

## TRANSPORTATION SERVICE AGREEMENT

This **Transportation Service Agreement** (“Agreement”) is entered into effective as of October 1, 2013, by and between Black Hills Wyoming, LLC, a limited liability company formed under the laws of the State of Wyoming, and authorized to conduct business in Wyoming (hereinafter referred to as “Transporter,”) and \_\_\_\_\_, a corporation formed under the laws of the State of \_\_\_\_\_, and authorized to conduct business in Wyoming, hereinafter referred to as “Shipper.” (Transporter and Shipper are both a “Party” to this Agreement.)

### WITNESSETH

**WHEREAS**, Transporter owns and operates an undivided interest in 50% of the capacity in the Gas Line;

**WHEREAS**, the Gas Line is subject to regulation by the Wyoming Public Service Commission and qualifies as either a Hinshaw Pipeline or the End-User Exemption under Section 1(c) of the Natural Gas Act;

**WHEREAS**, Shipper has requested Transporters to provide natural gas transportation service on Shipper’s behalf utilizing Transporter’s capacity in the Gas Line; and

**WHEREAS**, Transporter has sufficient capacity available in Transporter’s capacity in the Gas Line to provide transportation service for Shipper on the terms set forth herein and subject to Transporter’s tariffs on file with the Commission;

**NOW, THEREFORE**, Transporter and Shipper agree as follows:

### ARTICLE I DEFINITIONS

- 1.1 **British Thermal Unit (Btu)**. The term “British thermal unit” (Btu) means the amount of heat required to raise the temperature of one (1) pound of water one (1) degree Fahrenheit at sixty (60) degrees Fahrenheit.
- 1.2 **Commission**. The term “Commission” means the Wyoming Public Service Commission.
- 1.3 **Dekatherm (Dth)**. The term “Dekatherm” (Dth) means the quantity of heat energy which is equivalent to one million (1,000,000) Btu.
- 1.4 **Delivery Point**. The term “Delivery Point” means the interconnect of the Gas Line with the natural gas delivery facilities of the power plant(s) identified in Exhibit A hereto.
- 1.5 **Gas Day and Day**. The terms “Gas Day” or “Day” mean the NAESB standard Gas Day from 9:00 a.m. to 9:00 a.m. (Central Clock Time).
- 1.6 **Gas Line**. The term “Gas Line” means an approximately 27-mile long, 8-inch diameter, high-pressure steel natural gas pipeline located in Campbell County, Wyoming.

- 1.7 **MDDQ.** The term “MDDQ” means Shipper’s contracted Maximum Daily Delivery Quantity as set forth on Exhibit A to this Agreement.
- 1.8 **MDRQ.** The term “MDRQ” means Shipper’s contracted Maximum Daily Receipt Quantity as set forth on Exhibit A to this Agreement.
- 1.9 **MDTQ.** The term “MDTQ” means Shipper’s contracted Maximum Daily Transportation Quantity as set forth on Exhibit A to this Agreement.
- 1.10 **Month.** The term “Month” means a calendar month.
- 1.11 **NAESB.** The term “NAESB” means the North American Energy Standards Board accredited and established to set standards for certain natural gas industry business practices and procedures. The terms “Nominated,” “Confirmed,” and “Scheduled” have the meaning given to them by NAESB.
- 1.12 **O&M Agreement.** The term O&M Agreement means that Operation and Maintenance Agreement between WBI, Transporter, and Black Hills Power, Inc., dated August 25, 2005, pursuant to which WBI operates and maintains the Gas Line, including any extensions or renewals thereof.
- 1.13 **Primary Term.** The term “Primary Term” means the period set forth in Section 4.1 of this Agreement.
- 1.14 **Receipt Point.** The term “Receipt Point” means the interconnect of the Gas Line with the interstate pipeline facilities of WBI at Landeck Station in the SW¼, Section 3, T-52-N, R-73-W, Campbell County, Wyoming.
- 1.15 **Shipper.** The term “Shipper” includes any agent of, or contractor with, Shipper contractually obligated to deliver natural gas to the Receipt Point for the account of Shipper, without regard to whether such agent or contractor holds title to the natural gas while such gas is being transported by Transporter.
- 1.16 **WBI.** The term “WBI” means Williston Basin Interstate Pipeline Company, a federally regulated interstate natural gas pipeline.

