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SOUTH DAKOTA INTRASTATE PIPELINE CO.

AMENDED AND RESTATED

TRANSPORTATION AGREEMENT

WITH

MONTANA-DAKOTA UTILITIES CO.

Dated as of September 1, 1993

## AMENDED AND RESTATED TRANSPORTATION AGREEMENT

THIS AMENDED AND RESTATED TRANSPORTATION AGREEMENT (this "Agreement") is made and entered into effective as of September 1, 1993 by and between SOUTH DAKOTA INTRASTATE PIPELINE CO. ("Transporter"), a South Dakota corporation, and Montana Dakota Utilities Co. ("Montana-Dakota"), A Division of MDU Resources Group, Inc., a Delaware corporation.

### WITNESSETH:

WHEREAS, Transporter has received a Certificate of Public Convenience and Necessity from the South Dakota Public Utilities Commission (the "SDPUC") authorizing the construction and operation of the "System" (as hereinafter defined); and

WHEREAS, Montana-Dakota desires to have natural gas transported in the System; and

WHEREAS, Montana-Dakota and Transporter entered into a certain Transportation Agreement, dated March 8, 1993, and a certain Supplemental Agreement, dated March 8, 1993, true, correct and complete copies of which are attached to this Agreement as Exhibit 1; and

WHEREAS, Montana-Dakota and Transporter desire to amend and restate the Transportation Agreement;

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, the parties do covenant and agree as follows:

### ARTICLE I

1.1 The term "Btu" shall mean one British Thermal Unit.

1.2 The term "Contract Demand" shall mean the aggregate of the maximum daily quantities of gas, expressed in dk per day, which Transporter is obligated to accept for transportation for the account of Montana-Dakota from the points of receipt as set forth in Exhibit A.

1.3 The term "Contract Year" shall mean the twelve month period commencing on the initial in-service delivery date and terminating on the anniversary of the day immediately preceding said initial in-service delivery date and each succeeding twelve month period commencing on each anniversary of said initial in-service delivery date and terminating on the anniversary of the day immediately preceding said initial in-service delivery date, until this Agreement shall have expired or otherwise been terminated in accordance with its terms. For

the purposes of this Agreement, the term "initial in-service delivery date" shall mean September 1, 1993.

1.4 The term "Day" shall mean a period of 24 consecutive hours, ending at 8:00 a.m. Central Time.

1.5 The term "dk" shall mean the quantity of heat energy which is equivalent to 1,000,000 British Thermal Units (BTU). One "dk" of gas means the quantity of gas which contains one dekatherm of heat energy. The total dekatherms are calculated by multiplying the gas volume in Mcf by its total gross heating value, divided by 1,000.

1.6 The term "Equivalent Quantities" shall mean the sum of the quantities of gas measured in dk received by Transporter and delivered for the account of Montana-Dakota at the points of receipt and delivery during any given period of time reduced by the sum of Montana-Dakota's Pro Rata Share of the Unaccounted For Gas and the Line Pack changes resulting from the operations of the System during the same period of time. In the event the ownership of gas lost as a result of an event of force majeure can be reasonably identified, the quantity thereof shall be charged to the owner or owners so identified.

1.7 The term "Gas" shall mean natural gas, unmixed or any mixture of natural and artificial gas.

1.8 The term "Gross Heating Value" shall mean the number of Btus produced by the complete combustion, at a constant pressure, of the amount of gas which would occupy a volume of one (1) cubic foot at a temperature of 60 degrees Fahrenheit on a dry basis and at a pressure of 14.73 psia with air of the same temperature and pressure as the gas, when the products of combustion are cooled to the initial temperature of the gas and air, and when the water formed by combustion has been condensed to the liquid state.

1.9 The term "Maximum Daily Quantity" shall mean the maximum quantity expressed in dk per day that the Transporter is obligated to receive for the account of Montana-Dakota at each point of receipt, as established in Exhibit A.

1.10 The term "Mcf" shall mean 1,000 cubic feet of gas determined in accordance with the measurement base described in Paragraph 3.1 hereof.

1.11 The term "Month" shall mean the period beginning at 8:00 a.m. Central Time on the first day of a calendar month and ending at the same hour on the first day of the next succeeding month.

1.12 The term "Pro Rata Share" shall mean the ratio that the quantity of gas delivered to Transporter by or for the account of Montana-Dakota bears to the total quantity of gas delivered to Transporter by all shippers for transportation in the System during any given period of time.

1.13 The term "SDPUC" shall mean the South Dakota Public Utilities Commission or any commission, agency or other state governmental body succeeding to the powers of such commission.

1.14 The term "shipper" or "shippers" shall mean all parties other than Montana-Dakota transporting gas on Transporter's System.

1.15 The term "System" shall mean the pipeline and related pipeline facilities at the time owned by Transporter.

1.16 The term "Unaccounted For" shall mean the difference between the sum of all input quantities of gas to the System and the sum of all output quantities of gas from the System, which difference shall include but shall not be limited to compressor fuel, and gas used and accounted for in pipeline operations, and gas lost as a result of an event of force majeure, the ownership of which cannot be reasonably identified.

