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ATTORNEYS FOR THE DEBTORS AND DEBTORS-IN-POSSESSION

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

_____)	
In re)	Chapter 11 Case
)	
MIRANT CORPORATION, <u>et al.</u> ,)	Case No. 03-46590 (DML)
)	Jointly Administered
Debtors.)	
_____)	

**MOTION OF DEBTORS TO REJECT THE S&P COMSTOCK INFORMATION
DISTRIBUTION LICENSE AGREEMENT BETWEEN MIRANT CORPORATION
AND S&P COMSTOCK, INC.**

Mirant Corporation ("Mirant") and its affiliated debtors (collectively, the "Debtors"), as debtors-in-possession, file this Motion (the "Motion") pursuant to section 365(a) of title 11, United States Code (11 U.S.C. §§ 101 et seq.) (the "Bankruptcy Code") for authority to reject the "S&P Comstock Information Distribution License Agreement" (the "Contract") between Mirant and S&P ComStock, Inc. ("ComStock"), which is described below in greater detail and attached hereto as Exhibit B.¹ In support thereof the Debtors represent as follows:

¹ Not all parties were served with the Contract. Any party may request a copy of the Contract by making a written request to the Debtors' counsel.

JURISDICTION AND VENUE

1. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

PROCEDURAL BACKGROUND

2. The Cases. Mirant Corporation and 82 of its direct and indirect subsidiaries (the "Debtors") filed voluntary chapter 11 petitions and manage and operate their businesses as debtors-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

3. The Cases are Jointly Administered. This Court has entered orders approving the joint administration of the Debtors' chapter 11 cases.

4. The Committees. Three official committees (collectively, the "Committees") have been appointed by the Office of the United States Trustee for the Northern District of Texas in these administratively consolidated cases.

RELIEF REQUESTED

5. By this Motion, the Debtors respectfully request pursuant to 11 U.S.C. § 365(a) authority to reject the Contract listed below in paragraph 8 hereof, effective ten (10) business days from the date of service of this Motion.

BASIS FOR RELIEF

6. On August 14, 2003, the Court entered an amended order (the "Order") approving procedures (the "Rejection Procedures") for the rejection of Contracts and Leases from time to time in furtherance of the reorganization efforts of the Debtors.

7. In summary, the Order allows the Debtors, in the exercise of their business judgment, to reject any Contract or Lease determined to be unnecessary and/or burdensome to the Debtors' ongoing business operations following ten (10) business days from service via facsimile or overnight mail, to: (i) the counterparty under the respective Contract at the last

known address available to the Debtors; (ii) counsel for the counterparty under the respective Contract who has appeared in these cases and has specifically requested notice of any rejection notice; and (iii) counsel for any statutory committees appointed in these cases. A copy of the Order is attached hereto as Exhibit A.

8. Pursuant to the terms of the Order and N.D. TX L.B.R. 9014.1, unless a written objection hereto is filed and served in accordance with the terms of the Order, the following Contract will be deemed rejected pursuant to 11 U.S.C. § 365(a) effective upon the expiration of the ten (10) business day notice period described above (the "Effective Date"):

- (a) **Title of the Contract:** "S&P ComStock Information Distribution License Agreement," dated May 11, 2001, between ComStock and Mirant.

Effective Date of Rejection:

February 20, 2004, subject to paragraph 9 hereof

Parties to the Contract:

Mirant Corporation
S&P ComStock, Inc.

Contact Information for Non-Debtors:

S&P ComStock, Inc.
Global Headquarters
600 Mamaroneck Avenue
Harrison, New York 10528
Attn: Mr. Charles Racioppo

9. If an objection to this Motion is timely filed and served upon: White & Case, LLP, Wachovia Financial Center, 200 South Biscayne Blvd., Miami, Florida 33131, Attention: Thomas E Lauria, Esq. and Haynes and Boone, LLP, 901 Main Street, Suite 3100, Dallas, Texas 75202, Attention: Judith Elkin, Esq., counsel for the Debtors, not later than ten (10) business days from the date of service of this Motion, the Debtors shall seek a hearing on the objection at the Court's earliest convenience. If such an objection to the Motion is timely received, and the Court ultimately upholds the Debtors' determination to reject the Contract, then

the Contract shall be deemed rejected as of the date of the determination by the Court unless otherwise agreed, in writing, by the Debtors and the counterparty to the respective Contract.

10. Pursuant to the Order, claims arising out of the rejection of the Contract must be filed with the Court, or any Court approved claims processing agent, by the later of (i) the deadline for filing proofs of claims established by the Court or (ii) thirty (30) days after the Effective Date of Rejection, or the date of the Order of the Court upholding the Debtors' determination to reject the Contract, unless otherwise agreed, in writing, by the Debtors and the counterparty to the Contract (the "Rejection Claims Deadline").

