

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

In re:	:	CHAPTER 11
MIRANT CORPORATION, <i>et al.</i> ,	:	Case No. 03-46590 (DML)11
Debtors.	:	Jointly Administered

**STIPULATION IN SUPPORT OF RETROACTIVE EXPANDED RETENTION OF
DELOITTE & TOUCHE LLP**

The Office of the United States Trustee for the Northern District of Texas ("U.S. Trustee"), Mirant Corporation ("Mirant") and its affiliated debtors (collectively, the "Debtors"), and Deloitte & Touche LLP ("Deloitte"), hereby stipulate to the facts below and seek to admit them into the record at the hearing scheduled for March 17, 2004.

The Debtors' Original Retention of Deloitte for Tax Services

1. On August 20, 2003, the Debtors filed their application to retain Deloitte as the Debtors' tax advisors, which was granted on an interim basis by order dated September 10, 2003.
2. Following entry of the interim order, Deloitte and the U.S. Trustee worked diligently to resolve issues relating primarily to the indemnification provisions contained in the form of Deloitte's tax engagement letter. On November 13, 2003, Deloitte's outside legal counsel, Baker Botts L.L.P. ("Baker Botts"), submitted to the Debtors' counsel, White & Case and Haynes and Boone, an agreed final order that had been approved by the U.S. Trustee.
3. On December 8, 2003, the Court entered its final order approving the retroactive retention of Deloitte effective as of July 14, 2003.

The Debtors' Requests for Additional Services on an Expedited Basis

A. Cost-Allocation Services

4. In October 2003, Daniel Streek, the Vice President and Controller of Mirant, contacted Jacien Steele, a partner with Deloitte, to discuss the possibility of Deloitte's performing certain cost allocation accounting services on an urgent basis. Ultimately, the Debtors requested Deloitte to help develop alternative cost allocation methodologies based on Deloitte's knowledge of industry practice for use by the Debtors in allocating certain costs among particular affiliates on a prospective basis.

5. The Debtors requested Deloitte to provide these cost allocation services in order to carry out their duties as debtors-in-possession. Further, both the Mirant Unsecured Creditors' Committee and the Mirant Americas Generation, LLC ("MAGI") Unsecured Creditors' Committee had requested that the Debtors have these services performed, and Deloitte was qualified to perform them.

6. Mirant indicated that time was of the essence and requested that Deloitte start work immediately so that the cost allocation project could be completed, if at all possible, by year end. In order to meet the Debtors' needs to accommodate the respective creditors' committees and with the intention of duly supplementing the scope of services in an appropriate filing, Deloitte began work in good faith prior to preparation of an engagement letter or supplemental retention application. A formal engagement letter for the cost-allocation services (the "Cost Allocation Engagement Letter") was later countersigned by the Debtors on November 17, 2003, with an agreed effective date of November 13, 2003.¹ [A true and correct copy of the Cost Allocation Engagement Letter is attached hereto as *Exhibit "1"* and fully incorporated herein].

¹ Per agreement with the Debtors, Deloitte agreed to seek retroactive retention only to November 17, 2003, as indicated in the Supplemental Application and Supplemental Steele Affidavit.

7. Because Deloitte anticipated that the U.S. Trustee and creditors would likely want the opportunity – on proper notice - to review any expanded scope of services in detail, Deloitte promptly began the process of preparing a supplemental affidavit to detail the expanded scope of Deloitte's retention to include both cost-allocation services and potentially other newly requested services, which are discussed in sub-sections B and C below. Under the circumstances, Deloitte's counsel did not believe that it would be feasible or indeed appropriate to seek to merely alter the proposed final order for the original tax retention application, which by this time period had already been submitted for the Court's consideration, to subsume such varied non-tax services or to submit a series of quickly prepared supplemental retention applications one after the other.

8. Moreover, preparing supplemental retention papers also meant updating Deloitte's conflict searches in light of the additional parties identified by the Debtors to Deloitte. On December 5, 2003, Deloitte received an updated conflict list containing approximately **1,300** entries. Deloitte was surprised by the large number of entries, but diligently began updating its prior conflict check with respect to the entities included in the Debtors' original application to retain Deloitte for tax services to add, where applicable, those entities that were newly listed in the Debtors' updated conflict list.

9. Deloitte has completed development of cost allocation methodologies for use by the Debtors in allocating costs among particular affiliates on a prospective basis. Using the methodologies developed by Deloitte, Mirant has undertaken a pro forma cost reallocation on a retrospective basis. Deloitte has assisted with this project consistent with the Cost Allocation Engagement Letter. The Debtors also used information generated in connection with the engagement for their financial budgeting purposes for 2004 and for allocation of internal costs

over specific assets. The cost allocation services performed by Deloitte were actual and necessary.