## ARTICLE II

2.1 Obligation to Transport. Commencing with date of initial deliveries hereunder, Transporter shall receive at the points of receipt hereunder for the account of Montana-Dakota all gas which Montana-Dakota may cause to be delivered to it up to Montana-Dakota's Contract Demand as set forth in Exhibit A hereof on a firm basis and continuing for a period of twenty-five (25) years thereafter.

Montana-Dakota may extend this Agreement for five-year periods upon six months written notice to Transporter prior to each termination date.

If no breach, default or other non-performance by Montana-Dakota exists, Montana-Dakota may terminate this Agreement without penalty if Transporter ceases to operate the System for any reason, including without limitation, "force majeure" (as that term is defined in Paragraph 12.2), and said cessation continues for 120 hours. If Montana-Dakota elects to so terminate this Agreement, it shall do so by giving notice to Transporter at any time during the continuation of said cessation and after said 120 hour period. During the continuation of any such cessation, Transporter shall use its best efforts to diagnose and remedy the cause of the cessation and shall provide to a representative of Montana-Dakota access to the site of and information regarding the remediation activities. If, at any time after said cessation has been continuing for twenty-four (24) hours, Transporter is not using its best efforts to diagnose and remedy the cause of the cessation, Montana-Dakota may take such actions as it deems necessary to diagnose and remedy the cause of the cessation, provided that Montana-Dakota and any contractor performing all or any portion of said diagnostic and remediation work maintains appropriate and sufficient insurance, naming Transporter as an additional insured where appropriate, and otherwise acts in a commercially reasonable manner. Transporter will,

promptly upon receipt of invoices or receipts and, where appropriate, mechanics lien waivers, reimburse Montana-Dakota for or pay on Montana-Dakota's behalf the reasonable costs of such actions, including, without limitation, costs of insurance.

2.2 Maximum Daily Quantities. Subject to Transporter's prior approval, Montana-Dakota from time to time shall stipulate a Maximum Daily Quantity of gas for delivery at each point of receipt if there is more than one point of receipt, the aggregate of all such stipulated maximum daily quantities at points of receipt not to exceed the Contract Demand. The initial maximum daily quantity for each point of receipt and the Contract Demand shall be set forth in Exhibit A attached hereto. Any updating or other modification of Exhibit A as provided in this Paragraph 2.2 shall not be effective unless and until the updated or modified Exhibit A shall have been duly executed or initialled by both parties, subject to any necessary regulatory approval. Such a revised Exhibit A shall replace the prior Exhibit A and, by this reference, shall become a part of this Agreement. The daily deliveries at any point of receipt may exceed the Maximum Daily Quantity specified for such point of receipt on a temporary basis, provided the System in Transporter's sole judgment can accommodate the excess quantity.

### ARTICLE III

3.1 Unit of Measurement and Metering Base. The volumetric measurement base shall be one cubic foot of gas at a pressure base of 14.73 pounds per square inch absolute, at a temperature base of 60°F, and without adjustment for water vapor content.

3.2 Atmospheric Pressure. For the purpose of measurement, the absolute atmospheric (barometric) pressure at each measuring station shall be the atmospheric pressure determined by calculations based on the actual elevation above sea level of the meter at the place of measurement, and shall be stated in pounds per square inch, as shown on Exhibit A.

3.3 Temperature. The temperature of the gas shall be determined at each point of measurement by means of a properly installed recording thermometer, an indicating thermometer, an electronic temperature measuring device, or a temperature compensating meter of standard manufacture acceptable to both parties:

3.4 Specific Gravity. The specific gravity of the gas shall be determined at each point of receipt by one of the following methods:

- (a) By means of a properly installed recording gravimeter of standard manufacture acceptable to both parties.
- (b) If (a) is not considered feasible, then by use of a portable specific gravity balance of standard manufacture, or other standard device acceptable to

both parties and designed for such purpose or use in conjunction with a continuous sampler.

(c) Other methods mutually agreeable to both parties.

3.5 Measurement Procedures. Quantities of gas received and delivered hereunder shall be measured in accordance with Procedures contained in ANSI-API 2530, First Edition, AGA Committee Report No. 5, AGA Committee Report No. 7, and AGA Committee Report No. 8, or revisions or amendments thereto.

3.6 Measuring Equipment. Unless otherwise agreed upon, Montana-Dakota will cause to be provided, maintained, and operated necessary measuring and regulating stations equipped with flow meters and other necessary measuring equipment by which its quantities of gas delivered from Transporter hereunder shall be determined. Unless otherwise agreed upon, Transporter shall cause to be installed, operated and maintained at its expense a measuring and regulating station or stations equipped with flow meters and other necessary measuring equipment for the measurement of gas delivered to Transporter for the account of Montana-Dakota; such measuring and regulating stations shall be so installed at the receipt point of the System and at other agreeable points. All flow, measuring, testing, and related equipment shall be of standard manufacture and type acceptable to both parties; and the size, type and specifications of such equipment shall also be acceptable to both parties before the same is fabricated and installed. Transporter and Montana-Dakota shall cause the chart on all gas measurement equipment to be changed, or mechanical or electronic indices read, by either Transporter or by Montana-Dakota's representative (where economical) on a daily basis but in no case at intervals of longer than once every eight (8) days; however, all gas measurement charts shall be changed, or indices read as near as practical to the beginning of the first day of each month. Either of the parties may install check measuring equipment, provided that such equipment shall be so installed as not to interfere with operation of the other. Montana-Dakota and Transporter, in the presence of each other, shall have access to all measuring equipment at all reasonable times, but the reading, calibrating, and adjusting thereof shall be done by the owner, unless otherwise agreed upon. Montana-Dakota and Transporter shall have the right to be present at the time of any installing, reading, cleaning, changing, repairing, inspecting, testing, calibrating, or adjusting done in connection with all measuring equipment. The records from such measuring equipment shall remain the property of their owner, but upon request, either party will cause to be submitted to the other records together with calculations therefrom, for inspection, subject to return within 30 days after receipt thereof. Reasonable care shall be exercised in the installation, maintenance and operation of measuring equipment so as to avoid any inaccuracy in the determination of the quantity of gas received and delivered.