11. Pursuant to the Order, any holder of a claim allegedly arising from the rejection of the Contract who fails to timely file a proof of such claim on or before the expiration of the Rejection Claims Deadline shall be (a) forever barred from asserting such claim against any of the Debtors; (b) forever barred from sharing in any distribution of the Debtors' estates or assets under any confirmed plan of reorganization or order of the Court authorizing distributions from the Debtors' estates; and (c) bound by the terms of any plan of reorganization confirmed in these chapter 11 cases and any order of the Court authorizing distributions from the Debtors' estates.

General Description Relating to the Contract.

12. Pursuant to the Contract, Mirant has a nonexclusive right and license to electronically distribute information from a data system known as the S&P ComStock Service, which contains certain securities and commodities prices and other data from various stock exchanges. Mirant acquired this license in order to electronically distribute information from the S&P ComStock Service on Mirant's Corporate Intranet Homepage. In exchange for this nonexclusive license, Mirant agreed to pay ComStock \$2,500 per month for the right to access and distribute the S&P ComStock Service.

The Contract May Be Rejected.

13. Section 365(a) of the Bankruptcy Code provides that a debtor-in-possession, "subject to the court's approval, may assume or reject any executory contract or unexpired lease of the debtor." 11 U.S.C. § 365(a). An executory contract has been defined as one where material performance is due on both sides such that the failure of either party to complete performance would constitute a material breach of the contract excusing performance of the non-breaching party. *See In re Liljeberg Enterprises, Inc.*, 304 F.3d 410, 436 (5th Cir. 2002); *In re Murexco Petroleum, Inc.*, 15 F.3d 60, 62-63 (5th Cir. 1994). The Contract is an executory contract because it requires (i) ComStock to provide Mirant with the on-going right to use the S&P ComStock Service and (ii) Mirant to pay for this right. Moreover, ComStock's failure to allow Mirant to use the S&P ComStock Service would constitute a material breach of the Contract, excusing the performance of the other party. Therefore, the Contract is undoubtedly an executory contract that may be rejected under section 365 of the Bankruptcy Code. *See, e.g., In re El Paso Refinery, L.P.*, 220 B.R. 37, 39 n.1 (Bankr. W.D. Tex. 1998) (contract requiring debtor to provide jet fuel to government held to be executory); *In re Cajun Elec. Power Coop., Inc.*, 230 B.R. 693, 702 (Bankr. D. La. 1999) (supply contracts entered into by debtor electric cooperative held executory).

Rejection Of The Contract is Within the Debtors' Business Judgment.

14. Rejection of an executory contract requires court approval. A debtor's decision to assume or reject will be approved provided that it meets the "business judgment" test, pursuant to which rejection of an executory contract is appropriate if such rejection would benefit the estate. *See Richmond Leasing v. Capital Bank, N.A.*, 762 F.2d 1303, 1309 (5th Cir. 1985); *In re G.I. Indus., Inc.*, 204 F.3d 1276, 1282 (9th Cir. 2000) ("[A] bankruptcy court applies the business judgment rule to evaluate a trustee's rejection decision . . ."); *In re Food Barn*

Stores, Inc., 107 F.3d 558, 567 n. 16 (8th Cir. 1997) (debtor's request to assume or reject contract should be approved where not manifestly unreasonable or made in bad faith). The "business judgment" test is satisfied where the assumption or rejection of an executory contract enhances the value of the estate. *See Richmond Leasing*, 762 F.2d at 1309. Upon a finding that a debtor has exercised sound business judgment in determining whether to assume or reject an executory contract, a court should approve the decision pursuant to section 365(a) of the Bankruptcy Code. *See NLRB v. Bildisco & Bildisco*, 465 U.S. 513, 523 (1984).

15. "The fundamental purpose of reorganization is to prevent a debtor from going into liquidation, with an attendant loss of jobs and possible misuse of economic resources." *Bildisco*, 465 U.S. at 528 (citing H.R.Rep. No. 95-595, p. 220 (1977)). Since Mirant entered into the Contract, the Debtors' business operations have changed and, after due inquiry, the Debtors have determined that the Contract is burdensome to their estates.

16. The Debtors have determined, in their reasonable business judgment, that the Contract should be rejected as uneconomical and an impediment to their ongoing business operations. Since Mirant entered into the Contract, the Debtors' business operations have changed and the Debtors no longer require or use information services such as those provided by the S&P ComStock Service. Therefore, the Debtors are paying \$2,500 per month for a service that provides no use or benefit to the estates. Based on the foregoing, the Debtors have determined that it is in their best interest to reject the Contract.

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he provided a true and correct copy of the forgoing to Bankruptcy Services, LLC and directed them to effect service upon all persons on the Limited Service List (without exhibits) via U.S. mail, and the addressees set forth below via overnight mail (with exhibits) on the 4th day of February, 2004.

