

“SGD Pipeline” shall mean the existing pipeline facilities of SourceGas Distribution LLC.

“SGS” shall mean SourceGas Storage LLC.

“Shipper” shall mean the counterparty to SourceGas Storage LLC under this and any associated agreements.

“Standard Shipper” shall have the meaning provided thereto in the Open Season Notice, and Shipper shall be classified as such.

“Tariff” shall mean Transporter’s FERC Gas Tariff for interstate natural gas storage service.

“Total Capacity” shall mean the total annual storage capacity of the Project as described in the Open Season Notice.

“WIC” shall mean the Wyoming Interstate Company.

“WPSC” shall mean the Wyoming Public Service Commission.

### **3. Reservation Rates and Interim Service**

(a) Shipper acknowledges that it has made an election to pay the Reservation Rate for firm storage service under the Service Agreement as set forth on Appendix B to Exhibit A.

(b) SGS agrees to seek market-based rate authority from the FERC for the Project. If the FERC denies that request and requires that cost-based rates be used for the Project, then Shipper shall be deemed to have elected the Reservation Rate set forth on Appendix B to Exhibit A and to have had the opportunity to select the maximum recourse rate but to have elected the Reservation Rate.

(c) If available, SGS shall offer Interim Service to Shipper pursuant to SGS' interruptible storage service ("ISS") rate schedule contained in SGS' tariff (the "Tariff") at the commodity rates set forth on Exhibit C. Shipper at its sole discretion may elect to take such Interim Service.

### **4. Term of Service Agreement; Receipt and Delivery Points; Open Season**

(a) The contract term for the Service Agreement commences and the payment of Reservation Charges will begin on the Service Agreement Effective Date.

(b) The Primary Receipt and Delivery Point(s) are each of the Primary Receipt and Delivery Point(s) set forth in Appendix A to the Service Agreement. Secondary Receipt and Delivery Points may be made available pursuant to the Tariff.

(c) With respect to the Open Season:

(i) SGS shall hold an open season (the "Open Season") subject to and in accordance with the Open Season Notice, a copy of which Shipper has reviewed.

(ii) This Precedent Agreement will be deemed a bid for the capacity set forth in Appendix A.

### **5. Conditions Precedent**

(a) Continued performance by SGS of its obligations under this Precedent Agreement, including the obligation to enter into the Service Agreement, is expressly subject to the satisfaction, or waiver by SGS, of the following conditions, where indicated by the date specified (and subject to deemed waiver in accordance with Paragraph 9(c)):

(i) All requisite WPSC and FERC Authorizations must be timely obtained and remain in effect on terms acceptable to both SGS and SGD, in their commercially reasonable discretion, including such Authorizations required for abandonment, construction, ownership, operation, rates, and tariffs. This condition precedent expires on the Service Agreement Effective Date.

(ii) All rights-of-way and other surface rights required to site, construct and maintain the Project facilities along the route and locations described herein must be obtained on terms and conditions acceptable to SGS, in its commercially reasonable discretion. This condition precedent expires on the Service Agreement Effective Date.

(iii) A determination by SGS, in its commercially reasonable discretion, to be made on or before thirty (30) days after the WPSC Authorization is final, that the Project is no longer economically viable.

(b) Continued performance by Shipper of its obligations under this Precedent Agreement, including the obligation to enter into the Service Agreement, is expressly subject to the satisfaction, or waiver by Shipper, of each of the completion activities set forth below on or before the applicable milestone date (and subject to deemed waiver in accordance with Paragraph 9(c)):

Ref.	Completion Activities	Milestone
(A)	SGD/SGS has filed an application for abandonment with the WPSC.	August 1, 2008
(B)	SGS has filed the FERC 7(c) application for the Project, including the request for market based rates for the Project.	March 1, 2009

**6. Execution of Service Agreement**

Unless this Precedent Agreement is terminated in accordance with its terms before such date, SGS and Shipper agree that they will execute the Service Agreement, as amended in accordance with this Precedent Agreement, with such changes as may be required by FERC, within ten (10) business days after the conditions precedent set forth in Paragraph 5 have been satisfied or waived by the applicable Party or such earlier date as required to meet any FERC imposed condition or requirement.

**7. SGS' Obligations**

(a) Subject to the termination rights of Paragraph 9(a), SGS agrees to cause the authorization, construction, ownership, and operation of the Project as necessary to satisfy the conditions in Paragraph 5.

(i) SGS agrees to use commercially reasonable efforts to obtain the Authorizations. SGS shall file and prosecute applications for such Authorizations, and any supplements and amendments thereto, in such manner as it deems necessary in its reasonable judgment, provided that with respect to the Tariff, SGS agrees that its application to FERC which includes the Tariff will be submitted in accordance with the terms and conditions in Exhibit B, Agreed Tariff Terms and Conditions, attached hereto and made a part hereof (the "Agreed Tariff Terms and Conditions") and Exhibit A.

(ii) Upon receipt of WPSC and FERC Authorization satisfactory to SGS and SGD, SGS shall use commercially reasonable efforts to construct, own, and operate the Project as contemplated in this Precedent Agreement with the objective of satisfying the conditions for the execution of and being capable of performance in accordance with the terms and conditions of the Service Agreement.

(b) Execute the Service Agreement as provided in Paragraph 6.

