

**CONTRACT NO:** \_\_\_\_\_

**AGREEMENT FOR  
NGPA § 311 FIRM NATURAL GAS WHEELING SERVICES**

**BETWEEN  
ARCADIA GAS STORAGE, L.L.C.**

**AND**

\_\_\_\_\_

**DATE OF AGREEMENT**

\_\_\_\_\_

**AGREEMENT FOR NGPA § 311 FIRM STORAGE SERVICES**

CONTRACT NO: \_\_\_\_\_

**THIS AGREEMENT FOR NGPA § 311 FIRM WHEELING SERVICES** ("AGREEMENT") made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between **ARCADIA GAS STORAGE, L.L.C.**, a Texas limited liability company, hereinafter referred to as "Arcadia," and \_\_\_\_\_, a \_\_\_\_\_, hereinafter referred to as "Customer," both sometimes collectively hereinafter referred to as the "parties."

**WITNESSETH:**

**WHEREAS**, Arcadia operates certain underground natural gas storage and exchange facilities, together with other appurtenant facilities relative thereto, located near Arcadia, Bienville Parish, Louisiana (the "Storage Facilities");

**WHEREAS**, Customer has or will have Gas available;

**WHEREAS**, Customer desires that Arcadia provide NGPA § 311 firm wheeling services ("Services") offered at its Storage Facilities, and Arcadia desires to perform such Services; and

**WHEREAS**, the parties intend that the Agreement consists of this Agreement, the "Statement of Operating Conditions" attached hereto as Exhibit "A" (the "SOC") (hereinafter collectively referred to as the "Agreement" or the "Services Agreement").

**NOW, THEREFORE**, in consideration of the premises and of the mutual benefits, covenants, and agreements herein contained, together with good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged and confessed by both parties hereto, both parties do hereby agree as follows:

**ARTICLE I**

**NGPA § 311 FIRM WHEELING SERVICES**

- 1.1 Services are provided subject to this Agreement, together with the SOC set forth in Exhibit "A", as they may be amended from time-to-time.
- 1.2 The Service provided under this Service Agreement is subject to Section 311(a)(2) of the Natural Gas Policy Act of 1978 (the "NGPA"), Subpart C of Part 284 of the FERC regulations, and the provisions of Arcadia's Statement of Operating Conditions, which are incorporated herein by reference, as if fully set forth herein.
- 1.3 The Services available pursuant to this Agreement are subject to the Maximum Wheeling Quantity of \_\_\_\_\_ MMBtu.
- 1.4 The Services for receipt of Gas for wheeling available pursuant to this Agreement are subject to the Maximum Daily Receipt Quantity of \_\_\_\_\_ MMBtu per Day.

- 1.5 The Services for delivery of Gas from wheeling available pursuant to this Agreement are subject to the Maximum Daily Delivery Quantity of \_\_\_\_\_ MMBtu per Day
- 1.6 Customer represents and warrants that:
- (i) the wheeling of gas hereunder will be pursuant to the provisions of NGPA § 311(a)(2); and
  - (ii) Customer or Customer's agent will at some point either: (a) have physical custody of and transport the gas stored by Arcadia hereunder; or (b) hold title to the subject gas; and
  - (iii) Customer has arranged for the delivery and/or receipt by any necessary third party(ies) of the gas to be wheeled hereunder.

**CUSTOMER HEREBY INDEMNIFIES AND HOLDS HARMLESS ARCADIA FROM ALL SUITS, ACTIONS, LOSSES, EXPENSES (INCLUDING ATTORNEYS' FEES), AND REGULATORY PROCEEDINGS ARISING OUT OF OR IN CONNECTION WITH A BREACH OF THE REPRESENTATIONS AND WARRANTIES MADE BY CUSTOMER ABOVE.**

## **ARTICLE II**

### **TERM**

- 2.1 "Commencement Date" is defined in Section 9.1 of the Statement of Operating Conditions and shall be the date upon which Arcadia shall be able to commence the provision of wheeling services to Customer pursuant to the terms hereof. Such date shall also be the first day of the Contract Term. "Completion Date" is defined in Section 9.1 of the Statement of Operating Conditions and means the date that the primary term of this Agreement expires.
- 2.2 This Agreement is for a term of \_\_\_\_\_ months. THE OBLIGATIONS TO MAKE PAYMENT HEREUNDER, AND THE OBLIGATION OF EITHER PARTY TO INDEMNIFY THE OTHER, PURSUANT HERETO SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

## **ARTICLE III**

### **SERVICES CHARGES**

- 3.1 The rates for Services performed under this Agreement shall be as set forth on the Term Sheet attached hereto and made a part hereof as Exhibit "B." Such rates and charges may include:
- (a) A charge for receipt which is the product of the Maximum Daily Receipt Quantity set forth on the Term Sheet attached hereto and made a part hereof as Exhibit "B"

times the quantities of Gas delivered by Customer, measured in MMBtu's, received at the Point(s) of Receipt during a Month.