3.6.1 Orifice Meters. Orifice meters, if used, shall be installed and gas volumes computed, in accordance with ANSI API 2530, First Edition, or revisions or amendments thereto.

3.6.2 Positive or Turbine Meters. Positive or turbine meters, if used, shall be of a type acceptable to the Transporter and Montana-Dakota. Turbine meters, if used, shall be installed and gas quantities computed, in accordance with AGA Committee Report No. 7, Measurement of Fuel Gas by Turbine Meters, or revisions or amendments thereto. Such meters may also be equipped with a device for recording the flow rate and/or a device for integrating the product of quantities of gas measured multiplied by the pressure and temperature corrections, and indicating the quantity of gas received or delivered.

3.6.3 Electronic Flow Computers. It is recognized that electronic or other types of flow computers have been developed that permit the direct computation of gas flows without the use of charts. If, at any time during the term hereof, a new method or technique is developed with respect to gas measurement or the determination of the factors used in such gas measurement, such new method or technique may be substituted upon mutual agreement thereto by the parties.

3.7 Calibration and Test of Meters. The accuracy of all measuring equipment shall be verified by the owner thereof at reasonable intervals, and if requested, in the presence of representatives of the other party hereunder, but neither Montana-Dakota nor Transporter shall be required to verify the accuracy of such equipment more frequently than once in any 90 day period. If either party at any time desires a special test of any measuring equipment, it will promptly notify the other, and the parties shall then cooperate to secure a prompt verification of the accuracy of such equipment. Transportation and related expenses incurred by Montana-Dakota or Transporter involved in the testing of meters shall be borne by the party incurring such expenses.

3.8 Correction of Metering Errors. If, upon any test, any measuring equipment is found to be in error, such errors shall be treated in the following manner: If the resultant aggregate error in the computed receipts or deliveries is not more than  $\pm 2\%$ , then previous receipts or deliveries shall be considered accurate. All equipment shall, in any case, be adjusted at the time of test to record to zero error. If, however, the resultant aggregate error in computed receipt or deliveries exceeds  $\pm 2\%$  at a recording corresponding to the average hourly rate of gas flow 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, but in case the period is not known definitely or agreed upon, such correction shall be for a period extending over one-half of the time elapsed since the date of the last test, not exceeding a correction period of 45 days.

3.9 Failure of Measuring Equipment. In the event any measuring equipment is out of service, or is found registering inaccurately and the error is not determinable by test, or by previous recording, receipts or deliveries through such equipment shall be estimated:

- (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 measuring equipment was registering accurately.

3.10 Preservation of Records. Montana-Dakota and Transporter shall preserve for a period of at least three years, or such longer period as may be required by public authority, all test data, charts, and other similar records.

#### ARTICLE IV

4.1 Quality Standards of Gas Received by Transporter. Transporter may refuse to accept gas which does not conform to the following Northern Border Pipeline Co. specifications or such specifications as revised from time to time.

4.1.1 The gas shall not contain sand, dust, gums, crude oil, impurities or other objectionable substances which may be injurious to pipelines or may interfere with the transmission of the gas.

4.1.2 The gas shall have a hydrocarbon dew-point less than -5°F at 800 psia, -10°F at 1000 psia, or -18°F at 1100 psia, or such higher dew point approved by Transporter as, without treatment by Transporter, may be compatible with the operating conditions of Transporter's pipeline.

4.1.3 The gas shall not contain more than 0.3 grains of hydrogen sulphide per 100 cubic feet.

4.1.4 The gas shall not contain more than 2 grains of total sulphur per 100 cubic feet.

4.1.5 The gas shall contain not more than three-tenths grains of mercaptan sulphur per 100 cubic feet, or such higher content as, in Transporter's judgment, will not result in deliveries by Transporter to Montana-Dakota of gas containing more than three-tenths grains of mercaptan sulphur per 100 cubic feet.

4.1.6 The gas shall not contain more than two percent by volume of carbon dioxide.

4.1.7 The gas shall not have a water vapor content in excess of four pounds per thousand Mcf.



4.1.8 The gas shall be as free of oxygen as it can be kept through the exercise of all reasonable precautions and shall not in any event contain more than four-tenths of one percent by volume of oxygen.

4.1.9 The gas shall have a gross heating value of not less than 967 Btu per cubic foot.

4.2 Quality Tests. At the point of receipt of Montana-Dakota, Transporter shall cause tests to be made, by approved standard methods in general use in the gas industry, to determine whether the gas conforms to the quality specifications set out in Paragraph 4.1 hereof. Such tests shall be made at such intervals as Transporter may deem reasonable, and at other times, but not more often than once per day, at the request of Montana-Dakota.