## **ARTICLE II TRANSPORTATION SERVICE**

- 2.1 Transporter’s service hereunder shall be subject to the regulatory authority of the Commission.
- 2.2 Subject to the terms and provisions of this Agreement, Shipper may on any Gas Day cause natural gas to be tendered to Transporter at the Receipt Point up to the Shipper’s MDRQ, and Transporter agrees to redeliver on a substantially contemporaneous basis, up to Shipper’s MDDQ, an equivalent quantity of natural gas to Shipper at the Delivery Point.

- 2.3 If requested by Shipper, Transporter may provide transportation service for daily quantities in excess of the Shipper's MDTQ if Transporter can do so without adverse effect on operation of Transporter's Gas Line or Transporter's ability to meet other contractual or service obligations.

**ARTICLE III  
POINTS OF RECEIPT/DELIVERY**

- 3.1 Shipper shall be responsible for making arrangements with upstream transporters, including Nomination and Scheduling of deliveries to the Receipt Point, for the transportation and delivery of natural gas to the Receipt Point for or on behalf of Shipper.
- (a) Shipper shall deliver or cause to be delivered at the Receipt Point, natural gas Nominated, Confirmed and Scheduled hereunder for the account of Shipper.
- (b) Shipper shall cause the gas to be delivered at a pressure sufficient to allow the gas to enter the Gas Line at the varying pressures that may exist in such Gas Line from time to time; provided, however, that the pressure of the gas delivered or caused to be delivered by Shipper shall not exceed the Maximum Allowable Operating Pressure of the Gas Line.
- 3.2 Transporter agrees to accept, up to Shipper's MDRQ, the quantity of natural gas Nominated, Confirmed and Scheduled for delivery at the Receipt Point by WBI.
- 3.3 Transporter shall transport natural gas, up to Shipper's MDTQ, for or on behalf of Shipper from the Receipt Point to the Delivery Point. To the extent practicable, receipts at the Receipt Point and redeliveries at the Delivery Point shall be made at uniform hourly rates; provided, however, that to the extent practicable and within Transporter's available capacity in the Gas Line, Transporter may permit hourly deliveries during any Day to exceed hourly receipts, as long as the total quantity received during the Day is within the quantity of natural gas Nominated, Confirmed, and Scheduled for receipt by Transporter from WBI at the Receipt Point.
- 3.4 On any Day, Transporter shall tender to or for the account of Shipper at the Delivery Point a quantity of natural gas, up to Shipper's MDDQ, thermally equivalent to the quantity of natural gas received by Transporter for the account of Shipper at the Receipt Point.
- (a) Except as provided in subsection (b) of this Section 3.4, Transporter shall tender the gas to or for the account of Shipper at the Delivery Point at the prevailing pressure of the Gas Line, as such pressure may vary from time to time.
- (b) Any minimum or maximum delivery pressure shall be set forth in Exhibit A to this Agreement.

**ARTICLE IV  
TERM OF AGREEMENT**

- 4.1 This Agreement shall be effective as of the date hereof, and shall remain in effect for a Primary Term of Twenty (20) years.
- 4.2 Following the expiration of the Primary Term, Shipper shall have the option to thereafter extend the term of this Agreement for up to Twenty (20) years by providing written notice thereof to Transporter not more than six (6) Months, nor less than three (3) Months prior to the expiration of such Primary Term or any extension thereof under this section.