## **8. Shipper's Obligations**

(a) Except as permitted below, upon request by SGS, Shipper agrees to support any notification, Tariff related filing, application or certificate filing made to any governmental body to obtain any Authorization prior to Project approval by the FERC. Nothing herein shall be construed to limit or waive Shipper's rights to intervene or protest any subsequent Tariff related filing made by SGS subsequent to Project approval by the FERC; and

(b) Shipper shall provide and maintain sufficient evidence of creditworthiness, as reasonably determined by SGS, to satisfy Shipper's financial obligations under this Precedent Agreement and the Service Agreement. Shipper shall be deemed sufficiently creditworthy if it, or its guarantor's, unenhanced senior unsecured debt meets the Minimum Acceptable Credit Rating. Shipper may satisfy creditworthiness by providing an Acceptable Shipper Guaranty by Shipper's parent or affiliate or a third party guarantor, in each case with a credit rating of at least the Minimum Acceptable Credit Rating.

(c) Execute the Service Agreement as provided in Paragraph 6.

## **9. Termination Rights**

(a) SGS may terminate this Precedent Agreement at any time prior to the Service Agreement Effective Date by providing written notice thereof to Shipper if:

(i) Any condition precedent in Paragraph 5(a) has not been satisfied in accordance with its terms, or waived by SGS, in each case on or before the date by which such condition precedent is to have been satisfied; or

(ii) The WPSC denies SGD's application for approval to transfer the storage assets or attaches modifications or conditions to its approval which, in SGD's or SGS' commercially reasonable judgment are unacceptable; or

(iii) FERC denies Authorization for the Project or attaches rate modifications or other conditions to the FERC Authorization for the Project or imposes conditions requiring subsequent compliance filings which, in SGS' commercially reasonable judgment, are unacceptable; or

(iv) The Foundation Shipper, or an Anchor Shipper or Shipper is in material breach of its obligations or representations under their Precedent Agreement including the creditworthiness requirements and such breach has not been remedied on or before the thirtieth (30<sup>th</sup>) day after written notice of such failure is given to such Shipper by SGS.

(b) Shipper may terminate this Precedent Agreement at any time prior to the Service Agreement Effective Date by providing written notice thereof to SGS if:

(i) Any condition precedent in Paragraph 5(b) has not been satisfied in accordance with its terms, or waived by Shipper, in each case on or before the date by which such condition precedent is to have been satisfied; or

(ii) FERC has denied the Authorization for the Project; or

(iii) SGS is in material breach of its obligations or representations hereunder, and such breach has not been remedied on or before the thirtieth (30<sup>th</sup>) day after written notice of such failure is given to SGS by Shipper.

(c) Notice of termination under Paragraph 9(a)(i) or 9(b)(i) shall be effected by the terminating Party's delivery of written notice to the other Party within five (5) business days after the relied upon occurrence; thereafter the applicable condition precedent or termination event shall be deemed waived by the applicable Party.

(d) Claims for breach attributable to the period prior to any such termination and the provisions of Paragraphs 8(b), 9, 10, 12, and 13 shall survive termination.

**10. Assignment**

This Precedent Agreement, in whole or in part, may be assigned by either Party to a wholly or partially owned affiliate, special purpose joint venture, partnership, or other affiliated entity, including a parent company, subsidiary, or partnership of such Party.

No other assignment is permitted without the written consent of the other party, which shall not be unreasonably withheld. Assignee shall assume all rights and obligations hereunder.

The Assignment shall not release any guaranty of, or credit requirements under, this Precedent Agreement.

**11. Notices**

All notices will be sent to a Party as follows:

If to SGS:

SourceGas Storage LLC  
Attention: Kent Harris, Manager, Business Development  
370 Van Gordon Street, Suite 4000  
Lakewood, CO 80228  
Phone (303) 243-3504  
With a separate notice to

SourceGas Storage LLC  
Attention: General Counsel  
370 Van Gordon Street, Suite 4000  
Lakewood, Colorado 80228  
Phone (303) 243-3425

If to Shipper:

\_\_\_\_\_  
Attention: \_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

**12. Miscellaneous**

As to all matters of construction and interpretation, this Precedent Agreement shall be interpreted, construed and governed by the laws of the State of Colorado, without regard to the choice of law rules of that state that would select another governing law.

SGS and Shipper shall enter into such additional agreements as may be necessary in furtherance of this Precedent Agreement.

This Precedent Agreement, subject to the execution of additional agreements as contemplated herein, constitutes the entire agreement between the Parties with respect to the subject hereof, and no amendment, alteration, or modification of this Precedent Agreement shall be valid unless in each instance such amendment, alteration, or modification is expressed in a written instrument duly executed by each Party hereto.

This Precedent Agreement may be executed simultaneously in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

The headings contained in this Precedent Agreement have been inserted for the convenience of reference only and shall in no way restrict or modify any of the terms or provisions hereof.

Capitalized defined terms shall have the meanings or definitions defined herein, whether they are defined in advance of their first use herein or subsequent to their first use herein. Capitalized defined terms may be used in the singular or plural, as the context requires.

Each of the provisions in this Precedent Agreement is for the sole and exclusive benefit of the Parties hereto, respectively, as their interests appear, and will not be deemed to be for the benefit of any other person or entity or group of persons or entities.

**13. Limitation of Damages.** NEITHER PARTY SHALL BE LIABLE UNDER THIS PRECEDENT AGREEMENT FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, OR INDIRECT DAMAGES, OR BUSINESS INTERRUPTION DAMAGES, IN TORT, CONTRACT, OR OTHERWISE.