- (b) A delivery charge which is the product of the Maximum Daily Delivery Quantity set forth on the Term Sheet attached hereto and made a part hereof as Exhibit "B" times the quantities of Gas redelivered to Customer, measured in MMBtu's, at the Point(s) of Delivery during a Month.
- (c) A monthly capacity reservation charge which is the product of the Reservation Rate set forth on the Term Sheet attached hereto and made a part hereof as Exhibit "B" times the Maximum Wheeling Quantity, expressed in MMBtu's.
- (d) A charge of in-kind delivery for retained Fuel equal to the Fuel Reimbursement set forth on the Term Sheet attached and made a part hereof as Exhibit "B" times the delivered Gas tendered at the Point(s) of Receipt for wheeling through the Storage Facilities during such Month. Title to the quantity of Gas that is charged as Fuel shall transfer to Arcadia at the downstream flange of Arcadia's metering facilities at the Point of Receipt.
- (e) All penalties and other charges described in the SOC, to the extent applicable to any Service.

#### **ARTICLE IV**

##### **PERFORMANCE OBLIGATION**

- 4.1 All service rendered to Customer pursuant to this Agreement shall be on a firm basis except where a failure to perform is excused pursuant to and in keeping with Section 4.7 of Arcadia's Statement of Operating Conditions.

#### **ARTICLE V**

##### **POINT(S) OF RECEIPT AND DELIVERY**

- 5.1 The Point(s) of Receipt for all Gas to be tendered by Customer to Arcadia for receipt into the Storage Facilities shall be as specified on the Term Sheet attached hereto and made a part hereof as Exhibit "B." The Maximum Daily Receipt Quantity ("MDRQ") that Arcadia is obligated to receive from Customer at each such individual Point of Receipt shall not exceed the maximum stated on the Term Sheet attached hereto and made a part hereof as Exhibit "B."
- 5.2 The Point(s) of Delivery for all Gas to be tendered by Arcadia to Customer for delivery pursuant to the terms hereof shall be as specified on the Term Sheet attached hereto and made a part hereof as Exhibit "B." The Maximum Daily Delivery Quantity ("MDDQ") that Arcadia is obligated to deliver to Customer at each such Point of Delivery shall not exceed the maximum stated on the Term Sheet attached hereto and made a part hereof as Exhibit "B."

**ARTICLE VI**

**CORRESPONDENCE TO CUSTOMER**

6.1 Any notice, request, invoice or statement required in this Agreement to be provided to Customer by Arcadia shall be in writing, and may be transmitted via ordinary mail, overnight mail, courier, or fax as specified below. Notice sent by fax shall be deemed received upon the sending party's receipt of its fax confirmation thereof. Notice by overnight mail or courier shall be deemed received upon actual receipt.

***BY U.S. MAIL:***

\_\_\_\_\_  
Attn: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

***BY FACSIMILE:***

\_\_\_\_\_

***BY OVERNIGHT MAIL OR COURIER:***

\_\_\_\_\_  
Attn: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

***BILLING AND ACCOUNTING ISSUES TO CUSTOMER:***

\_\_\_\_\_  
Attn: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Facsimile: \_\_\_\_\_

Any correspondence, including payments, from Customer to Arcadia shall be as provided in the SOC.

**ARTICLE VII**

**MISCELLANEOUS**

7.1 This Agreement has been negotiated at arm's length between non-affiliated parties, and neither party, by reason of the execution hereof, acquires any right to control or participate in the management or operation of the other party's properties. Neither party shall be charged with the performance of any of the other party's duties or obligations in connection with the operation of the properties affected hereby.