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S&P ComStock, Inc.
Global Headquarters
600 Mamaroneck Avenue
Harrison, New York 10528
Attn: Mr. Charles Racioppo

Paul N. Silverstein
Andrews & Kurth, L.L.P.
805 Third Avenue
New York, NY 10022

Jason S. Brookner
Andrews & Kurth, L.L.P.
1717 Main Street
Suite 3700
Dallas, TX 75201

/s/ Ian T. Peck

EXHIBIT A

U.S. BANKRUPTCY COURT,
NORTHERN DISTRICT OF TEXAS

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

ENTERED

TAWANA J. MARSHALL, CLERK
THE DATE OF ENTRY IS
ON THE COURT'S DOCKET

In re)	Chapter 11 Case
MIRANT CORPORATION, <u>et al.</u> ,)	Case No. 03-46590-DML-11
Debtors.)	Jointly Administered

**AMENDED ORDER REGARDING MOTION OF DEBTORS FOR AN ORDER
PURSUANT TO SECTIONS 365 AND 554 OF THE BANKRUPTCY CODE
AUTHORIZING AND APPROVING A PROCEDURE FOR THE REJECTION OF
CERTAIN EXECUTORY CONTRACTS**

Upon the Motion of Debtors for an Order Pursuant to Sections 365 and 554 of the Bankruptcy Code Authorizing and Approving a Procedure for the Rejection of Certain Executory Contacts (the "Motion") filed by the above-captioned debtors and debtors-in-possession (collectively, the "Debtors") in these Chapter 11 cases; and it appearing that this Court has jurisdiction over this matter; and it appearing that due and proper notice has been given; and upon due deliberation and sufficient cause appearing therefor, it is hereby

ORDERED that the Motion is granted; and it is further

ORDERED that the Rejection Procedures referenced on Exhibit "A" attached hereto are hereby approved; and it is further

ORDERED that this Court shall, and hereby does, retain jurisdiction with respect to all matters arising or related to the implementation of this Order; and it is further

ORDERED that the last date to file timely proofs of claim against the Debtors arising from the rejection of any Contracts and Leases (the "Rejection Claims Deadline") will be and hereby is the later of: (i) the deadline for filing proofs of claims established by this Court; and (ii) thirty (30) days after the Rejection Effective Date, as such term is defined in the

Rejection Procedures, unless otherwise agreed, in writing, by the Debtors and the counterparty to a particular Contract or Lease; and it is further

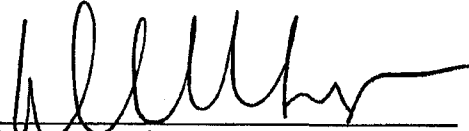
ORDERED that any holder of a claim allegedly arising from the rejections authorized in accordance with the Rejection Procedures who fails to timely file a proof of such claim on or prior to the expiration of the Rejection Claims Deadline be: (i) forever barred from asserting such claim against any of the Debtors or their estates; (ii) forever barred from sharing in any distribution of the Debtors' estates or assets under any plan of reorganization confirmed in these chapter 11 cases or order of the Court authorizing distributions from the Debtors' estates; and (iii) bound by the terms of any plan of reorganization confirmed in these chapter 11 cases and/or any order of the Court authorizing distributions from the Debtors' estates; and it is further

ORDERED that the procedures established by this Order, including the Rejection Claims Deadline, shall not apply to (a) any executory contract or unexpired lease between any of the Debtors and (i) PEPCO and any of its affiliates; (ii) WGES; (iii) Kern; (iv) 285 Venture; (v) Unitil; (vi) the NSTAR Companies (as each entity is defined it is respective objection or joinder to objections to the Motion) (vii) the Cape Light Compact Agreements, including the Pilot Electric Supply Agreement by and between the Cape Light Compact and Mirant Americas Retail Energy Marketing, LP; or (b) leases and lease-related contracts pertaining to the Dickerson and Morgantown power plants operated by Mirant Mid-Atlantic, LLC and its subsidiaries (in which the lease counterparties are certain limited liability companies affiliated with Bank One, N.A., Union Bank of California, N.A. and Verizon Capital Corp.); and it is further

ORDERED that, to the extent that any provision contained in this Order is inconsistent with this Court's Interim Order Authorizing the Debtors to (i) Comply With Terms of Prepetition Trading Contracts, (ii) Enter Into Postpetition Trading Contracts in the Ordinary Course of Business, (iii) Provide Credit Support Relating to Both Pre- and Post-Petition Trading

Contracts, and (iv) Setting a Final Hearing to Consider the Entry of a Final Order Affirming the Interim Order and Authorizing Assumption of Prepetition Trading Contracts entered on July 17, 2003 (the "Trading Order"), the Trading Order shall control.