[signature page follows]

Accepted and agreed as of \_\_\_\_\_, 2008 (i.e., Effective Date):

**“SGS”**

**SourceGas Storage LLC**

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

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**“Shipper”**

\_\_\_\_\_

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

**Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**EXHIBIT A**  
**To The**  
**PRECEDENT AGREEMENT**  
**Between**  
**SourceGas Storage LLC**  
**and**

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**Storage Expansion Project**

**FORM OF STORAGE SERVICE AGREEMENT APPLICABLE TO FIRM STORAGE SERVICE  
UNDER RATE SCHEDULE FSS-1**

This Firm Storage Service Agreement Applicable to Firm Storage Service ("FSS") Under Rate Schedule FSS-1 (this "Service Agreement") is made and entered into by and between SourceGas Storage LLC ("Transporter"), and \_\_\_\_\_ ("Shipper" and together with the Transporter, the "Parties").

In consideration of the premises and of the mutual covenants contained herein, the Parties agree as follows:

**ARTICLE I**  
**SCOPE OF SERVICE AGREEMENT**

Subject to the terms, conditions and limitations hereof and of Transporter's Rate Schedule FSS-1 and Tariff, Transporter agrees to receive from, or for the account of, Shipper for transportation on a firm basis quantities of natural gas tendered by Shipper on any day at the Primary Receipt Point(s), and if applicable, the Other Receipt Point(s), up to the applicable Maximum Daily Receipt Quantity ("MDRQ") for each such Receipt Point. Shipper shall not tender on any day, a quantity of natural gas in excess of the aggregate MDRQ or the MDRQ at any one Primary or Other Receipt Point, without the prior consent of Transporter. Transporter agrees to store the received quantity of gas for the account of Shipper, less the Fuel, Lost and Unaccounted For Gas ("FL&U") Reimbursement Quantity and other deductions, up to the Maximum Storage Quantity ("MSQ") as specified in Article XIII.

Transporter agrees to subsequently redeliver the stored quantities of natural gas to, or for the account of, Shipper at the Primary Delivery Point(s), and if applicable, the Other Delivery Point(s), up to the applicable Maximum Daily Delivery Quantity ("MDDQ") for such Delivery Point the volume nominated by Shipper, and Shipper agrees to accept or cause acceptance of delivery of these quantities; provided, however, that Transporter shall not be obligated to deliver on any day, a quantity of natural gas in excess of the aggregate MDDQ or the MDDQ at any one Primary / Other Delivery Point.

**ARTICLE II**  
**TERM OF SERVICE AGREEMENT**

This Service Agreement shall become effective as of the date set forth below and shall remain in full force and effect in accordance with the terms of this Service Agreement.

### **ARTICLE III RATE SCHEDULE**

Shipper shall pay Transporter for all services rendered and for the availability of such service at rates filed under Transporter's FSS-1 Rate Schedule as set forth in Transporter's FERC Gas Tariff (the "Tariff") as the same may be hereafter revised or changed from time-to-time. Unless otherwise agreed in writing between Transporter and Shipper, and pursuant to Market Based Rates, if permitted, or the Negotiated Rates provision of the General Terms and Conditions of the Tariff, the rates to be charged Shipper for transportation shall not be more than the maximum rate under Rate Schedule FSS-1, nor less than the minimum rate under Rate Schedule FSS-1, to the extent maximum and minimum rates are applicable.

This Service Agreement and all terms and provisions contained or incorporated herein are subject to the provisions of Transporter's applicable Rate Schedules and of Transporter's General Terms and Conditions of the Tariff on file with the Federal Energy Regulatory Commission ("FERC"), or other duly constituted authorities having jurisdiction, and as the same may be legally amended or superseded, which Rate Schedules and General Terms and Conditions of the Tariff are by this reference made a part hereof.

Shipper agrees that Transporter shall have the unilateral right to file with the appropriate regulatory authority and make changes effective in: (a) the rates and charges applicable to service pursuant to Transporter's Rate Schedule FSS-1 (b) Transporter's Rate Schedule FSS-1, pursuant to which service is rendered; or (c) any provision of the General Terms and Conditions of the Tariff applicable to Rate Schedule FSS-1. Changes to rates and charges in subpart (a) above shall not apply to Shipper if Shipper has elected and Transporter has agreed to Fixed Reservation Rates that are not subject to change for the Primary Term of this Service Agreement, except as otherwise mutually agreed by Transporter and Shipper.

### **ARTICLE IV PRIMARY AND OTHER RECEIPT POINT(S)**

Natural gas to be received by Transporter for the account of Shipper shall be delivered by Shipper and received by Transporter on the outlet side of the measuring station(s) at the Primary Receipt Point(s) specified in Appendix A, with the Primary Receipt Point facility number(s), applicable Maximum Allowable Operating Pressure ("MAOP"), applicable Minimum Receipt Point Pressure ("MRPP"), applicable MDRQ, and applicable provisions for incremental facilities indicated for each such Receipt Point as set forth in Appendix A.

If applicable, natural gas to be received by Transporter for the account of Shipper shall be delivered by Shipper and received by Transporter on the outlet side of the measuring station(s) at the Other Receipt Point(s) specified in Appendix A, with the Other Receipt Point facility number(s), applicable MAOP, applicable MRPP, applicable MDRQ, and applicable provisions for incremental facilities indicated for each such Receipt Point as set forth in Appendix A.

### **ARTICLE V PRIMARY AND OTHER DELIVERY POINT(S)**

Natural gas to be delivered by Transporter for the account of Shipper shall be delivered by Transporter and received by Shipper on the inlet side of the measuring station(s) at or near the

Primary Delivery Point(s) specified in Appendix A, with the Primary Delivery Point facility number(s), applicable MAOP, applicable Maximum Delivery Point Pressure (“MDDP”), applicable MDDQ, and applicable provisions for incremental facilities indicated for each such Delivery Point as set forth in Appendix A.