7.2 **NEITHER ARCADIA NOR CUSTOMER SHALL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL, INDIRECT, CONSEQUENTIAL, PUNITIVE OR**

**SPECIAL DAMAGES OF ANY KIND, NOR SHALL THIS AGREEMENT CONFER THIRD PARTY BENEFICIARY STATUS ON ANY PERSON.**

- 7.3 Customer agrees that Arcadia shall have the unilateral right to file with the appropriate state or federal regulatory agency and make changes effective in (a) any applicable rates for Services, and (b) any provision of the SOC. Arcadia shall provide written notice to Customer of any such changes. Arcadia agrees that Customer may contest any of the above-mentioned filings by Arcadia, and that Customer reserves whatever rights it may have with respect to such filings.
- 7.4 **CUSTOMER AGREES TO INDEMNIFY AND HOLD ARCADIA HARMLESS FROM AND AGAINST ANY LIABILITY TO IT IN THE EVENT GAS IS TAKEN BY THE LOUISIANA OFFICE OF CONSERVATION UNDER EMERGENCY GAS ALLOCATION PROCEDURES AND PROCESS.**
- 7.5 The descriptive headings of the provisions of this Agreement are formulated and used for convenience only and shall not be deemed to affect the meaning or construction of any such provisions.
- 7.6 The Statement of Operating Conditions, and the incorporated General Terms and Conditions, take precedence over conflicting language in this Service Agreement or amendments thereto, unless such language in the Service Agreement specifically states that it is an exception to this Statement of Operating Conditions, and then only to the extent of such stated exception. Otherwise, in the event that any term or provision in this Service Agreement is inconsistent with any term or provision in the Statement of Operating Conditions, the Statement of Operating Conditions shall control and this Service Agreement will be deemed modified accordingly.
- 7.7 Notwithstanding Paragraph 7.6 contained herein, each of the commercial terms (quantities, rates, and fuel charges) set forth in Exhibit "B," as well as the provisions set forth in Paragraphs 5.1 and 5.2 herein are deemed, to the extent any conflict may now or hereafter exist, exceptions to the SOC and thus take precedence over the SOC to the extent set forth therein.
- 7.8 The terms of this Agreement, including but not limited to the applicable charges, quantity, and all other material terms, shall be kept confidential by the parties hereto, except to the extent that any information must be disclosed (i) to a third party for the purpose of effectuating transportation of Gas subject to this Agreement, (ii) to meet New York Mercantile Exchange requirements or regulatory filing requirements, or (iii) as otherwise required by law.
- 7.9 This Agreement shall be governed by and construed, enforced, and performed in accordance with the law of the State of Texas, without regard to principles of conflicts of law.

ACCEPTED AND AGREED THIS  
\_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_

**ARCADIA GAS  
STORAGE, L.L.C.**

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

ACCEPTED AND AGREED THIS  
\_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_

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

**EXHIBIT "B"**  
**Confirmation**

**CONTRACT** \_\_\_\_\_

**DATED** \_\_\_\_\_

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<b><u>Customer</u></b>	<b><u>Arcadia</u></b>
_____	Arcadia Gas Storage, L.L.C.
Attn: _____	Three Riverway, Suite 1250
Address: _____	Houston, TX 77056
_____	Attn: Contract Administration
Telephone: _____	Telephone: (713) 350-2500
Fax: _____	Fax: (713) 350-2500
Email: _____	Email: CardinalContractAdmin@cardinalgs.com

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QUANTITY: (a) Maximum Wheeling Quantity (MWQ) \_\_\_\_\_ MMBtu/Day  
(b) Maximum Daily Receipt Quantity (MDRQ)\* \_\_\_\_\_ MMBtu/Day  
(c) Maximum Daily Delivery Quantity (MDDQ) \_\_\_\_\_ MMBtu /Day  
\* includes Fuel Reimbursement

TERM: \_\_\_\_\_

**WHEELING SERVICE CHARGES:**

	<u>Rate</u>	<u>Fuel Reimbursement</u>
Reservation Charge	\$ _____/MMBtu	N/A
Volumetric Charges:		
Receipt Charge	\$ _____/MMBtu	_____
Delivery Charge	\$ _____/MMBtu	N/A

	<b>Quantity</b>
<b>POINT(S) OF RECEIPT:</b> _____	_____
_____	_____
_____	_____

<b>POINT(S) OF DELIVERY:</b> _____	_____
_____	_____
_____	_____

**OTHER TERMS AND CONDITIONS:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ARCADIA GAS  
STORAGE, L.L.C.**

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

\_\_\_\_\_  
By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_