4.3 Failure to Conform. If gas delivered by Montana-Dakota does not comply with the quality specifications set out in Paragraph 4.1 hereof, Transporter shall have the right, in addition to all other remedies available to it by law, to refuse to accept any such gas. Transporter may, at its option and upon notice to Montana-Dakota, accept receipt of gas not complying with the quality specifications set out in Paragraph 4.1 herein provided. Transporter, at the expense of Montana-Dakota, may make all changes necessary to bring such gas into compliance with such specifications. No refusal to accept gas in accordance with this Paragraph 4.3 shall reduce Montana-Dakota's minimum quantity transportation obligations under the Agreement.

4.4 Quality Standards of Gas Transported By Transporter. Transporter shall use reasonable diligence to deliver gas for Montana-Dakota which shall meet the quality specifications set out in Paragraph 4.1 hereof, but shall only be obligated to deliver gas of the quality which results from the commingling of the gas received by Transporter from Montana-Dakota and other shippers and, except as Transporter may choose to do so pursuant to Paragraph 4.3 hereof, shall not be required to treat any gas delivered to it by Montana-Dakota.

## ARTICLE V

5.1 Points of Receipt. The initial point or points of receipt hereunder shall be the point or points of connection between the facilities of Transporter and the facilities of Northern Border Pipeline Company at the point or points on the System where Montana-Dakota shall deliver, or cause to be delivered, gas to Transporter for transportation service, set forth in Exhibit A attached hereto. Montana-Dakota may from time to time notify Transporter in writing of its desire for an additional point of receipt and shall furnish in this regard the quantity and other relevant information as requested by Transporter. Upon receipt of such request and all relevant information, Transporter shall determine in its sole discretion whether and to what extent capacity will exist in the System to accommodate the proposed quantities of gas at the desired additional point of receipt, and shall so advise Montana-Dakota within 45 days. If Transporter determines that it will have the capacity to accommodate all or a portion of

Montana-Dakota's gas at the desired additional point of receipt, Transporter shall design the facilities for such connection, and, construct and install the facilities at such additional point of receipt. The establishment of such additional point of receipt shall be at the expense of Transporter. Exhibit A attached hereto shall be amended to add such additional point of receipt. All points of receipt constructed in accordance with this Paragraph 5.1 shall be and shall at all times remain a part of the System and the sole and exclusive property of the Transporter.

5.2 Points of Delivery. The points of delivery hereunder shall be the points of connection between the facilities of Transporter and the facilities of Montana-Dakota, where Transporter shall deliver gas for the account of Montana-Dakota. Such points of delivery are set forth in Exhibit A attached hereto. The establishment of any additional point of delivery at the request of Montana-Dakota shall be at the expense of Montana-Dakota.

## ARTICLE VI

6.1 Schedules. At least five days prior to the first day of each month, Montana-Dakota shall furnish Transporter with a schedule showing by points of receipt and points of delivery the estimated daily quantities of gas it desires Transporter to transport during such month.

6.2 Departures from Schedules. Montana-Dakota shall use its best efforts to give Transporter at least eight hours notice prior to proposed change of a daily quantity from that set forth in the schedule provided for in Paragraph 6.1 hereof. Transporter may waive such notice upon request if, in its judgment, operating conditions permit such waiver. Transporter and Montana-Dakota shall inform each other of any other changes of deliveries immediately upon knowledge thereof.

6.3 Receipt of Gas. Departures from the scheduled deliveries at the points of receipt shall be kept to the minimum permitted by operating conditions, and shall be balanced as soon as practicable.

6.4 Delivery of Gas. Provided that Montana-Dakota shall have delivered such quantities of gas to the System and based upon the daily quantities scheduled, such information as may be available concerning the quantities actually received, and after making adjustments for any prior imbalance in deliveries, Transporter shall daily make delivery, to the extent practicable, of remaining quantities of gas at the points of delivery.

6.5 Hourly Variation. Deliveries shall be made at uniform hourly rates to the extent practicable. Transporter's obligation to deliver shall not exceed 1/16th of Montana-Dakota's maximum daily quantity in any given hour.

6.6 Adjustments to Equivalent Quantities. Following receipt of monthly statements, the parties shall adjust the receipts and deliveries of gas, within 60 days, if practicable, in order to balance any excess or deficiency on a thermal equivalent basis in order for Montana-Dakota to receive Equivalent Quantities. In the event the quantities of gas received and to be delivered are not in balance on a thermal equivalent basis at the end of the term thereof, then such balance shall be achieved within 60 days by extending or reducing, as appropriate, receipts or deliveries as applicable at the appropriate point of receipt or point or points of delivery until such balance is achieved or by such other method as is then mutually agreed upon by the parties hereto.

## ARTICLE VII

7.1 Pressure at the Points of Receipt. Montana-Dakota shall cause the gas to be delivered at the points of receipt at a pressure sufficient to allow the gas to enter the System; however, Montana-Dakota shall not be required to deliver gas to the Transporter at any point of receipt at a pressure in excess of the minimum pressure specified with respect to each receipt point in Exhibit A.