Dated August 14, 2007



HONORABLE D. MICHAEL LYNN
UNITED STATES BANKRUPTCY JUDGE

Exhibit "A"

Rejection Procedures

- a. Unless a timely objection is filed, any Contract or Lease determined by the Debtors, in the exercise of their business judgment, to be unnecessary and/or burdensome to the Debtors' ongoing business operations shall, unless otherwise agreed, in writing, by the Debtors and the counterparty to a particular Contract or Lease, be deemed rejected ten (10) business days from service of a motion to reject such Contract or Lease (the "Rejection Motion"), via facsimile or overnight mail, to: (i) the counterparty under the respective Contract or Lease at the last known address available to the Debtors; (ii) counsel for the counterparty under the respective Contract or Lease who has appeared in these cases and has specifically requested notice of any rejection notice; and (iii) counsel for any statutory committees appointed in these cases (each, a "Committee").
- b. The Rejection Motion shall be substantially in the form of the Rejection Motion attached hereto as Exhibit A-1 and shall include a copy of the Order approving this Motion.
- c. If an objection to a Rejection Motion is filed by a counterparty to a Contract or Lease, or by any Committee, and timely served upon, and actually received by, counsel to the Debtors prior to the expiration of the ten (10) business day notice period, the Debtors will seek a hearing to consider the objection at the Court's earliest convenience.
- d. If no objections by either a counterparty to a Contract or Lease or by any Committee, are timely received, then the applicable Contract or Lease shall be deemed rejected as of the expiration of the ten (10) business day notice period described above unless otherwise agreed, in writing, by the Debtors and the counterparty to a particular Contract or Lease. The Rejection Effective Date for any rejection shall be the later of (a) the expiry of the ten (10) business day notice period if no objection is filed; (b) the entry of an order ultimately approving rejection if an objection to rejection is filed; and (c) such other date upon which the debtor and the objection party may agree.
- e. If an objection to a Rejection Motion is timely received, and the Court ultimately upholds the Debtors' determination to reject the applicable Contract or Lease, then the applicable Contract or Lease shall be deemed rejected as of the date of the Order unless otherwise agreed, in writing, by the Debtors and the counterparty to the applicable Contract or Lease.
- f. Claims arising out of the rejection of Contracts and Leases must be filed with the Bankruptcy Court or any Court approved claims processing agent by the later of (i) the deadline for filing proofs of claim established by this Court or (ii) thirty (30) days after the Rejection Effective Date, unless otherwise agreed, in writing, by the Debtors and the counterparty to a particular Contract or Lease.

Exhibit "A-1"

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

_____)	
In re)	Chapter 11 Case
MIRANT CORPORATION, <u>et al.</u> ,)	Case No. 03-46590-DML-11
Debtors.)	Jointly Administered
_____)	

**MOTION OF DEBTORS TO REJECT EXECUTORY CONTRACTS OR
UNEXPIRED LEASES OF NONRESIDENTIAL REAL PROPERTY
OF [NAME OF COUNTERPARTY]**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

Mirant Corporation ("Mirant") and its affiliated debtors (collectively, the "Debtors"), as debtors in possession, file this Motion (the "Motion") pursuant to section 365(a) of title 11, United States Code (11 U.S.C. §§ 101 et seq.) (the "Bankruptcy Code") for authority to reject certain executory contracts (each, a "Contract") or unexpired leases of real property (each, a "Lease"), and in support thereof represent as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

PROCEDURAL BACKGROUND

2. The Cases. Commencing on July 14, 2003 and concluding in the early morning hours of July 15, 2003, (the "Petition Date"), each of the Debtors filed a voluntary petition in this court for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C.

§§ 101-1330, as amended (the "Bankruptcy Code").¹ The Debtors continue to manage and operate their businesses as debtors-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

3. The Cases are Jointly Administered. On July 15, 2003, this Court granted the Debtors' motion for an order requesting that the Debtors' bankruptcy estates be jointly administered.

4. Unsecured Creditors' Committees. On July 25, 2003, the Office of the United States Trustee for the Northern District of Texas formed two official committees of unsecured creditors. The first Committee is comprised of certain bondholders of Mirant Americas Generation, LLC. The Second Committee is comprised of certain creditors of Mirant Corporation and the remaining Debtors.

RELIEF REQUESTED

4. By this Motion, the Debtors respectfully request pursuant to 11 U.S.C. § 365(a) authority to reject certain Contracts and/or Leases listed below, effective 10 (ten) business days from the date upon service of this Motion.

¹ Concurrently, Mirant caused two of its Canadian subsidiaries, Mirant Canada Energy Marketing, Ltd and Mirant Canada Energy Marketing Investments, Inc. (collectively, the "Canadian Debtors") to commence plenary insolvency proceedings (the "Canadian Proceedings") in the Court of Queen's Bench of Alberta Judicial District of Calgary (the "Canadian Court") pursuant to the *Companies' Creditors Arrangement Act* (the "CCAA"). The Canadian Debtors are subject to the sole and exclusive jurisdiction of the Canadian Court.

BASIS FOR RELIEF

5. On _____, 2003, the Court entered an order (the "Order") approving procedures (the "Rejection Procedures") for the rejection of Contracts and Leases from time to time in furtherance of the reorganization efforts of the Debtors.