**ARTICLE V  
RATES AND CHARGES**

- 5.1 Each Month, Shipper shall pay Transporter for the service hereunder, Shipper's Share of the monthly fee charged by WBI pursuant to the O&M Agreement to operate and maintain the Gas Line (currently approximately \$\_\_\_\_\_ mo./power plant served), as such monthly fee may be adjusted over time. Any change in the rate or rate methodology under this Agreement is subject to Commission review and approval.
- 5.2 Within thirty (30) days of being billed by Transporter for Shipper's Share of any additional costs or charges billed by WBI pursuant to the O&M Agreement for activities, not covered by the monthly fee described in Section 5.1 of this Agreement, related to the operation, maintenance, repair or replacement of the Gas Line, Shipper shall pay to Transporter, Shipper's Share of any such costs or charges. Any change in the costs or charges under this Agreement is subject to Commission review and approval.
- 5.3 Shipper shall pay to Transporter Shipper's Share of any surcharge of general applicability that implements a requirement imposed by statute or by the Commission or another duly authorized governmental body. Any change in the Shipper's Share or methodology establishing Shipper's Share under this Agreement is subject to Commission review and approval.
- 5.4 For purposes of this Article V, "Shipper's Share" –
- (a) of any amounts billed by WBI shall be determined by dividing the total amount of such costs, charges, or surcharges by the number of facility interconnections accounts served by the Gas Line;
  - (b) of any other existing or new taxes, fees, charges, or surcharges shall be determined by dividing the total amount thereof by the number of facility interconnection accounts served by Transporter's undivided interest in the capacity of the Gas Line; and
  - (c) any other fee, penalties, gas supply costs, fuel costs, lost and unaccounted for gas, or other charges attributed to service to Shipper.

- 5.5 Transporter may seek authorization from the Commission for such changes to any rates, charges, and/or terms and conditions of service set forth herein as may be necessary to assure that Transporter's rates, charges and terms and conditions of service provide Transporter with a reasonable opportunity to recover its actual, prudently incurred costs of operation, maintenance, repair or replacement of the Gas Line, including amortization of, or any rate of return on, the then existing net book value of Transporter's interest in the Gas Line. Nothing herein shall be construed to deny Shipper any rights it may have under Chapter 37 ("Public Utilities") of the Wyoming Statutes or the regulations of the Commission, including the right to participate fully in rate proceedings by intervention, or otherwise to contest Transporter's filing in whole or in part.

## **ARTICLE VI NOTICE**

- 6.1 Except as may be otherwise provided, any notice, request, demand, statement or bill provided for in this Agreement or any notice which a Party may desire to give the other shall be in writing delivered personally, sent by facsimile (with transmission confirmation by sender's machine), sent by reliable delivery service (*e.g.*, FedEx, UPS), or mailed by regular mail, effective as of the postmark date, to the post office address of the Party intended to receive the same, as the case may be, as set forth in Exhibit A to this Agreement. Notice sent by e-mail shall not be effective unless acknowledged by electronic receipt or confirmation from the designated recipient. Normal operating instructions may be delivered by telephone or other agreed means. Notice of events of Force Majeure may be made by telephone and confirmed in writing within a reasonable time after the telephonic notice. Monthly statements, invoices, payments and other communications shall be deemed delivered when actually received. Either Party may change its address, e-mail or facsimile and telephone numbers upon written notice to the other Party.

## **ARTICLE VII MEASUREMENT AND QUALITY**

- 7.1 The natural gas quantities received at the Receipt Point and redelivered at the Delivery Point shall be measured by Transporter through measurement facilities constructed, operated and maintained in accordance with sound engineering practice, applicable industry standards and specifications, and all applicable federal and state regulations. In the absence of measurement facilities owned by Transporter at the Receipt Point, the measurement facilities of WBI shall be used for all purposes.
- 7.2 Both Parties shall have the right to be present during the installation, cleaning, changing, repairing, inspecting, testing, calibrating and/or adjusting of any natural gas measurement facilities of Transporter at the Receipt and Delivery Points. Calibration of gas measurement facilities shall be conducted in accordance with standard industry practices. Transporter shall provide Shipper five (5) days' notice in advance of performing any installation, cleaning, changing, repairing, inspecting, testing, calibrating and/or adjusting of the natural gas measurement facilities, and Shipper shall have the right to witness such events.