If applicable, natural gas to be delivered by Transporter for the account of Shipper shall be delivered by Transporter and received by Shipper on the inlet side of the measuring station(s) at or near the Other Delivery Point(s) specified in Appendix A, with the Other Delivery Point facility number(s), applicable MAOP, applicable MDDP, applicable MDDQ, and applicable provisions for incremental facilities indicated for each such Delivery Point as set forth in Appendix A.

## **ARTICLE VI QUALITY**

All natural gas tendered to Transporter for transportation for the account of Shipper at the Receipt Point(s) shall conform to the quality specifications set forth in the General Terms and Conditions of the Tariff, as revised from time to time unless otherwise agreed to in writing. Transporter may refuse to take delivery of any gas for transportation that does not meet such quality specifications.

## **ARTICLE VII INTERPRETATION**

The interpretation and performance of this Service Agreement shall be in accordance with the laws of the State of Colorado.

This Service Agreement, and all its rates, terms and conditions, shall at all times be subject to modification by order of the FERC upon notice and hearing and a finding of good cause therefore, except as otherwise agreed by the Parties. If either Party to this Service Agreement requests the FERC to take any action which could cause a modification in the conditions of this Service Agreement, that Party shall provide written notice to the other Party at the time of filing the request with the FERC, consistent with FERC regulations; provided that if Shipper has agreed to Fixed Reservation Rates, it shall not request that the FERC take any action with respect to such Fixed Reservation Rates.

## **ARTICLE VIII AGREEMENTS BEING SUPERSEDED**

When this Service Agreement becomes effective, it shall supersede and cancel any other firm agreements between the Parties for the same service, not including the surviving provisions of a Precedent Agreement between Transporter and Shipper, if any.

## **ARTICLE IX CERTIFICATIONS**

By executing this Service Agreement, Shipper certifies that: (1) Shipper has a valid right to deliver the gas to be transported by Transporter; (2) Shipper has, or will have, entered into all arrangements necessary for the commencement of deliveries to Transporter; and (3) Shipper, to the extent required by FERC rule or regulation, has title to the gas delivered to Transporter.

## **ARTICLE X ADDRESSES**

Except as otherwise provided or as provided in the General Terms and Conditions of Transporter's Tariff, any notice, request, demand, statement, bill or payment provided for in this Service Agreement, or any notice which any Party may desire to give to the other, shall be in writing and shall be considered as duly delivered when mailed by registered, certified, or regular mail to the post office address of the Parties as follows:

(a) Transporter Address:

SourceGas Storage LLC  
370 Van Gordon Street, Suite 4000  
Lakewood, CO 80228

(b) Shipper: As shown in Article XIII or such other address, as either Party shall designate by formal written notice.

## **ARTICLE XI SUCCESSORS AND ASSIGNS**

This Service Agreement shall be binding upon and inure to the benefit of any successor(s), substantially as an entirety, to either Transporter or Shipper by merger, consolidation or acquisition. Either Transporter or Shipper may assign or pledge this Service Agreement and all rights and obligations hereunder under the provisions of any mortgage, deed of trust, indenture or other instrument which it has executed or may execute hereafter as security for indebtedness; otherwise, except as provided in the General Terms and Conditions of the Tariff, neither Transporter nor Shipper shall assign this Service Agreement or its rights hereunder.

## **ARTICLE XII CAPACITY RELEASE**

Shipper may release its Designated Capacity under this Firm Storage Service Agreement, up to Shipper's MSQ, in accordance with the provisions of Rate Schedule FSS-1 and the General Terms and Conditions of Transporter's FERC Gas Tariff.

**ARTICLE XIII  
SPECIFIC INFORMATION**

Firm Storage Service Agreement between SourceGas Storage LLC ("Transporter") and \_\_\_\_\_ ("Shipper").

Service Agreement Number: \_\_\_\_\_

Service Agreement Date: \_\_\_\_\_

Amendment Date (if applicable): \_\_\_\_\_

Primary Term: Commencing on the Service Agreement Effective Date and extending for \_\_\_\_\_ Agreement Years.

Evergreen Term: In accordance with the Tariff.

Termination Notice: In accordance with the Tariff.

Notice of Rollover: In accordance with the Tariff.

MSQ: (To equal Shipper's Designated Capacity under, and to be input in accordance with, Paragraph 4 of the Precedent Agreement.) MSQ shall be as set forth in Appendix A.

Minimum Storage Quantity ("Minimum SQ"). Minimum SQ shall be as set forth in Appendix A.

MDDQ by Delivery Point shall equal MDWQ and be allocated to one or more Delivery Points as set forth in Appendix A.

Minimum DDQ by Delivery Point shall be as set forth and allocated in Appendix A.

MDRQ by Receipt Point shall equal MDIQ plus FL&U reimbursement quantities and be allocated to one or more Receipt Points as set forth in Appendix A.

Minimum DRQ by Receipt Point shall be as set forth and allocated in Appendix A.

Reservation Rate: The Reservation Rate shall equal an annual rate of \$\_\_\_\_ per Dth of MSQ and shall be subject to the applicable provisions of Appendix B.

Commodity Rate: The Commodity Rate shall equal six cents (\$0.0600) per Dth for injections and zero cents (\$0.0000) per Dth for withdrawals, within firm contract rights, and shall be subject to the applicable provisions of Appendix B.

Minimum Receipt Point Pressure (MRPP): 600 pounds per square inch gauge (p.s.i.g.), or such higher pressure(s) as is required in SGS' commercially reasonable discretion to interconnect with CIG and/or WIC.