6. In summary, the procedures Order allows the Debtors, in the exercise of their business judgment, to reject any Contract or Lease determined to be unnecessary and/or burdensome to the Debtors' ongoing business operations following ten (10) business days from service via facsimile or overnight mail, to: (i) the counterparty under the respective Contract or Lease at the last known address available to the Debtors; (ii) counsel for the counterparty under the respective Contract or Lease who has appeared in these cases and has specifically requested notice of any rejection notice; and (iii) counsel for any statutory committees appointed in these cases. A copy of the Order is attached hereto as Exhibit "A".

7. Pursuant to the terms of the Order and N.D. TX L.B.R. 9014.1, unless a written objection hereto is filed and served in accordance with the terms of the Order, the following Leases and/or Contracts will be deemed rejected pursuant to 11 U.S.C. § 365(a) effective upon the expiration of the ten (10) business day notice period described above (the "Effective Date"):

**Title of Lease/Contract:
Effective Date of Rejection:
Parties to the Lease/Contract
and Contact Information:**

8. If an objection to this Motion is timely filed and served upon: White & Case, LLP, Wachovia Financial Center, 200 South Biscayne Blvd., Miami, Florida 33131, Attention: Thomas E Lauria, Esq. and Haynes and Boone, LLP, 901 Main Street, Suite 3100,

Dallas, Texas 75202, Attention: Judith Elkin, Esq., counsel for the Debtors, not later than ten (10) business days from the date of service of this Motion, the Debtors shall seek a hearing on the objection at the Court's earliest convenience. If such an objection to a Rejection Motion is timely received, and the Court ultimately upholds the Debtors' determination to reject the applicable Contract or Lease, then the applicable Contract or Lease shall be deemed rejected as of the date of such determination by the Court unless otherwise agreed, in writing, by the Debtors and the counterparty to the applicable Contract or Lease.

9. Pursuant to the Order, claims arising out of the rejection of Contracts and Leases must be filed with the Court, or any Court approved claims processing agent, by the later of: (i) the deadline for filing proofs of claims established by this Court or (ii) thirty (30) days after the Effective Date, or the date of the Order of the Court upholding the Debtors' determination to reject the applicable Contract or Lease, unless otherwise agreed, in writing, by the Debtors and the counterparty to a particular Contract or Lease (the "Rejection Claims Deadline").

10. Pursuant to the Order, any holder of a claim allegedly arising from the rejection of a Contract or Lease who fails to timely file a proof of such claim on or before the expiration of the Rejection Claims Deadline shall be (a) forever barred from asserting such claim against any of the Debtors; (b) forever barred from sharing in any distribution of the Debtors' estates or assets under any confirmed plan of reorganization or order of the Court authorizing distributions from the Debtors' estates; and (c) bound by the terms of any plan of reorganization confirmed in these chapter 11 cases and any order of the Court authorizing distributions from the Debtors' estates.

CONCLUSION

WHEREFORE, the Debtors respectfully request the relief requested herein and such other and further relief as this Court deems just and proper.

Dated: Fort Worth, Texas
_____, 2003

HAYNES AND BOONE, LLP
901 Main Street
Suite 3100
Dallas, TX 75202
(214) 651-5000

By _____

Robin Phelan
State Bar No. 15903000
Judith Elkin
State Bar No. 06522200
Ian Peck
State Bar No. 24013306

-and-

Thomas E Lauria
State Bar No. 11998025
Michelle C. Campbell
State Bar No. 24001828
WHITE & CASE LLP
Wachovia Financial Center
200 South Biscayne Blvd.
Miami, Florida 33131
(305) 371-2700

PROPOSED ATTORNEYS FOR THE DEBTORS
AND DEBTORS-IN-POSSESSION

EXHIBIT B

S&P COMSTOCK INFORMATION DISTRIBUTION LICENSE AGREEMENT

AGREEMENT, made as of May 11, 2001, by and between S&P ComStock, Inc. a corporation having offices at 600 Mamaroneck Avenue, Harrison, New York 10528, and Mirant Corporation ("Distributor"), having an office at 1155 Perimeter Center West Atlanta, Georgia 30338.

WHEREAS, S&P ComStock, Inc. gathers, formats and distributes an information service comprised of certain securities and commodities prices and other data which is known as the S&P ComStock Service ("ComStock") and

WHEREAS, S&P ComStock, Inc. is licensed to distribute information from various Stock Exchanges, and other sources (collectively, "Sources") as part of S&P ComStock; and

WHEREAS, the parties desire that certain delayed information from S&P ComStock ("the ComStock Information") as specified in Exhibit A (Part I), attached hereto, be made available to Distributor for display by Distributor's Corporate Intranet on its Intranet site (collectively, the "Distributor Service"), as described fully in Exhibit B, attached hereto.

NOW, THEREFORE, the parties mutually agree as follows:

1. Distribution License.

(a) Distributor is hereby granted for the term of this Agreement a nonexclusive, nontransferable right and license to distribute electronically the ComStock Information via the Distributor Intranet Service solely for access by Intranet users of the Distributor Service (such users referred to herein as "Subscribers"), provided that the ComStock Information is supplied to the Subscribers by means (such as data encryption, packet transmission-digitizing, etc.) which prevent unauthorized reception, use or retransmission and further provided that Distributor has executed in advance any and all necessary documents with the various Distributor Selected Sources, which documents have been accepted and approved by the Sources. Notice of such Sources' acceptance and approval must be supplied to S&P ComStock, Inc. prior to Distributor's use or distribution of the ComStock Information.

