

## COAL TRANSPORTATION SERVICES AGREEMENT

THIS AGREEMENT, effective January 1, 2025 (“Effective Date”), between Midwest Energy Resources Company (“Seller”), a Michigan company, and the City of Duluth, Minnesota (“Buyer”) (“Agreement”).

WHEREAS, as of the date of this Agreement, Buyer has title of approximately 5,000 tons of coal previously purchased from Venture Fuels, a joint venture partnership between Midwest Energy Resources Company and Navajo Transitional Energy Company, LLC, under contract number C22091, as amended (the “Coal”).

WHEREAS, Seller agrees to store, transport and deliver the Coal from Seller’s Superior Midwest Energy Terminal (“SMET”) to the Duluth Energy Systems facility (“Facility”) and Buyer agrees to accept delivery of Coal and pay for storage and transportation services from the Seller.

NOW, THEREFORE, in consideration of the premises and the mutual promises hereinafter set forth, it is agreed by and between Seller and Buyer as follows:

### ARTICLE I TERM

Notwithstanding the date of the signature of this Agreement, the term (“Term”) of this Agreement shall commence as of the Effective Date and continue through April 30, 2026, unless terminated earlier pursuant to other provisions of this Agreement. Seller shall have the right to terminate this Agreement, any time on or after December 1, 2025, by providing a 30-day written notice to Buyer. In addition, this Agreement shall terminate automatically upon Seller’s delivery of all remaining Coal purchased under the Contract Agreement by and between Venture Fuels and City of Duluth dated December 6, 2013, Contract Number C22091, as amended, (collectively the “Coal Agreement”) to the Facility.

### ARTICLE II COAL QUALITY, STORAGE AND DELIVERY

Section 1. Quality: The Coal provided by Buyer and delivered by Seller to Buyer shall reasonably conform to the typical specifications (see Typical Coal Quality Analysis) as sampled at the Spring Creek Mine.

Section 2. Coal Storage: Buyer’s Coal shall be stored in the Spring Creek common stockpile at SMET.

Section 3. Truck Delivery: Seller shall arrange for the Coal to be loaded into trucks at SMET for transport to and unloading at the Facility. Risk of loss for the Coal shall transfer from Seller to Buyer once the Coal is unloaded at the Facility. Seller shall transport Coal via trucks pursuant to a mutually agreeable shipment schedule. Seller shall unload coal at the Facility in an area designated by Buyer.

ARTICLE III  
QUANTITY

During the Term of this Agreement the Seller will transport to Buyer and Buyer will accept the remaining Coal purchased under the Coal Agreement. If Coal remains at SMET at the conclusion of this Agreement, ownership and title of the remaining coal shall revert to Seller

ARTICLE IV  
WEIGHING

The actual weight of Coal loaded onto trucks will be determined by Seller's certified truck scale at SMET, which shall be inspected and approved by an independent testing organization selected by Seller. Buyer shall have the right, at its sole risk and expense, to have a representative present at any time to observe the weighing of Coal shipped hereunder and to observe any such scale tests.

ARTICLE V  
PURCHASE PRICE

Section 1. Base Price: Upon Buyer's receipt of Coal at the Facility, Buyer shall pay the following Base Price per ton for Coal transportation services, including Trucking Fuel Adjustment identified in Section 2 of this Article during the Term of the Agreement :

	<u>2025</u>	<u>2026</u>
Storage Fee:	\$2.00	\$2.50
Trucking:	\$7.00	\$7.50
Trucking Fuel Adj.:	<u>\$0.17</u>	<u>\$0.17</u>
Base Price:	\$9.17	\$10.17

Section 2. Trucking Fuel Adjustment: The Base Price will be subject to Seller's subcontractor's (Lakehead Trucking) monthly fuel adjustment based on the change from a base fuel rate of \$2.00 per gallon and the price of diesel fuel on the 15<sup>th</sup> of the applicable month. The adjustment is determined by multiplying the estimated fuel use by the change in fuel price then dividing the result by the expected 24 tons per truck load. The base price includes the September 2024 fuel adjustment of \$0.17 per net ton.

ARTICLE VI  
BILLING AND PAYMENT

An invoice for the Coal supplied under this Agreement shall be submitted by Seller to Buyer by means of mail or email, at the beginning of the month for the Coal delivered to the Facility for the prior month. Payment for the amount due hereunder using funds from the following fund 540-920-1490-5387, must be electronically transferred or made with check within Thirty (30) days from the date the invoice is received and the invoice shall include all appropriate bank routing instructions. Unless otherwise instructed by Seller in writing, payments will be made electronically by Buyer.