Maximum Delivery Point Pressure (MDPP): 1,480 p.s.i.g., or such lower pressure as is required in SGS' commercially reasonable discretion to meet REX' pipeline operating pressure at the proposed Elk Mountain Station location.

Projected Fuel, Lost and Unaccounted for Gas (FL&U) Percentages:

FL&U will be required to be supplied in connection with receipts and assessed on Shipper's MDRQ and is estimated initially to be two percent (2%). This percentage is subject to tracking thereafter on a monthly basis pursuant to the Tariff.

IN WITNESS WHEREOF, the Parties have caused this Service Agreement to be signed by their duly authorized representatives.

“Transporter”  
SourceGas Storage LLC

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

Title: \_\_\_\_\_

Date: \_\_\_\_\_

“Shipper”

\_\_\_\_\_

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

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**APPENDIX A**  
**To the Form of Service Agreement**  
**RECEIPT AND DELIVERY POINTS AND VOLUMES**

To the Firm Storage Service Agreement between SourceGas Storage LLC ("Transporter") and \_\_\_\_\_ ("Shipper").

Service Agreement Number: \_\_\_\_\_

Service Agreement Date: \_\_\_\_\_

Amendment Date (if applicable): \_\_\_\_\_

**Maximum and Minimum Requested Storage Quantities for Primary Receipt and Delivery Points:**

Shipper must indicate the total annual MSQ and the total annual minimum acceptable storage quantity ("Minimum SQ") requested under this Firm Storage Service Agreement in the following spaces:

MSQ (in dekatherms per year): \_\_\_\_\_

Minimum SQ (in dekatherms per year): \_\_\_\_\_

Shipper must indicate, by point, the MDRQ, the Minimum DRQ, the MDDQ, and the Minimum DDQ for each Primary Receipt Point and Primary Delivery Point in the following spaces:

	<b>Primary Receipt/ Delivery Point</b>	<b>MDRQ (to be allocated among one or more Primary Receipt Point(s))</b>	<b>Minimum DRQ (to be allocated among one or more Primary Receipt Point(s))</b>	<b>MDDQ (to be allocated among one or more Primary Delivery Point(s))</b>	<b>Minimum DDQ (to be allocated among one or more Primary Delivery Point(s))</b>
<b>1.</b>	Interconnect with Rockies Express Pipeline LLC ("REX")				
<b>2.</b>	Interconnect with Wyoming Interstate Company ("WIC")				
<b>3.</b>	Interconnect with Colorado Interstate Gas Company ("CIG")				
	<b>Totals</b>				

**Other Receipt and Delivery Point(s):**

If Shipper's bid is contingent upon SGS accommodating Shipper with respect to any other receipt or delivery points, Shipper must so indicate by checking the applicable space provided below and then specify such other desired receipt points ("Other Receipt Point(s)") and/or other desired delivery points ("Other Delivery Point(s)") as well as the applicable MDRQ and MDDQ by the Other Receipt Point or Other Delivery Point in the spaces provided below the check-off. SGS will inform Shipper whether, in SGS' sole discretion, it can accommodate such requested Other Receipt Point(s) or Other Delivery Point(s), as applicable.

\_\_\_\_\_ Check here to indicate if this bid is contingent upon the points identified below under "Other Receipt Point(s)" above being accommodated by SGS under the terms and conditions being contemplated herein.

\_\_\_\_\_ Check here to indicate if this bid is contingent upon the points identified below under "Other Delivery Points" above being accommodated by SGS under the terms and conditions being contemplated herein.

If applicable, Shipper must indicate the requested MDRQ, Minimum DRQ, MDDQ and Minimum DDQ for each Other Receipt Point and Other Delivery Point requested above in the following spaces:

	<b>Other Receipt/ Delivery Point</b>	<b>MDRQ (to be allocated among one or more Other Receipt Point(s))</b>	<b>Minimum DRQ (to be allocated among one or more Other Receipt Point(s))</b>	<b>MDDQ (to be allocated among one or more Other Delivery Point(s))</b>	<b>Minimum DDQ (to be allocated among one or more Other Delivery Point(s))</b>
<b>1.</b>					
<b>2.</b>					
<b>3.</b>					
<b>4.</b>					
	<b>Totals</b>				

Provisions for Incremental Facilities, if applicable: \_\_\_\_\_

Minimum Receipt Point Pressure: 600 p.s.i.g., or such higher pressure(s) as is required in SGS' commercially reasonable discretion to interconnect with CIG and/or WIC.

Maximum Delivery Point Pressure: 1,480 p.s.i.g., or such lower pressure as is required in SGS' commercially reasonable discretion to meet REX' pipeline operating pressure at the proposed Elk Mountain Station location.

Quality Waivers: None, unless otherwise stated.

This Appendix A supersedes and cancels any previously effective Appendix A to this Firm Storage Service Agreement.

“Transporter”  
SourceGas Storage LLC

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

Title: \_\_\_\_\_

Date: \_\_\_\_\_

“Shipper”  
\_\_\_\_\_

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

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**APPENDIX B**  
**To the Form of Service Agreement**  
**OTHER PROVISIONS**

**Rates** Pursuant to Article III of the Service Agreement, Shipper elects a Reservation Rate that shall remain fixed for the Primary Term of the Service Agreement and shall be applicable at all Primary Receipt and Delivery Points on the Project as set forth on Appendix A to the Service Agreement.