- 7.3 Transporter shall preserve all records relating to the measurement of gas quantities for a period of at least two (2) years, or such longer periods as shall be required by law, regulation, rule or order. During such period, upon reasonable notice Shipper, or its designated representative, shall have access to such records during regular business hours.
- 7.4 If Shipper causes an imbalance in the in the quantity received by Transporter at the Receipt Point, and such imbalance causes Transporter to be subject to any penalties under the Gas Tariff of WBI, Shipper shall reimburse Transporter for any such penalties.
- 7.5 If, upon any test, Transporter's measuring equipment is found to be in error, such errors shall be taken into account in a practical manner in computing the deliveries. If the resultant aggregate error in the computed receipts or deliveries is not more than 0.5% for chromatograph or calorimeter and two percent (2%) for other measuring equipment, then previous receipts or deliveries shall be considered accurate. All equipment shall, in any case, be adjusted at the time of test to record correctly. If, however, the resultant aggregate error in computing receipts or deliveries exceeds 0.5% for chromatograph or calorimeter and two percent (2%) for other measuring equipment, at a recording corresponding to the average hourly rate of gas flow rate for the period since the last preceding test, the previous recordings of such equipment shall be corrected to zero error for any period which is known definitely or agreed upon, and otherwise such correction shall be for a period extending over one-half of the time elapsed since the date of the last test.
- 7.6 If any measuring equipment is out of service, or is found registering inaccurately and the error is not determinable by test, previous recordings of receipts and deliveries through such equipment shall be determined as follows, provided that the correction period shall not exceed one (1) year:
- (a) by using the registration of any check meter or meters if installed and accurately registering, or in the absence of (a);
  - (b) by correcting the error if the percentage of error is ascertainable by calibration, special test or mathematical calculation, or in the absence of both (a) and (b) then;
  - (c) by estimating the quantity of receipt or delivery based on receipts or deliveries during preceding periods under similar conditions when the meter was registering accurately.

- 7.7 The gas delivered hereunder to Transporter at the Receipt Point shall meet the gas quality specifications set forth in the FERC Gas Tariff of WBI.
- 7.8 The gas delivered hereunder by Transporter at the Delivery Point shall be commercially fungible with the gas received by Transporter at the Receipt Point.

**ARTICLE VIII  
BILLING AND PAYMENT**

- 8.1 On or before the ninth (9th) business day of each Month, Transporter shall render an invoice to Shipper setting forth the amount due for such Month.
- 8.2 When information necessary for invoicing purposes is in the control of Shipper, Shipper shall furnish such information to Transporter on or before the third (3rd) day of the Month.
- 8.3 Both Transporter and Shipper have the right to examine at reasonable times, books, records and charts of the other to the extent necessary to verify the accuracy of any invoice, charge or computation made under or pursuant to any of the provisions hereof.
- 8.4 Shipper shall pay any invoice, on or before the tenth (10th) day after the date of the invoice. Payments by Shipper to Transporter shall be made in the form of wire transfer directed to the bank account designated by Transporter, unless otherwise agreed to by the Parties. Shipper shall identify the invoice number specified by Transporter to which the payment relates. If Shipper submits payment different from the invoiced amount, remittance detail must be provided with such payment.
- 8.5 If rendition of an invoice by Transporter is delayed after the ninth (9th) business day of the Month, then the time of payment shall be extended accordingly unless Shipper is responsible for such delay.
- 8.6 If Shipper fails to pay all of the amount of any invoice when such amount is due, interest on the unpaid portion of the invoice shall accrue from the due date until the date of payment at a rate of interest equal to the prime rate charged by Citibank, N.A. during that period to responsible commercial and industrial borrowers, plus two percent (2%), but which in no event shall be higher than the maximum rate permitted by law. In addition to any other remedy Transporter may have, Transporter may suspend further receipt and redelivery of gas for Shipper, provided, however, that if Shipper in good faith shall dispute the amount of any such invoice or part thereof and shall pay to Transporter such amounts not in dispute, and provide documentation identifying the basis for the dispute and, at any time thereafter within thirty (30) days of a demand made by Transporter, shall furnish a good and sufficient surety bond in an amount and with surety satisfactory to Transporter or other assurance acceptable to Transporter, guaranteeing payment to Transporter of the amount ultimately found due upon such invoice after a final determination which may be reached either by agreement or judgment of the courts, as may be the case, then Transporter shall not be entitled to suspend further receipt and redelivery of gas or terminate or abandon service under this Agreement unless and until default be made in the conditions of such bond. The foregoing shall be in addition to any

other remedies Transporter may have, at law or in equity, with respect to Shipper's failure to pay the amount of any invoice.