7.2 Pressure at Points of Delivery. Transporter shall deliver gas to each of Montana-Dakota's delivery points at the pressure existing in the Transporter's pipeline; however, Transporter must deliver gas to each point at a pressure not less than the minimum pressure specified with respect to each delivery point in Exhibit A. Transporter, however, shall not be required or permitted to deliver gas at a pressure in excess of the maximum pressure specified for each point of delivery set forth in Exhibit A attached hereto.

## ARTICLE VIII

8.1 Transportation Charge. Transporter's charge to Montana-Dakota for transporting all of Montana-Dakota's quantities pursuant to this Agreement shall not exceed \$2.34/dk during the first ten (10) Contract Years. It is agreed, however, that Transporter may seek Commission approval of a change in rates, where such change is made necessary by any mandated changes in federal or state taxes or catastrophic event or series of events which seriously threatens the ability of Transporter to provide safe and adequate gas service to shippers as required by law.

8.2 Minimum Bill Obligation. Montana-Dakota shall be obligated to pay for minimum transportation quantities for each Contract Year as set forth below. The minimum transportation quantity obligation provided for in the immediately preceding sentence shall be reduced during each Contract Year by the greater of (a) the minimum quantity obligations for such Contract Year of all other shippers and (b) the actual quantities transported by all other shippers on the System during said Contract Year, in each case only to the extent actually paid for. The

transportation obligation provided for in the first sentence of this Paragraph also shall be reduced during each Contract Year by an amount equal to the product of (i) a fraction, the numerator of which is the number of days, if any, that the System has been inoperative as a result of a "force majeure" and the denominator of which is the actual number of days in said Contract Year multiplied times (ii) the minimum transportation quantity obligation applicable during said Contract Year, as set forth in the chart below. Any adjustment in Montana-Dakota's minimum transportation quantity obligation for any Contract Year as provided in this Paragraph shall be determined and paid for within thirty (30) days following the completion of said Contract Year. Unless the parties expressly agree otherwise, any reduction in the minimum transportation quantity obligation provided for in this Paragraph shall be effected through the year-end reconciliation and shall not reduce Montana-Dakota's monthly payment obligations set forth in Article IX. Montana-Dakota's minimum quantity transportation obligation shall be:

<u>Contract Year</u>	<u>Minimum Transportation Quantity Obligation</u>
1	400,000 dk
2	800,000 dk
3	900,000 dk
4	1,000,000 dk
5-19	1,100,000 dk

8.3 Minimum Quantity Credits. If the quantities transported by the Transporter on its System in any Contract Year during the first five (5) Contract Years are less than the minimum quantities as provided for in Paragraph 8.2, Transporter will credit such quantity shortfall to Montana-Dakota. Such credits shall be applied to Montana-Dakota in subsequent Contract Years when the actual quantities transported by Montana-Dakota and all other shippers exceed the minimum quantity obligation for the particular Contract Year as set forth in Paragraph 8.2. Such credits which are not used in a particular Contract Year shall accumulate for use in subsequent Contract Years.

8.4 Pierre Area Mainline Tap. Transporter agrees to allow Montana-Dakota to provide for a mainline tap consisting of a riser and valve approximately four miles upstream of the Pierre delivery point for the exclusive use of Montana-Dakota to serve customers in the immediate area of the mainline tap and customers between the mainline tap and the Pierre delivery point.

8.5 Initial Delivery. Montana-Dakota's minimum transportation quantity for the first Contract Year is conditioned upon Transporter's System being in service and initial delivery of Montana-Dakota's transportation quantities commencing no later than September 1, 1993, to the towns of Pierre, Mobridge, Gettysburg and Ipswich. Should Transporter fail to meet the September 1, 1993, in-service date, Montana-Dakota's minimum quantity obligation for the first

Contract Year shall be reduced by the following quantities for each day Transporter's in-service date is delayed beyond September 1, 1993:

September 1, 1993 through September 7, 1993	1,000dk/day
September 8, 1993 through September 14, 1993	3,000dk/day
September 15, 1993 through September 30, 1993	8,000dk/day
October 1, 1993 through October 31, 1993	10,000dk/day

Should Montana-Dakota fail to meet the September 1, 1993, in-service date and not be able to receive gas at the delivery points and have substantial mains and services installed in Pierre, Mobridge, Gettysburg and Ipswich, except as provided in Paragraph 8.6, then the above reduction rate will apply to reduce credits, if any, during the first Contract Year.

8.6 Failure to Serve Towns. If Montana-Dakota after due diligence fails to serve any of the towns listed on Exhibit B, within the first two Contract Years, because it (1) fails to obtain a franchise to serve the town or (2) another public utility or a municipal utility serves the town, the minimum transportation quantity obligation set forth in Paragraph 8.2 for each Contract Year will be reduced by the amount shown on Exhibit B for the particular town that is not served during the applicable contract years. Transporter and Montana-Dakota agree that the economic feasibility of Montana-Dakota serving most of the towns on Exhibit B is primarily dependent on the location of the delivery point stations (TBS). Therefore, Transporter and Montana-Dakota will select locations for the delivery point stations which are mutually agreed upon.

8.7 Overruns. Upon request of Montana-Dakota and at Transporter's option, Transporter may receive and deliver for Montana-Dakota's account, on any day, quantities of gas in excess of Montana-Dakota's Maximum Daily Quantity; however, such quantities shall be received and delivered on a best efforts basis.