To the extent on any day the injection or inventory quantities nominated by Shipper and confirmed by Transporter exceed Shipper's applicable firm rights, then Shipper shall be subject to the following overrun charges, the lesser of the Tariff charge for such item or: 1) a commodity rate of twenty-two and one-half cents (\$0.2250) per Dekatherm ("Dth") for all injection quantities above Shipper's MDIQ; 2) twenty-two and one-half cents (\$0.2250) per Dth for all withdrawal quantities above Shipper's MDWQ; 3) a commodity rate of three and seventy-five hundredths cents (\$0.0375) per Dth for inventory levels above Shipper's MSQ, such rate being applied to each Dth in excess of Shipper's MSQ on each day inventory levels are above Shipper's MSQ; and 4) a commodity rate of three and seventy-five hundredths cents (\$0.0375) per Dth shall be applied to all quantities that exceed Shipper's MASCA during any individual Agreement Year, in each case unless Transporter and Shipper mutually agree otherwise. Subject to such agreements, overrun quantities will be billed pursuant to the Tariff procedures.

The Fuel, Lost, and Unaccounted for Gas ("FL&U") percentage, Annual Charge Adjustment ("ACA"), and any other additional authorized mandatory FERC surcharges will be charged in accordance with the Tariff.

**Revenue Sharing – Releases** In the event that Shipper releases capacity under the Service Agreement, on a temporary basis, subject to SGS' Tariff, then SGS shall be entitled to fifty percent (50%) of the amount billed to the replacement shipper each month in excess of the amount billed to Shipper for the corresponding month and corresponding MSQ under Shipper's Service Agreement excluding any prior period adjustments. The other such fifty percent (50%) of the billed amount collected from the replacement shipper will be credited by SGS to Shipper's bill each corresponding month.

**Maximum Annual Storage Cycling Activity.** Except for the above specified commodity rates for MASCA overrun quantities described above, there is no incremental commodity charge or reservation charge for cycling or inventory quantities above the MSQ.

**Other Services.** With respect to services to be provided by Transporter, other than the firm storage service contemplated herein, e.g., ISS, parking and loan services ("PALS"), wheeling services, hub services, and additional services which may be developed by Transporter as the Project goes forward (collectively the "Other Services"); Transporter intends to offer such Other Services, as developed, to Shipper and to other shippers pursuant to the Tariff, and at separate rates, terms and conditions to be negotiated. Shipper understands and agrees that with respect to this Service Agreement, that no offer has been extended from Transporter to Shipper, nor has any agreement been reached between Transporter and Shipper with respect to, any Other Services unless such agreement is set forth in the Service Agreement, including appendices.

**Cancellation.** If prior to the Service Agreement Effective Date, the Service Agreement has been executed and the Precedent Agreement is terminated by a party pursuant to the terminating party's rights under Paragraph 9 of the Precedent Agreement, then this Service Agreement shall also be deemed terminated.

**EXHIBIT B  
To The  
PRECEDENT AGREEMENT  
Between  
SourceGas Storage LLC  
and**

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**Storage Expansion Project**

**DRAFT PRO FORMA TARIFF TERMS AND CONDITIONS**

**FL&U.** The Fuel, Lost and Unaccounted for Gas ("FL&U") percentages for compression and pipeline operations as well as for storage reservoir purposes, and ACA and any other additional mandatory FERC surcharges will be charged in accordance with Transporter's then effective Tariff. The FL&U percentage shall be assessed in addition to the Reservation Rate, through an in-kind volumetric delivery by Shipper. The FL&U percentage will be determined via a tracker, based on actual and anticipated operations as the same may change from time-to-time.

**Maximum Annual Storage Cycling Activity.** Shipper shall be allowed up to a maximum annual storage cycling activity equal to one hundred thirty percent (130%) of the MSQ ultimately awarded to Shipper during an Agreement Year ("MASCA"), without implying any increase in Shipper's daily injection, withdrawal or inventory rights. Inventory levels up to Shipper's MSQ will be considered firm service and inventory service at quantities greater than Shipper's MSQ up to and including the MASCA level shall be provided by Transporter on a secondary firm basis and are not to be considered firm service.

**Fixed Reservation Rates.** The applicability of a fixed Reservation Rate does not impart any special access to Transporter's facilities or cover charges associated with any non-conforming quality or pressure requirement at any receipt or delivery point, unless otherwise provided for in the Service Agreement.

**Inventory Rate Calculation.** Reservation Rates will be adjusted to a monthly basis by dividing the applicable rate by 12.

**Injections (Dth/d):**

- Injection Quantity (IQ) =  $MSQ/150$  Days
- Maximum Daily Injection Quantity (MDIQ) is subject to Shipper's stored working gas level as a percentage of its Designated Capacity:
  - When Shipper's stored working gas level < 60% of Shipper's Designated Capacity,
    - MDIQ = 100% of IQ.
  - When Shipper's stored working gas level  $\geq$  60% of Shipper's Designated Capacity,
    - MDIQ = 75% of IQ.

**Withdrawals (Dth/d):**

- Withdrawal Quantity (WQ) = MSQ/75 Days
- Maximum Daily Withdrawal Quantity (MDWQ) is subject to Shipper's stored working gas level as a percentage of its Designated Capacity:
  - When Shipper's stored working gas level > 60% of Shipper's Designated Capacity,
    - MDWQ = 100% of WQ.
  - When Shipper's stored working gas level  $\leq$  60% of Shipper's Designated Capacity, but  $\geq$  30% of Shipper's Designated Capacity,
    - MDWQ = 75% of WQ.
  - When Shipper's stored working gas level < 30% of Shipper's Designated Capacity,
    - MDWQ = 50% of WQ.