If Buyer fails to make payment within the above-stated period, Buyer shall pay a late charge of 1/365<sup>th</sup> of the sum of two percentage points plus the prime rate then in effect as published in the Wall Street Journal (Money Rate Section) times the delinquent amount for each calendar day which payment is late.

## ARTICLE VII FORCE MAJEURE

The term “Force Majeure” shall mean causes beyond the control and without the fault or negligence of the party whose performance is affected thereby, including but not limited to: Acts of God; acts of the public enemy; wars; riots; insurrections and other hostilities; fires; explosions; mechanical breakdowns; severe weather conditions; adverse geologic conditions; regulations or acts of governments or governmental agencies; unavailability or shortage of power or labor; shortage or curtailment of energy sources; strikes or other labor disturbances; failure or delay for any reason of Seller’s suppliers of goods or services; embargoes; inability to obtain or maintain necessary permits, licenses and governmental approvals after applying for same with reasonable diligence; act of governmental authorities; impediment beyond the control of Seller for storage or loading of Coal at SMET or the receiving and utilizing of the Coal by Buyer at its Facility. It shall not, however, include any change in demand or projected demand for Coal, whether foreseeable or not.

If, as a result of Force Majeure, it becomes impossible or impractical for Seller to transfer, store, blend, and load the Coal subject to this Agreement in conformance with applicable laws and regulations without making significant changes in its facilities or operations, or it becomes impossible or impractical for Buyer to receive or consume the Coal that is the subject of this Agreement in conformance with applicable laws and regulations without making significant changes in its facilities or operations, and if the party directly affected by any such Force Majeure, promptly gives written notice to the other party of such event or condition of Force Majeure, together with reasonable details of the cause, nature, and the probable duration thereof, and the extent of its effect on such party’s performance hereunder, the obligations of the party giving such notice shall be suspended to the extent made necessary by such Force Majeure and during its continuance; provided, however, that the party giving such notice shall use good faith effort to eliminate or mitigate such Force Majeure insofar as reasonably possible and with a minimum of delay insofar as is economically practical. Neither party shall be obligated to settle strikes, labor disputes, differences with employees or unions or governmental claims or terms which such party considers inadvisable in order to mitigate or eliminate such Force Majeure or its effect. Upon the cessation of either party’s event or condition of Force Majeure, shipments shall only be made up upon mutual agreement. Force Majeure shall not relieve the obligation of Buyer to pay for the Coal already delivered to Buyer’s Facility in accordance with this Agreement during the continuance of any such event or condition of Force Majeure.

To the extent an event of Force Majeure continues for a period of 90 consecutive days, the party not claiming Force Majeure shall have the right to terminate this Agreement upon written notice to the other party.

## ARTICLE VIII LIMITATION OF LIABILITY

IN NO EVENT SHALL SELLER BE LIABLE FOR COST OF PURCHASE OR REPLACEMENT ENERGY, AND NEITHER BUYER NOR SELLER SHALL BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION LOST PROFITS OR LOSS OF RETURN ON CAPITAL INVESTMENT.

ARTICLE IX  
WAIVERS AND REMEDIES

The failure of either party hereto to insist in any one or more instances upon strict performance of any of the provisions of this Agreement or to exercise any of its rights hereunder shall not be construed as a waiver of any such provision or the relinquishment of any such right, but the same shall continue and remain in full force and effect. All remedies under this Agreement shall be cumulative and in addition to every other remedy provided for herein or by law.

ARTICLE X  
ASSIGNMENT AND BINDING EFFECT

Neither Seller nor Buyer shall assign this Agreement in whole or in part, without the prior written consent of one to the other; provided, however, either party may assign this Agreement to an affiliated company upon written notice to the other party; and provided further that the assignor shall remain responsible for assignee's performance under this Agreement, unless released in writing by the other party to this Agreement. This Agreement shall bind and inure to the benefit of the parties, their successors, and their permitted assigns.

ARTICLE XI  
GOVERNING LAWS

All questions and disputes relating to the execution, construction, performance or enforcement of this Agreement shall be determined in accordance with the laws of the State of Wisconsin.

ARTICLE XII  
NOTICES

Any notice, election or other correspondence required or permitted hereunder shall become effective upon receipt and, except invoices and payments, the delivery of which is specified in Article VI, shall be deemed to have been properly given or delivered when made in writing and delivered personally to the authorized representative of the other party designated below, or when sent by U.S. mail, or fax transmission, and addressed to the authorized representative of the other party designated below at its specified address:

To:	City of Duluth:	City of Duluth
		Purchasing Division
		411 W. 1 <sup>st</sup> Street, Room 120
		Duluth, Minnesota 55802
		Phone: 218-730-5340

To: Midwest: Manager - Marketing  
Midwest Energy Resources Company  
Superior Midwest Energy Terminal  
P.O. Box 787  
West Winter Street & Ajax Road  
Superior, Wisconsin 54880  
Phone: 715-395-3505  
Fax: 715-392-9137

Any party may change its notice information for purposes of this Agreement by giving written notice in accordance with the provisions of this Article. Any notice pertaining to matters of an emergency or an operating nature may be delivered by mail, messenger, telephone, fax transmission, or by any other reasonable means, to such representative of the party hereto being notified as may be appropriate, and such notice shall be effective upon receipt. If given by telephone or orally, the notice shall be confirmed in writing as soon as practicable thereafter to such party's representative.