8.8 Nomination and Balancing Tolerances. In addition to any variations caused by excesses and deficiencies described in Paragraph 6.6, it is recognized that the parties will be unable to control exactly the quantities of gas delivered and accepted hereunder on any day and that deliveries by Montana-Dakota and redeliveries by Transporter may vary above or below the quantities scheduled on any day. Such variations shall be kept to the minimum permitted by operating conditions and shall be balanced as soon as practicable, but in no event shall exceed an allowable daily variation of 20% or 500 dk, whichever is greater, of the scheduled deliveries, and provided further that the cumulative net variations during any month above or below the quantities scheduled shall not exceed 4% or 2000 dk, whichever is greater, of the sum of the scheduled quantities for each day of such month. The parties agree to use their best efforts to correct any such cumulative net variations from scheduled deliveries. Nothing contained in this Paragraph shall affect Montana-Dakota's obligation to pay for gas actually transported.

8.9 Towns Served. Upon request, Montana-Dakota will submit to Transporter photocopies of franchises it has been awarded to provide natural gas to any particular municipality through the System.

## ARTICLE IX

9.1 Billing. On or before the 15th day of each month, Transporter shall render to Montana-Dakota a statement of the total amount of gas delivered by Transporter to Montana-Dakota at the points of receipt hereunder during the preceding month and the amount due. When information necessary for billing purposes is in the control of Montana-Dakota, Montana-Dakota shall furnish such information to Transporter on or before the 10th day of the month.

Montana-Dakota and Transporter shall 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 statement, charge, or computation made under or pursuant to any of the provisions hereof.

9.2 Payment. Montana-Dakota shall pay Transporter at its general office or at such other address as Transporter shall designate on or before the 25th day of the month, the amount due for the preceding month.

If presentation of a bill by Transporter is delayed after the 15th day of the month, then the time of payment shall be extended accordingly unless Montana-Dakota is responsible for such delay.

Should Montana-Dakota fail to pay all or any portion of any bill as herein provided when such amount is due, interest on the unpaid portion of the bill shall occur at a rate (which in no event shall be higher than the maximum rate permitted by applicable law) equal to the prime rate plus one percent (1%). As used in this Agreement, the term "prime rate" shall mean the rate publicly announced from time to time by Chase Manhattan Bank as its "prime," "base," "reference" or similar rate, whether or not such rate is the rate actually charged by Chase Manhattan Bank to a particular borrower or group of borrowers. If such failure to pay continues for 30 days after payment is due, Transporter, in addition to any other remedy it may have hereunder, after application to and authorization by the governmental authority having jurisdiction, may suspend further delivery of gas until such amount is paid; provided, however, that if Montana-Dakota in good faith shall dispute the amount of any such bill or part thereof and shall pay to Transporter such amounts as it concedes to be correct and, at any time thereafter within 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, guaranteeing payment to Transporter of the amount ultimately found due upon such bills 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 delivery of gas unless and until default be made in the conditions of such bond.

9.3 Adjustment of Billing Errors. Subject to the provisions of Paragraph 3.9 hereof, if it shall be found that at any time or times Montana-Dakota has been overcharged or undercharged in any form whatsoever under the provisions hereof and, in the case of an overcharge, Montana-Dakota shall have actually paid the bill containing such overcharge, then within 30 days after the final determination of such overcharge or undercharge, the appropriate party shall pay to the other party the amount of said overcharge or undercharge, net of any other amounts then payable hereunder. In the event an error is discovered in the amount billed in any statement rendered by Transporter, such error shall be adjusted within 30 days of the determination thereof provided that claim therefor shall have been made within one (1) year from the date of such statement. If the parties are unable to agree on the adjustment of any claimed error, any resort by either of the parties to legal procedure, either at law, in equity, or otherwise, shall be commenced within 15 months after the supposed cause of action is alleged to have arisen, or shall thereafter be forever barred.

#### ARTICLE X

10.1 Responsibility for Gas. As between the parties hereto, Montana-Dakota shall be in exclusive control and possession of the gas until such has been delivered to Transporter at the points of receipt and after such gas has been redelivered to or for the account of Montana-Dakota by Transporter at the points of delivery. Transporter shall be in exclusive control and possession of such gas while same is in the System between the points of receipt and the points of delivery. The party which shall be in exclusive control and possession of such gas shall be responsible for all injury or damage caused thereby.

#### ARTICLE XI

11.1 Warranty. Montana-Dakota warrants for itself, its successors and assigns, that it will have at the time of delivery of gas for transportation hereunder good title or the good right to deliver such gas. Transporter warrants for itself, its successors and assigns, that it will at the time of delivery to others of the gas transported hereunder have good right to deliver such gas to others. Montana-Dakota warrants for itself, its successors and assigns, that the gas it delivers hereunder shall be free and clear of all liens, encumbrances and claims whatsoever, that it will indemnify Transporter and save it harmless from all suits, actions, debts, accounts, damages, costs, losses and expenses arising from or out of any adverse claims of any and all persons to said gas and/or to royalties, taxes, license fees or charges thereon which are applicable to such delivery of gas and that it will indemnify Transporter and save it harmless from all taxes or assessments which may be levied and assessed upon such delivery and which are by law payable by, and the obligation of, the party receiving such delivery.