**Minimum Net Quantities:** Transporter shall not be obligated to inject / withdraw natural gas where such injections and/or withdrawals are less than 10,000 Dth per day on a net basis based on nominations from all shippers.

**Gas Quality Standards:** Per Transporter's Tariff.

**EXHIBIT C  
To The  
PRECEDENT AGREEMENT  
Between  
SourceGas Storage LLC  
and**

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**Storage Expansion Project**

**Interruptible Storage Service**

**Rates for Interim Service**

If Shipper elects to take Interim Service, unless otherwise mutually agreed, Shipper will pay to Transporter for such Interim Service a volumetric-commodity based rate of twenty-two and one-half cents (\$0.2250) per Dth of natural gas injected during Interim Service, and twenty-two and one-half cents (\$0.2250) per Dth of natural gas withdrawn during Interim Service, plus applicable FL&U, and there shall be no Reservation Charges in connection with such Interim Service. The availability of Interim Service terminates on the Service Agreement Effective Date, and any natural gas in storage as a result of Interim Service shall be transferred to Shipper's Firm Storage Service Agreement as of the Service Agreement Effective Date.

**EXHIBIT D**  
**To The**  
**PRECEDENT AGREEMENT**  
**Between**  
**SourceGas Storage LLC**  
**and**

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**Storage Expansion Project**

**FORM OF SHIPPER PARENT GUARANTY**

**SHIPPER PARENT GUARANTY**

This Shipper Parent Guaranty (the "Guaranty") is made this \_\_\_\_\_ day of \_\_\_\_\_, 200\_, by \_\_\_\_\_, a [State] [entity type] ("Guarantor"), in favor of **SourceGas Storage LLC**, a Colorado limited liability company ("Beneficiary"), in consideration of Beneficiary extending credit or other financial accommodation to \_\_\_\_\_, a \_\_\_\_\_ ("Counterparty").

**Recitals:**

A. Beneficiary and Counterparty have entered into the Precedent Agreement dated effective \_\_\_\_\_ (the "Precedent Agreement"), which contemplates Beneficiary and Counterparty entering into the Service Agreement (as such term is defined in the Precedent Agreement) in the future (the Precedent Agreement and Service Agreement are collectively referred to herein as the "Contract"); and

B. As consideration for the benefits that Guarantor will receive (whether directly or indirectly) as a result of Counterparty executing the Contract with the Beneficiary, Guarantor is willing to guaranty Counterparty's Obligations (as such term is defined below) under the terms of the Contract.

**FOR GOOD AND VALUABLE CONSIDERATION**, including inducing Beneficiary entering into the Contract with Counterparty, the receipt and sufficiency of which are hereby acknowledged, Guarantor hereby covenants and agrees as follows:

1. **Guaranty**. Subject to the terms and conditions hereof, Guarantor, as a primary obligor and not merely as a surety, hereby irrevocably, absolutely and unconditionally guarantees the timely payment when due and punctual performance, subject to any applicable grace period, of all of the present and future obligations and liabilities of every kind of Counterparty to Beneficiary under or in connection with the Contract (the "Obligations"). To the extent that Counterparty shall fail to pay any Obligation when due, Guarantor shall promptly pay to Beneficiary the amount due upon Beneficiary's demand therefor. This Guaranty shall constitute a guarantee of payment and not of collection. Guarantor shall also be liable for the payment, on demand, of the fees and expenses of Beneficiary (including, without limitation, the reasonable fees and expenses of Beneficiary's external counsel) incurred in any effort to collect or enforce any of the Obligations, or for the protection of Beneficiary's rights, under this Guaranty; provided, however, that Guarantor shall not be liable for

any such expenses of Beneficiary if no payment on account of the Obligations is then due hereunder.

2. **Limitations.** Guarantor's liability hereunder shall be limited to payments expressly required to be made by Counterparty under the Contract (even if such payments are deemed to be damages) and in no event shall Guarantor be subject hereunder to indirect, special, consequential, exemplary, lost profits, punitive, or any other damages, except to the extent specifically provided in this Guaranty or the Contract. The aggregate amount of Obligations covered by this Guaranty shall not exceed **U.S. \$** \_\_\_\_\_, plus the fees and expenses of Beneficiary payable by Guarantor as provided in Section 1 above.

3. **Termination.** This Guaranty is a continuing guaranty and shall remain in full force and effect for the life of the Contract, unless earlier terminated by Beneficiary upon ten (10) business days' prior written notice to Guarantor (a "Termination"). No Termination shall affect, release or discharge Guarantor's liability with respect to any Obligations existing or arising under the Contract prior to the effective date of Termination.

4. **Nature of Guaranty.** Guarantor's liability hereunder with respect to any Obligation shall not be affected by the existence, validity, enforceability, perfection, release, or impairment of value of any collateral for such Obligations. Beneficiary shall not be obligated to file any claim relating to the Obligations owing to it in the event that Counterparty becomes subject to a bankruptcy, reorganization, or similar proceeding and the failure of Beneficiary to so file shall not affect Guarantor's obligations hereunder. If any payment to Beneficiary in respect of any Obligation is rescinded or must otherwise be returned for any reason whatsoever, Guarantor shall remain liable hereunder in respect of such Obligations as if such payment had not been made. The rights of Beneficiary herein or allowed it by law or other agreement are cumulative and not exclusive of any other right or remedy, and shall not be exhausted by the exercise of any of Beneficiary's rights, hereunder or otherwise, against Guarantor or by any successive actions until and unless all of the Obligations have been fully and indefeasibly paid to Beneficiary.