- 8.7 If it shall be found that at any time Shipper has been overcharged or undercharged, and Shipper shall have actually paid the invoice containing such charges, then within thirty (30) days after the final determination thereof, either Transporter shall refund the amount of any such overcharge or Shipper shall pay the amount of any such undercharge.
- (a) If an error is discovered in the amount invoiced in any invoice rendered by Transporter, such error shall be adjusted within thirty (30) days of the determination thereof, provided that claim therefore shall have been made within thirty (30) days from the date of discovery of such error, but in any event within six (6) Months from the date of such invoice. The Party receiving such request for adjustment shall have three (3) Months to rebut such claim, otherwise the invoice shall be adjusted as requested. The preceding time limits do not apply to deliberate omission or misrepresentation or mutual mistake of fact or government required rate changes.
  - (b) If the Parties are unable to agree on the adjustment of any claimed error, any resort by either of the Parties to legal proceedings shall be commenced within eighteen (18) Months after the cause of action is alleged to have arisen, or shall thereafter be forever barred.

## **ARTICLE IX MISCELLANEOUS**

- 9.1 **Entire Agreement.** This Agreement, including any Exhibits incorporated by reference herein, constitutes the entire agreement between the Parties and supersedes any prior understanding or written or oral agreement relative thereto.
- 9.2 **Counterparts.** This Agreement may be executed in any number of counterparts, each of which shall be considered an original, and all of which shall be considered one instrument. Facsimile, PDF and other similar signatures shall be treated for all purposes as if they are originals.
- 9.3 **Force Majeure.** If either Party is rendered unable, in whole or in part, by Force Majeure to carry out its obligations under this Agreement, except for the payment of monies due, then such Party shall give notice to the other Party, in accordance with this Agreement, including reasonably full particulars of such Force Majeure event within a reasonable time after it becomes aware of the occurrence of the Force Majeure, and the obligations of such Party, insofar as they are affected by such Force Majeure, shall be suspended from the commencement of such Force Majeure through the continuance of any inability so caused, but for no longer period, and such Force Majeure shall so far as possible be remedied with all reasonable dispatch. Any suspension of obligation for reasons of Force Majeure shall be proportional to the effect of such Force Majeure on the particular obligation from which relief is sought.

The term "Force Majeure" shall mean any event or condition or combination of events and/or conditions which prevents, or delays the performance of any obligation subject



hereto, in whole or in part, which is not within the reasonable control of the person claiming suspension by reason of Force Majeure, and which the Party claiming suspension is unable to prevent or overcome by the exercise of reasonable care or due diligence. For the purposes of the definition of “Force Majeure,” the exercise of due diligence shall mean acting in good faith with the intention of performing contractual obligations, and the exercise of a degree of skill, diligence, prudence, and foresight that would reasonably and ordinarily be exercised by a skilled and experienced person complying with applicable law and engaged in the same type of undertaking under the same or similar circumstances and conditions. Provided that the foregoing requirements are met, such events or conditions constituting Force Majeure include but are not limited to acts of God, strikes, lockouts, acts of a public enemy, acts of sabotage, wars, blockades, riots, insurrections, epidemics, landslides, subsidence, earthquakes, fires, hurricanes, storms, tornadoes, floods, washouts, accidents, interruptions by government or court orders, present or future orders of any regulatory body having proper jurisdiction, civil disturbances, and explosions. Failure by the Party claiming suspension to prevent or settle any strike or strikes shall not be considered to be an event or condition within the control of such Party.

9.4 **Indemnification.** To the fullest extent permitted by law, each Party (the “Indemnifying Party”), shall, indemnify, hold harmless, and defend the other Party, its parent company(s) and affiliates at any tier, and their respective directors, officers, employees, and agents (collectively “Indemnified Parties”), from and against any and all liabilities, losses, claims, demands, liens, fines, and actions of any nature whatsoever, including but not limited to attorney fees and defense costs (collectively “Liabilities”), to the extent arising out of:

- (a) any injury or death to any person, loss or damage to any property, loss of gas, or any other losses; and
- (b) either:
  - (i) the Indemnifying Party’s or its contractor’s or subcontractor’s negligence, strict liability, or willful misconduct related to activities performed under this Agreement,
  - (ii) the Indemnifying Party’s breach of this Agreement,
  - (iii) the Indemnifying Party’s facilities, or
  - (iv) the Indemnifying Party’s custody and control of the gas.