(b) Distributor agrees and understands that it shall directly provide the ComStock Information to Subscribers, except as specifically set forth in Exhibit B. Distributor also agrees and understands that it is not permitted to sublicense, transfer, or assign its rights hereunder and that it shall not permit the redistribution of the ComStock Information by any Subscriber or by any other third party without the express prior authorization of S&P ComStock, Inc. pursuant to a separate agreement or by mutually agreeable amendment executed and attached hereto.

(c) Distributor agrees that the ComStock Information shall not be dynamically updated.

(d) Licensee shall be prohibited from: (i) distributing the Information through any joint or co-branded sites, and (ii) authorizing any third party to link a third party site to the Information.

2. ComStock Information.

(a) The furnishing to Distributor of the ComStock Information is conditioned upon strict compliance with the provisions of this Agreement, the applicable policies of the Sources, and with all local, state and federal regulations which might pertain to the use of the ComStock Information. It shall be the sole responsibility of Distributor to confirm with the applicable Sources whether or not all of the ComStock Information may be distributed by Distributor to its Subscribers. S&P ComStock, Inc. may discontinue provision of the ComStock Information hereunder, without notice, whenever the terms of its agreements with the Sources require such discontinuance, or if in its reasonable judgment S&P ComStock, Inc. finds a breach by Distributor of any of the provisions of this Agreement.

(b) Neither S&P ComStock, Inc., nor any of its affiliates, nor any Sources make any express or implied warranties (including, without limitation, any warranty of merchantability or fitness for a particular purpose or use). Neither S&P ComStock, Inc., any of its affiliates, or any Sources warrant that the ComStock information will be uninterrupted or error-free. Distributor expressly agrees that its use and distribution of the ComStock Information and its use of the ComStock Equipment is at the sole risk of Distributor and its Subscribers. S&P ComStock, Inc., its affiliates, and all Sources involved in creating or providing the ComStock Information will in no way be liable to Distributor or any of its Subscribers for any inaccuracies, errors or omissions, regardless of cause, in the ComStock Information or for any defects or failures in the ComStock Equipment, or for any damages (whether direct or indirect, or consequential, punitive or exemplary) resulting therefrom. The liability of S&P ComStock, Inc. and its affiliates in any and all categories, whether arising from contract, warranty, negligence, or otherwise shall, in the aggregate, in no event exceed one month's ComStock Information Delivery Fee.

(c) Distributor agrees that it shall not display the ComStock Information in the Distributor Service without a prominent notice indicating that the ComStock Information is being displayed on a minimum fifteen (15) minute delayed basis.

(d) Distributor represents and warrants that it has and will employ adequate security procedures to prevent the unauthorized access to the ComStock Information or corruption of the ComStock Information.

(e) Distributor agrees to indemnify and hold S&P ComStock, Inc. and its affiliates harmless from and against any and all losses, damages, liabilities, costs, charges and expenses, including reasonable attorneys' fees, arising out of any breach or alleged breach on the part of Distributor or any Subscribers with respect to its/their obligations to obtain prior approvals from appropriate Sources and to comply with any applicable conditions, restrictions or limitations imposed by any Source. S&P ComStock, Inc., at its own cost and expense, shall defend,

indemnify and hold Distributor harmless from and against all damages, costs, judgments and expenses, including reasonable attorneys' fees, relating to any third party claim or litigation against Distributor that the ComStock Information as furnished by S&P infringes any copyright, U.S. trademark, U.S. patent or other proprietary right of any third party.

(f) S&P ComStock, Inc. represents that it has the rights and licenses necessary to transmit the ComStock Information to Distributor, and that to the best of S&P ComStock, Inc.'s knowledge, the license granted to Distributor hereunder does not infringe any proprietary right or any third party right at common law or any statutory copyright.

(g) S&P ComStock, Inc. shall deliver the ComStock Information to Distributor at the site(s) set forth in Exhibit C or at such other locations as Distributor may designate within the continental United States or Canada.

4. Payments.

In consideration for the license granted to Distributor by S&P ComStock, Inc. under this Agreement, Distributor shall make the following payments to S&P ComStock, Inc.:

(a) Distributor shall pay to S&P ComStock, Inc. a monthly Subscriber Fee of \$2500.00 monthly, the amount as calculated using Schedule of Fees attached hereto as Exhibit D. The Subscriber Fees will be due and payable on the fifteenth (15th) day of each month.

(b) Distributor shall be responsible for the payment of any and all applicable fees billed directly to Distributor by Sources, which fees result from Distributor's use and distribution of the ComStock Information. Distributor shall also be responsible for payment of any Subscriber's Source fees which must be paid directly by Distributor to the Sources. Distributor shall provide to S&P ComStock, Inc. a copy of its monthly Source fee reports when and as filed with the Sources.