5. **Subrogation and Subordination.**

(a) Guarantor waives its right to be subrogated to the rights of Beneficiary with respect to any Obligations paid or performed by Guarantor until all Obligations have been fully and indefeasibly paid to Beneficiary, subject to no rescission or right of return and Guarantor has fully and indefeasibly satisfied all of Guarantor's obligations under this Guaranty.

(b) Without limiting Beneficiary's or Guarantor's rights under any other agreement, any liabilities owed by Counterparty to Guarantor in connection with any financial accommodation by Guarantor to or for the account of Counterparty (including amounts paid by Guarantor hereunder with respect to the Obligations) are hereby subordinated to the payment in full of the Obligations, and such liabilities of Counterparty to Guarantor, if Beneficiary so requests upon a breach of the Contract, shall be collected, enforced and received by Guarantor as trustee for Beneficiary and shall be paid over to Beneficiary on account of the Obligations, but without reducing or affecting in any manner the liability of Guarantor under the other provisions of this Guaranty.

6. **Waivers.** Guarantor hereby waives:

(a) notice of acceptance of this Guaranty; (b) presentment and demand concerning the liabilities of Counterparty or Guarantor; (c) notice of any dishonor or default by, or disputes with, Counterparty; (d) diligence; (e) promptness; (f) all other notices required by law (except notice of Counterparty's default); and (g) any right to require that Beneficiary bring any action or proceeding against Counterparty or any other person, or to require that Beneficiary seek enforcement of any

performance against Counterparty or any other person, prior to any demand for payment or other action against Guarantor under the terms hereof. Guarantor agrees that Beneficiary may, at any time and from time to time, without notice to or consent of Guarantor and without impairing or releasing the liability and obligations of Guarantor hereunder: (i) renew, increase, compromise, extend, accelerate or otherwise modify the terms of the Obligations; (ii) take or fail to take any action of any kind in respect of any collateral for any Obligation or liability of Counterparty to Beneficiary; (iii) compromise or subordinate any Obligation or liability of Counterparty to Beneficiary, including any collateral therefor; and (iv) change, modify or waive any of the terms of the Contract. Except as to applicable statutes of limitation, no delay of Beneficiary in the exercise of or failure to exercise any rights hereunder shall operate as a waiver of such rights, a waiver of any other rights, or a release of Guarantor from any obligations hereunder.

7. **Reservations.** Guarantor reserves to itself all right, setoffs, counterclaims and other defenses to which Counterparty may have to payment of any indebtedness under the Contract, other than (a) defenses arising from the bankruptcy or insolvency of Counterparty, (b) illegality, and (c) any other defenses expressly waived by Counterparty in its contract with the Beneficiary or otherwise waived in this Guaranty.

8. **Notice.** Any payment demand, notice, correspondence or other document or communication to be given hereunder by any party to another (herein collectively called "**Notice**") shall be in writing and delivered personally or mailed by certified mail, postage prepaid and return receipt requested, or by facsimile, to the following addresses:

If to Guarantor:

[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]  
Attn: [Redacted]  
Fax No. (\_\_\_\_) \_\_\_\_ - \_\_\_\_.

If to Beneficiary:

SourceGas Storage LLC  
370 Van Gordon Street, Suite 4000  
Lakewood, CO 80228  
Attn: General Counsel  
Fax No. (303) 243-3603

Notice given by personal delivery or mail shall be effective upon actual receipt, or, if receipt is refused or rejected, upon attempted delivery. Notice given by facsimile shall be effective upon actual receipt if received during the recipient's normal business hours, or at the beginning of the recipient's next business day after receipt if not received during the recipient's normal business hours. All Notices by facsimile shall be confirmed by the sender promptly after transmission in writing by certified mail or personal delivery. Any party may change any address to which Notice is to be given to it by giving Notice as provided above of such change of address.

9. **Representations.** As of the date hereof, Guarantor represents to Beneficiary (upon which Beneficiary has relied in accepting this Guaranty) that:

(a) Guarantor is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation, and has full power and authority to execute, deliver and perform this Guaranty.

(b) The execution, delivery and performance of this Guaranty have been and remain duly authorized by all necessary corporate or company action, and do not contravene any provision of law or of Guarantor's constitutional documents, or any contractual restriction binding on Guarantor or its assets.

(c) This Guaranty constitutes the legal, valid and binding obligation of Guarantor, enforceable against Guarantor in accordance with its terms, subject to bankruptcy, insolvency, reorganization and other laws of general applicability relating to or affecting creditors' rights and to general principles of equity.

10. **Miscellaneous.** THIS GUARANTY SHALL BE IN ALL RESPECTS GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO PRINCIPLES OF CONFLICT OF LAWS. No term or provision of this Guaranty shall be amended or modified except in a writing signed by Guarantor and Beneficiary. This Guaranty may not be assigned by a party without the prior written consent of the other party. Subject to the foregoing, this Guaranty shall be binding upon Guarantor, its successors, and permitted assigns, and shall inure to the benefit of and be enforceable by Beneficiary, its successors and permitted assigns. Beneficiary shall have an unimpaired right to enforce this Guaranty for its benefit as to so much of the Obligations as it has not sold, assigned, or otherwise transferred. This Guaranty embodies the entire agreement and understanding between Guarantor and Beneficiary, and supersedes all prior communications between Guarantor and Beneficiary, whether written or oral, concerning the subject matter hereof.

Guarantor has executed this Guaranty effective as of the date first herein written.

**GUARANTOR:**

\_\_\_\_\_

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_