## ARTICLE XII

12.1 Force Majeure. If by reason of force majeure either party hereto is rendered unable, wholly or in part, to carry out its obligations under this Agreement, and if such party gives notice and reasonably full particulars of such force majeure in writing or by facsimile or telephone to the other as soon as possible after the occurrence of the cause relied on, the party giving such notice, so far as and to the extent that it is affected by such force majeure, shall not be liable in damages during the continuance of any inability so caused, provided such cause shall so far as possible be remedied with all reasonable dispatch; provided, however, that such force majeure affecting the performance hereunder by either Montana-Dakota or Transporter shall not relieve such party of liability in the event of its own concurring negligence or in the event of its own failure to use due diligence to remedy the situation and to remove the cause in an adequate manner and with all reasonable dispatch; provided further, that no such causes affecting such performance shall relieve either party from its obligations to make payments as determined hereunder or entitle either party to exercise any right to offset against any such payment obligation; provided, further that nothing contained in this sentence is intended to deprive either party of any other right or remedy, including, without limitation, any right to sue for contract damages, that it might otherwise have under applicable law. Without limiting the foregoing, except as expressly provided in Section 8.2 of this Agreement, no cessation of operation of the System (by force majeure or otherwise) or other act or omission of Transporter shall reduce Montana-Dakota's minimum bill or minimum transportation quantity payment obligations provided for in this Agreement.

12.2 Definition. The term "force majeure" as used herein shall mean acts of God, strikes, lockouts, or other industrial disturbances; acts of a public enemy, wars, blockades, insurrection, riots, epidemics, landslides, lightning, earthquakes, fires, storms, floods, washouts; arrests and restraints of the government, either federal or state, civil or military, civil disturbances; shutdowns for purposes of necessary repairs, relocation, or construction of facilities; breakage or accident to machinery or lines of pipe; the necessity for testing (as required by governmental authority or as deemed necessary by repairs or alterations to machinery or lines of pipe); failure of surface equipment or pipelines; accidents, breakdowns, inability of either party hereto to obtain necessary material, supplies, or permits, or labor to perform or comply with an obligation or condition of this Agreement, rights of way, and any other causes, whether of the kind herein enumerated or otherwise, which are not reasonably in the control of the party claiming suspension. It is understood and agreed that the settlement of strikes or lockouts shall be entirely within the discretion of the party having the difficulty and that the above requirement that any force majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes or lockouts by acceding to the demands of an opposing party when such course is inadvisable in the discretion of the party having the difficulty.



### ARTICLE XIII

13.1 Notice of Interruption. Transporter shall at all times attempt to operate, or cause to be operated, its pipeline system in a manner designed to make possible, as nearly as practicable, continuous receipt of gas from, and delivery of gas to, Montana-Dakota in the respective quantities provided for in this Transportation Agreement. If an interruption or curtailment of such receipt and/or delivery shall become necessary, Transporter shall at once notify Montana-Dakota by facsimile or telephone or other prompt means of communication of the nature, extent and probable duration of such interruption or curtailment and of the quantity of gas which Transporter estimates it will be able to receive from and deliver to Montana-Dakota during the period of interruption or curtailment, and shall give like notice of the cessation of such interruption or curtailment.

13.2 Allocation of Reduced Capacity. If the effective capacity of all or a portion of Transporter's pipeline is reduced as a result of force majeure, repairs, maintenance or any other cause, whether similar or dissimilar, and some curtailment of the quantity of gas to be received from shippers under their transportation agreements is required as a result, the reduced capacity shall, during the period of curtailment, be allocated proportionately, according to their respective Maximum Daily Quantities, among those shippers whose gas must be received or delivered at or transported through, the affected facilities.

13.3 Scheduling of Receipts and Deliveries. Transporter shall schedule all quantities tendered under all services performed by Transporter in sequence as follows:

First, to Transporter's firm transportation shippers, under Rate Schedule T-1 by date of Agreement.

Second, to other Rate Schedules that may be approved, in the order of priority as may be approved by the SDPUC or other regulatory bodies with jurisdiction.

### ARTICLE XIV

14.1 Notices. Except as herein otherwise provided, any notice, request, demand, statement, bill, or payment provided for in this Agreement, or any notice which either party may desire to give to the other, shall be in writing and shall be considered as duly delivered when mailed by registered or certified mail return receipt requested to the Post Office Address of the parties hereto as follows:

TRANSPORTER:

South Dakota Intrastate Pipeline Co.  
P. O. Box 34  
Pierre, South Dakota 55701

MONTANA-DAKOTA UTILITIES CO.:

Montana-Dakota Utilities Co.  
400 North Fourth Street  
Bismarck, ND 58501

ATTN.: Gas Supply Department

or such other address as either of the parties hereunder shall designate by formal written notice. Routine communications including monthly statements and payments, shall be considered as duly delivered when mailed by either registered, certified or ordinary mail.

ARTICLE XV

15.1 Waivers. No waiver by either Montana-Dakota or Transporter of any one or more defaults in the performance of any provision hereunder shall operate or be construed as a waiver of any future default or defaults, whether of a like or a different character.