(c) Any amounts payable to S&P ComStock, Inc. by Distributor hereunder which are more than thirty (30) days past due shall bear interest at the rate of 1-1/2% per month.

(d) S&P ComStock, Inc. may, in its sole discretion and at any time following the initial term of this Agreement, change the ComStock Monthly Subscriber Fee as specified herein after having provided written notice to Distributor at least ninety (90) days in advance of such changes.

(e) S&P ComStock, Inc. may audit Distributor's records for the sole purpose of verifying the accuracy of Distributor's reported monthly Subscriber Fee payments as set forth in Paragraph 4(b), above. Distributor will make such records readily available to S&P ComStock, Inc. for inspection during normal working hours on one week's notice. S&P ComStock, Inc. agrees that Distributor's records will be treated as confidential and will not be used for any purpose other than verifying Distributor's compliance with this Agreement. Any such audit shall be at S&P ComStock, Inc.'s expense unless it is determined that S&P ComStock, Inc. has been underpaid by an amount exceeding five percent (5%) of the revenues actually received by S&P ComStock,

Inc. in the period covered by the audit; in such case, the expense of the audit shall be borne by Distributor.

(f) Once each calendar quarter, Distributor shall furnish S&P ComStock with information regarding the number of quotes requested by Subscribers for the previous quarter and such other additional information regarding use of the ComStock Information as the parties agree.

5. Information Enhancements; Changes to Data Specification.

(a) Any additions of new Sources or other enhancements to the ComStock Information which may be made by S&P ComStock, Inc. during the term of this Agreement, while unidentified at this time, will be offered to Distributor under terms and conditions to be negotiated, provided that (i) S&P ComStock, Inc. has the necessary rights to convey such new information to Distributor for redistribution; and (ii) Distributor and S&P ComStock, Inc. execute a separate mutually acceptable agreement or amendment to this Agreement.

(b) S&P ComStock, Inc. shall have the right, on at least six (6) months prior written notice, to change the ComStock Data Format Specification, provided that any such change shall be made effective generally by S&P ComStock, Inc. to its customers. Distributor shall be responsible at its own expense for making any modifications to its software necessitated by such change.

6. Term.

(a) This Agreement shall take effect upon its execution by an authorized representative of S&P ComStock, Inc. and of Distributor.

(b) The term of this Agreement shall be for an initial term of two (2) years commencing on the first day of service operation and shall automatically renew at the end of each term for successive terms, each of the same duration as the initial term, unless it is terminated effective at the end of any term with written notice by either party given to the other at least ninety (90) days prior to the end of the then current term. If S&P ComStock, Inc. increases charges to Distributor pursuant to Paragraph 4(f), above, Distributor shall have the option to terminate this Agreement by written notice to S&P ComStock, Inc. within sixty (60) days of Distributor's receipt of notice of such increases; such termination will become effective no sooner than thirty (30) days from the last day of the month in which notice of termination by Distributor is received by S&P ComStock, Inc.

7. Marketing.

Distributor may not use the names "ComStock", "SPC.", or "S&P ComStock, Inc.", which are proprietary to S&P ComStock, Inc., or refer to the ComStock Information in marketing or advertising materials without the prior written consent of S&P ComStock, Inc., such consent not to be unreasonably withheld.

8. Rights to Data Specification: Other Confidential Information.

(a) Distributor agrees and acknowledges that the Data Specification is a confidential and proprietary trade secret belonging to ComStock, and nothing in this Agreement conveys any proprietary rights whatsoever with regard to the Data Specification to Distributor. The Data Specification is provided to the Distributor strictly and solely for the purpose of developing internal computer software to receive the ComStock Information. Distributor may not use the Data Specification for any other purpose whatsoever, including, but not limited to, the development of systems for the receipt or transmission of computer data. Distributor may not give, transmit, or provide access to the ComStock Data Specification to any Subscriber or other third party. On any termination of this Agreement, regardless of cause, Distributor shall promptly return the Data Specification to S&P ComStock, Inc. and shall provide a written certification by an officer that no copies have been retained by Distributor.

(b) In addition to the duties imposed on Distributor pursuant to Paragraph 8(a), above, S&P ComStock, Inc. and Distributor agree to hold confidential any and all of each other's trade secrets, procedures, formulae, financial data, Subscriber lists, and future plans, which may be learned before and during the term of this Agreement. Notwithstanding the foregoing, however, such duty of confidentiality shall not extend to information which is or comes into the public domain, is rightfully obtained from third parties not under a duty of confidentiality, or which is independently developed without reference to the other party's confidential information.

(c) The duties of confidentiality imposed herein shall survive any termination of this Agreement.

9. Prevention of Performance.

Neither party shall be liable for any failure in performance of this Agreement if such failure is caused by acts of God, war, governmental decree, power failure, judgment or order, strike, or other circumstances, whether or not similar to the foregoing, beyond the reasonable control of the party so affected. Neither party shall have any liability for any default resulting from force majeure, which shall be deemed to include any circumstances beyond its control. Such circumstances shall include, but are not limited to acts of the government, fires, flood, strikes, power failures or communications line or network failures.