Without relieving the Indemnifying Party of any obligation under this Agreement, an Indemnified Party may, at its option, fully participate in the investigation, defense, and settlement of any Liabilities.

9.5 **Limitation of Liability.** EACH PARTY WAIVES AND NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF REVENUES, LOSS OF PROFITS OR LOSS OF USE,

(COLLECTIVELY “CONSEQUENTIAL DAMAGES”) WHICH ARISE OUT OF OR ARE IN CONNECTION WITH THIS AGREEMENT OR THE PERFORMANCE OR BREACH THEREOF.

- 9.6 **Governing Law.** This Agreement shall be governed by and construed, as to interpretation and performance, in accordance with the laws of the State of Wyoming, excluding any conflicts-of-law rule or principle which might refer such construction to the laws of another state.
- 9.7 **Joint Efforts.** The Parties stipulate and agree that this Agreement shall be deemed and considered for all purposes as prepared through the joint effort of the Parties and shall not be construed against one Party or the other as a result of the preparation, submittal or other event of negotiation, drafting or execution hereof.
- 9.8 **Waiver.** A Party’s failure to insist upon the performance of any of the terms and conditions set forth in this Agreement, or the waiver of any breach of any of the terms and conditions hereof, shall not be construed or deemed to be a waiver of any succeeding breach of such terms and conditions, whether of like or different character or nature, and the terms and conditions of this Agreement shall continue and remain in full force and effect as if no such failure or waiver had occurred. Any failure to exercise any right hereunder shall not be considered as a waiver of any right, whether of like or different character or nature, in the future.
- 9.9 **Severability.** If any term or provision or portion thereof of this Agreement, or the application thereof, to any person or circumstance is held to be illegal, invalid or unenforceable under any present or future law, then (i) such term or provision or portion thereof shall be fully severable, (ii) this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision or portion thereof had never been contained herein, and (iii) the remaining provisions of this Agreement shall remain in full force and effect, and the validity and enforceability thereof shall not be affected by the illegal, invalid or unenforceable provision or portion thereof, or by its severance herefrom. If this Agreement is determined by an Order of the Commission to conflict with or violate any applicable Wyoming statute or Commission rule, regulation or enforceable policy, the Parties agree to negotiate in good faith to revise this Agreement to preserve the economic substance of the Agreement to the maximum degree feasible consistent with such Commission Order. The preceding paragraph of this Section 9.9 shall apply to authorize construction of this Agreement to avoid any such conflict or violation.
- 9.10 **Third Party Beneficiaries.** The rights and obligations of the Parties hereto are made for the express and exclusive benefit of the Parties and no other person which is not a signatory hereto shall have the benefit of, or any right to seek enforcement or recovery under, any such rights or obligations.
- 9.11 **Assignment.** This Agreement may be assigned, in parts or in whole, only in accordance with the following provisions:
- (a) *Consent Required.* Except as provided elsewhere in this Section, neither Party may assign its rights and obligations under this Agreement without the prior

written consent of the non-assigning Party, which consent shall not be unreasonably withheld. In the event of such an assignment, the non-assigning Party shall execute such consents or acknowledgements of the assignment as are customary and usual, and as may be reasonably necessary to support the assignment, provided, however, neither Party shall be required to provide in such consents or acknowledgements any rights or obligations different from those set forth in this Agreement. Further, unless otherwise agreed to in writing by the Parties, any assignment of this Agreement shall be subject to the “Limitation on Assignment” requirements set forth below.