ARTICLE XVI

16.1 Regulations. This Agreement, and all terms and provisions contained herein, and the respective obligations of the parties hereunder are subject to valid laws, orders, rules and regulations of duly constituted authorities having jurisdiction.

ARTICLE XVII

17.1 Assignments. Any company which shall succeed by purchase, merger, or consolidation to the properties, substantially as an entirety, of Montana-Dakota, or of

Transporter, as the case may be, shall be entitled to the rights and shall be subject to the obligations of its predecessor in title under this Agreement; and either of the parties may assign or pledge this Agreement under the provisions of any mortgage, deed of trust, indenture or similar instrument which it has executed or may execute hereafter covering substantially all of its properties; otherwise neither of the parties shall assign this Agreement or any of its rights hereunder unless it first shall have obtained the consent thereto in writing of the other party, provided further, however, that neither of the parties shall be released from its obligations hereunder without the consent of the other.

## ARTICLE XVIII

18.1 Applicable Law. This Agreement shall be governed by and interpreted in accordance with laws of the state of South Dakota.

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

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

18.4 Line Pack. Prior to the initial in-service delivery date that natural gas begins flowing on Transporter's System, Transporter will purge the line and provide line pack quantities to a stabilized pressure of 400 psig. Line pack quantities above those initially provided by Transporter shall be provided by Montana-Dakota and by other shippers on a pro-rata basis based on Contract Demand of all parties and normal operating pressure of Transporter's pipeline.

18.5 Right of First Refusal. Except as provided in Section 18.6, in consideration of this Agreement, it is agreed by Transporter and Montana-Dakota that should Transporter desire to sell Transporter's System, or any part thereof, and finds a Purchaser, or purchasers, who are ready, able, and willing to purchase the System, or part thereof, Montana-Dakota shall have the first option to purchase the System or part thereof that Transporter desires to sell for the amount of any bona fide offer made by any third party, or parties. The first option of Montana-Dakota to buy Transporter's System or part thereof shall extend for a period of thirty days after notice of such bona fide offer has been communicated in writing to Montana-Dakota by Transporter. If such option to purchase is not exercised by Montana-Dakota within the thirty day period, then Transporter may sell its System or part thereof to such third party or parties.

18.6 Financing. Anything else contained in this Agreement to the contrary notwithstanding:

(a) Transporter may assign this Agreement to one or more senior lenders as collateral security. Transporter shall, immediately upon receipt from any such lender of a notice of default, provide to Montana-Dakota a copy of such notice;

(b) in lieu of the right of first refusal provided to Montana-Dakota in Section 18.5, if any such senior lender(s) desires to exercise its right under such a collateral assignment to sell or cause the sale of Transporter's interest hereunder in a private or public sale, then not less than thirty (30) days before the scheduled date for any public sale and before privately offering to sell or soliciting offers to purchase the Transporter's interest under this Agreement, said lender(s) shall provide to Montana-Dakota a thirty (30) day "right of first offer" period during which it shall negotiate exclusively and in good faith with Montana-Dakota for the sale of Transporter's interest hereunder. If, during said exclusive period, said lender(s) and Montana-Dakota do not reach a definitive agreement providing for the sale of such interest to Montana-Dakota with a closing within fifteen (15) days after the expiration of said exclusive period, said lender(s) may conduct and consummate any private or public sale or take any other actions to dispose of said interest free of any rights of Montana-Dakota other than the right to bid at any such public sale; and

(c) any buyer at any such public or private sale, including, without limitation, any one or more of said senior lenders, shall be conclusively presumed to have assumed all of the obligations of the Transporter under this Agreement. Said assumption shall occur automatically and without any further writing or other action by any person or entity and shall be effective simultaneously with the consummation of such sale. Any such buyer shall, upon request by Montana-Dakota, confirm such assumption in writing.

18.7 Regulatory Limitation. The parties acknowledge that the System is a gas pipeline that currently is an intrastate pipeline, the ownership and operation of which is subject to the laws of the State of South Dakota, including, without limitation, regulation by the SDPUC and the regulations promulgated by the SDPUC and that the System may, from time to time, also be subject to the laws of the United States. Accordingly, the parties respective obligations under the Agreement shall be subject to any applicable limitations and restrictions, including, without limitation, requirements for consent or approval, of applicable regulatory authorities and as may otherwise exist under applicable law and shall not be construed to require any party to engage in conduct in violation of any such regulatory requirements.

## ARTICLE XIX

19.1 Effectiveness. If and to the extent that provisions of this Agreement that represent amendments and modifications to the Transportation Agreement require approval of the SDPUC, the effectiveness of such provisions is expressly subject to the condition that the SDPUC issue such approval. Upon issuance of such approval, said provisions shall become effective as of the date of this Agreement. Nothing contained in this Agreement shall affect the Supplemental Agreement described in the recitals to this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed in several counterparts by its duly authorized officer.

SOUTH DAKOTA INTRASTATE  
PIPELINE COMPANY

By: Walter J. Woods  
Walter J. Woods President and  
Chief Executive Officer

MONTANA-DAKOTA UTILITIES CO., A  
Division of MDU Resources Group, Inc.

By: Joseph R. Meichl  
Its: President

ATTEST:

By: Douglas W. Schulz  
Douglas W. Schulz  
Assistant Secretary

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