10. Right of Termination in the Event of Breach or Bankruptcy; Right to Injunctive Relief.

(a) Either party shall have the right to terminate this Agreement for material breach by the other party by giving thirty (30) days prior written notice, such termination to take effect unless the breach is cured or corrected within such notice period.

(b) If a receiver is appointed for either party's business or if either party petitions under the Bankruptcy Act and is adjudicated a bankrupt, declared an insolvent, or makes an assignment for the benefit of creditors, then the other party shall, upon thirty (30) days prior written notice, have the right to terminate this Agreement.

(c) Upon termination of this Agreement for any reason, Distributor shall cease all use and distribution of any of the ComStock Information.

(d) In addition to and notwithstanding the above, if Distributor, or any of its employees, agents or representatives, shall attempt to use or dispose of the ComStock Information or the Data Specification in a manner contrary to the terms of this Agreement, S&P ComStock, Inc. shall have the right, in addition to such other remedies as may be available to it, to injunctive relief enjoining such acts or attempt, it being acknowledged that legal remedies are inadequate.

(e) SPC shall have the right to terminate this Agreement upon written notice to Distributor in the event of a sale or transfer of all or substantially all of the assets of Distributor or a sale or transfer of a controlling equity interest in Distributor.

11. Assignment.

Distributor shall be prohibited from assigning or transferring this Agreement or any rights hereunder and any proposed assignment or transfer shall be null and void and shall be considered a material breach of this Agreement.

12. Entire Agreement.

This Agreement and its Exhibits embodies the entire agreement between the parties hereto. There are no promises, representations, conditions or terms other than those herein contained. No modification, change or alteration of this Agreement shall be effective unless in writing and signed by the parties hereto.

13. Non-Waiver.

The failure of either party to exercise any of its rights under this Agreement for a breach thereof shall not be deemed to be a waiver of such rights nor shall the same be deemed to be a waiver of any subsequent breach.

14. Notices.

All notices under this Agreement shall be given in writing to the parties as follows:

To: S&P ComStock, Inc.
600 Mamaroneck Avenue
Harrison, New York 10528
Attn: Mr. Charles Racioppo

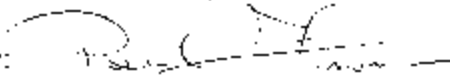
To: Mirant Corporation
1155 Perimeter Center West
Atlanta, Georgia 30338
Attn: Mr. Brett Clifford

15. Governing Law.

This Agreement shall be governed by the laws of the State of New York and the parties agree to select New York jurisdiction for any claims or disputes which may arise hereunder.

IN WITNESS WHEREOF, Distributor and S&P ComStock, Inc. have caused this Agreement to be executed by their duly authorized respective officers, as of the day and year above written.

S&P COMSTOCK, INC.

By: 

Title: Vice President

Date: June 13, 2021

DISTRIBUTOR

By:

Title:

Date:

EXHIBIT A

PART I: REAL TIME INFORMATION DEFINITION

STOCKS: List of up to Twenty Equities trading on NYSE

PART II: AUTHORIZED GEOGRAPHICAL AREA

Distribution of the ComStock Information may only be made by Distributor to Subscribers who have access to Mirant Corporation's corporated intranet.

EXHIBIT B
DESCRIPTION OF DISTRIBUTOR SERVICE

S&P Comstock will provide Mirant Corporation with a list of up to twenty Equities Trading on NYSE. The delivery method will be in a form of a JAVA API.

Mirant Corporation will develop watchlist on their Corporate Intranet Homepage for display purposes only. Subscribers who have authorization to access the Corporate Intranet will view the watchlist display of Energy related equities on the Intranet homepage only.

EXHIBIT C
DESCRIPTION OF COMSTOCK EQUIPMENT

Mirant Corporation will use the ComStock JAVA API that will be delivered over the Internet. There will be no equipment installed at Mirant Corporation's site.

**Distributor location is registered at: Mirant Corporate Headquarters
1155 Perimeter Center West
Atlanta, Georgia 30338
United States**

EXHIBIT D
SCHEDULE OF FEES

Real Time Streaming up to twenty equities on NYSE only

Monthly Flat License Fee: Real Time Streaming \$2500.00

EXHIBIT B
SCHEDULE OF FEES

Monthly Fees:

S&P private label fee	\$2,500
S&P Xpresso Application – greater of (i) or (ii)	
(i) Guaranteed minimum	\$5,000
or	
(ii) Per user fee	\$100 per user

Development to be done by Representative via the S&P Xpresso toolkit. S&P ComStock will provide development support for one month at no cost. After the first month, additional development support will be billed at the rate of \$250 per hour.

Effective July 1, 2001, Representative shall be billed for all fees, including the Xpresso application fees and the private label fees, as outlined herein.