- (b) *No Consent Required.* Either Party may, subject to the “Limitation on Assignment” requirements set forth below and without prior written consent of the non-assigning Party, assign its rights and obligations under this Agreement to a business entity which is (i) an affiliate, wholly-owned subsidiary, or parent of the assigning Party, or (ii) a successor to all or substantially all of the assigning Party’s properties that are the subject matter of this Agreement as a result of purchase, acquisition, merger, consolidation or reorganization.
- (c) *Limitation on Assignment.* In no event shall this Agreement be assigned to any person or entity that, as of the effective date of the assignment, will not lawfully own and operate the facilities of the Party making the assignment.
- (d) *Successors and Assigns.* This Agreement shall be binding on, and inure to the benefit of, the Parties hereto and their respective permitted successors and assigns.

9.12 **Responsibility for Gas.** Upon receipt of gas at the Receipt Point, Transporter shall be in exclusive control and possession of such gas and responsible for any loss thereof, and for any injury or damage caused thereby, until the equivalent quantity of gas has been delivered to, for the account of, Shipper at the Delivery Point, after which Shipper shall be in exclusive control and possession of such gas and responsible for any loss thereof, and for any injury or damage caused thereby.

9.13 **Warranty.** Shipper and Transporter warrant as follows:

- (a) Shipper warrants that it has, or will have, at the time of delivery of the gas hereunder to Shipper at the Receipt Point, good title to such gas and/or good right to cause the gas to be delivered to Transporter. Shipper warrants that the gas it delivers hereunder shall be free and clear of all liens, encumbrances or claims, and that it will indemnify and save Transporter harmless from all suits, actions, debts, accounts, damages, costs, losses, and expenses arising from or out of adverse claims of any and all persons to said gas and/or to royalties, taxes, license fees, or charges thereon which are directly applicable to such delivery of gas and that it will indemnify and save Transporter harmless from all taxes or assessments which may be directly levied and assessed upon such delivery and which are by law payable and the obligation of the person making such delivery.
- (b) Transporter warrants that the gas it redelivers to Shipper at the Delivery Point shall be free and clear of all liens, encumbrances or claims (other than any such

liens, encumbrances or claims described in the preceding paragraph for which Shipper is required to indemnify Transporter), and that Transporter will indemnify and save Shipper harmless from all suits, actions, debts, accounts, damages, costs, losses, and expenses arising from or out of adverse claims of any and all persons to said gas (other than any such liens, encumbrances or claims described in the preceding paragraph for which Shipper is required to indemnify Transporter).

- 9.14 **Headings.** The headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of the Agreement.

[signature page follows]

**IN WITNESS WHEREOF**, the Parties hereto have caused this Agreement to be signed by their respective duly authorized officers or representatives.

**BLACK HILLS WYOMING, LLC**

By \_\_\_\_\_

Its \_\_\_\_\_

**SHIPPER**

By \_\_\_\_\_

Its \_\_\_\_\_

EXHIBIT "A"

**TRANSPORTATION SERVICE EXHIBIT**

To Transportation Service Agreement between  
Black Hills Wyoming, LLC (Transporter) and \_\_\_\_\_ (Shipper)

Effective: \_\_\_\_\_

- I. **POINT OF RECEIPT – MDRQ:** \_\_\_\_\_ dth
- II. **POINT OF DELIVERY – MDDQ:** \_\_\_\_\_ dth
- III. **MAXIMUM DAILY TRANSPORTATION QUANTITY (MDTQ):** \_\_\_\_\_  
Location: \_\_\_\_\_
- IV. **NOTICES**

To Transporter:      Black Hills Wyoming, LLC  
                                 Attention: Mark Lux  
                                 Telephone: (303)-568-3241  
                                 Facsimile: (303)-476-5952  
                                 E-mail: mark.lux@blackhillscorp.com

To Shipper:

**V. OTHER AGREEMENTS**

Minimum Delivery Pressure: \_\_\_\_\_ psig design pressure

Maximum Delivery Pressure: \_\_\_\_\_ psig design pressure

This Exhibit is subject to and governed by terms and conditions of the Transportation Service Agreement, as may be amended or assigned in whole or in part, from time to time, are incorporated by reference herein.

This Exhibit may be assigned separately from other Exhibits governed by the Transportation Service Agreement. As part of that assignment, if any, the terms and conditions of the Transportation Service Agreement, as may be amended from time to time, will govern and apply to the assigned Exhibit as if it remained a part of this original Transportation Service Agreement.