ARTICLE XIII  
MISCELLANEOUS

1. Entire Agreement. This Agreement is the entire agreement between the parties. There are no other provisions, representations, warranties or understandings expressed or implied. No modification, variation or amendment of this Agreement, or trade or local custom not expressly stated in this Agreement shall have any effect unless set forth in writing and signed by both parties. Buyer may elect to issue its standard purchase order form for its internal ordering and accounting purposes; provided, however, the terms and conditions stated on any such purchase order shall have no effect with respect to the services to be provided hereunder and the terms of this Agreement shall control.

2. Severability. The parties agree that if any term or provision of this Agreement is declared by a court of competent jurisdiction to be illegal or in conflict with any law, the validity of the remaining terms and provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular term or provision held to be invalid..

3. Construction of Terms. The terms of this Agreement have been arrived at after mutual negotiation and, therefore, it is the intention of the parties that the terms not be construed against either party by reason of the fact that the Agreement was prepared by such party. The captions in this Agreement are for the convenience of reference only and shall not define or limit any of the terms or provisions hereof.

4. Confidentiality. The parties agree that (i) the terms of this Agreement; (ii) financial information disclosed by the parties pursuant to or in the course of dealing under this Agreement;

and (iii) any other proprietary, trade secret or confidential information of either party that is disclosed to the other party in the course of dealing under this Agreement and is identified in writing as confidential shall be held in confidence and shall not be disclosed to any third party without such party's written consent, provided that either party, after requesting the preservation of the confidentiality of the information, may disclose such information in response to an order, rule or regulation of a court or governmental body having jurisdiction, or if in the opinion of counsel for such party disclosure is required in connection with any legal or regulatory proceeding if it provides prompt, prior notice to the other party of such order, rule or regulation to enable such party to take any other action it deems necessary to ensure the preservation of the confidentiality of the information required to be disclosed.

Notwithstanding anything to the contrary, except as reasonably necessary to comply with applicable securities laws, each party to this Agreement (and each employee, representative, or other agent of such party) may (i) consult any tax advisor regarding the U.S. federal income tax treatment or tax structure of the transaction, and (ii) disclose to any and all persons, without limitation of any kind, the U.S. federal income tax treatment and tax structure of the transaction and all materials of any kind (including opinions or other tax analyses) that are provided to the taxpayer relating to such tax treatment and tax structure; provided that clause (ii) shall not apply until the earliest of (x) the date of the public announcement of discussions relating to the transaction, (y) the date of the public announcement of the transaction or (z) the date of the execution of an agreement, with or without conditions, to enter into the transaction. For this purpose, "tax structure" is limited to any facts relevant to the U.S. federal income tax treatment of the transaction and does not include information relating to the identity of the parties.

5. Representation and Warranties. Seller represents and warrants to Buyer, and Buyer represents and warrants to Seller: (i) they are duly organized and validly exist in good standing under the laws of their states of incorporation and have all requisite power and authority to enter into this Agreement and to carry out the terms and provisions hereof; (ii) the person(s) executing this Agreement on behalf of that party are duly authorized and empowered to bind their respective party of this Agreement; and (iii) to the best of their knowledge, there is no action, proceeding or investigation current or pending, and no term or provision of any charter, by-law, certificate, license, mortgage, indenture, contract, agreement, judgment, decree, order, status, rule or regulation which in any way prevents, hinders, or otherwise adversely affects or would be violated by, entering into and performing this Agreement.

6. Termination. Subject to Article IX above, in the event either party fails to perform its obligations under this Agreement, the other party shall have the right to terminate this Agreement if such breach is not cured within 30 days after the breaching party's receipt of written notice from the other party.

*[Remainder of page intentionally left blank. Signature page to follow.]*

IN WITNESS WHEREOF, the parties have hereunto set their hands on the date of attestation shown below.

**CITY OF DULUTH**

**MIDWEST ENERGY RESOURCES COMPANY**

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

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

Attest:

Its: \_\_\_\_\_  
Title of Representative

By: \_\_\_\_\_  
City Clerk

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

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

Countersigned:

\_\_\_\_\_  
City Auditor

Approved as to Form:

\_\_\_\_\_  
City Attorney