B. Valuation Services

10. On or around November 6, 2003, Mr. Streek contacted Kevin Moss, a principal with Deloitte, regarding the prospect of Deloitte performing valuation services so that the Debtors could meet their reporting requirements mandated by Statement of Financial Accounting Standards ("SFAS") 142 and 144. SFAS 142 deals with good will impairment for financial reporting purposes and SFAS 144 concerns the impairment of long-lived assets. These pronouncements require that valuation procedures be performed by qualified personnel in order for the Debtors to make determinations with respect to the carrying value of assets and good will on their books. The Debtors did not have the necessary internal expertise to do the work. Nor could KPMG, the Debtors' auditors, perform the valuation services due to independence obligations. Further, KPMG's audit of Mirant's financial statements (for the fiscal year ending December 31, 2003) could not be completed until the valuation services required under SFAS 142 and 144 had been completed. Because time was of the essence, the Debtors requested that Deloitte start work immediately. Deloitte had to commence these services when it did in order for the audit to be completed timely and still permit the Debtors to be able to comply with their filing requirements on March 15 as a public company under the federal securities laws.

11. Deloitte had provided similar SFAS 142 services for the Debtors in the previous year and thus was familiar with the Debtors' reporting units and these assets for these purposes. Deloitte thus could and did provide the services more efficiently and cost effectively than any service provider who would have to incur "ramp up" time in order to provide such services.

These valuation services in turn necessarily relied in part upon completion of the cost-allocation services described in sub-section A above.

12. At the Debtors' request and in order to enable the Debtors to meet their March 15 deadlines, Deloitte in good faith began substantive work on this new project on or around December 15, 2003. A new valuation engagement letter, a true and correct copy of which is attached hereto as *Exhibit "2,"* and fully incorporated herein, was countersigned by the Debtors on December 15, 2003, with an agreed effective date of December 1, 2003. Deloitte, however, in its proposed final order submitted herewith is only seeking compensation for its valuation service commencing on December 15, 2003, not retroactively to December 1, 2003.

13. Deloitte's in-house counsel, with Baker Botts' assistance, then began preparing consolidated papers to include requests to expand the scope of Deloitte's services to the Debtors to include not only the cost-allocation services, but now the valuation work as well, while continuing its ongoing conflicts checking process of the 1,300 entries received from the Debtors on December 5, 2003.

14. The valuation services performed by Deloitte were actual and necessary.

C. Outsourcing

15. The expanded retention papers needed to be revised and expanded a third time in December in that the Debtors then wished to retain Deloitte to provide middle-office and back-office support in connection with the Debtors' energy trading operations. In particular, on or about November 18, 2003, Mr. Streek of Mirant contacted Mr. Steele at Deloitte concerning possible outsourcing type assistance. The Debtors' recent layoffs had left the Debtors lacking key personnel to perform these services. No agreement was reached at that time, but informal

discussions continued over the next approximately two weeks as Mirant continued to refine and narrow the project.

16. Ultimately, the Debtors formally requested Deloitte to assist in, among other things, the development of data validation procedures for forward price and volatility curves in markets in which Mirant transacts business, reconciling daily profit/loss and risk reports for designated trading desks and providing functional support for Mirant's "Endur" trading application. Such services are highly specialized and require unique experience and expertise working with complex energy portfolios and trading books. Deloitte is one of the few firms of nationwide reputation and resources with skilled personnel qualified to perform such services under the time constraints requested by the Debtors. Acting in good faith at the Debtors' request, and in order to service the business needs of its client, Deloitte began work on or around December 4, 2003, including working New Year's Eve.

17. After Deloitte had the opportunity to investigate the Debtors' needs in relation to their existing personnel, the Debtors and Deloitte negotiated a new outsourcing engagement letter (the "Outsourcing Engagement Letter"), which was countersigned by Dan Streek on January 15, 2004, with an agreed effective date of December 3, 2003. [A true and correct copy of the Outsourcing Engagement Letter is attached hereto as *Exhibit "3"* and fully incorporated herein].

18. Due to the urgency of the Debtors' request, Deloitte again revised its consolidated supplemental retention papers during this time period to include what had now become the Debtors' third request for additional work unrelated to the original tax work.

19. The Debtors requested that the outsourcing services described in the engagement letter be completed by 2003 year end, and Deloitte completed the majority of its work by this deadline, but the demand for follow up services required some additional work in January and

the first week or two of February. The outsourcing services performed by Deloitte were actual and necessary.

Finalizing and Filing the Expanded Retention Documents

20. As one of the largest professional services firm in the country, Deloitte has dozens of offices nationwide, over twenty-five thousand employees and numerous personnel engaged in the conflicts-checking process. Notwithstanding that Deloitte had received, on December 5, a list of 1,300 names for conflicts checking, Deloitte worked as quickly and efficiently as it was able in finalizing the expanded retention papers to include the three new services requested by the Debtors and the underlying engagement letters. As noted above, Deloitte also sought to ensure that its disclosure was complete and accurate to the best of its knowledge.

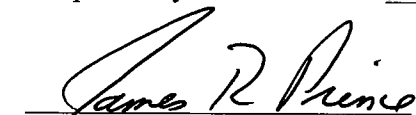
21. After ensuring that the documentation and conflict searches were complete and accurate to its satisfaction, Deloitte's outside counsel submitted the proposed supplemental retention papers to the Debtors' counsel, White & Case and Haynes and Boone, on January 22, less than two months after receipt on December 5, 2003 of the Debtors' updated conflict list. Deloitte's counsel has stated under sworn oath that she was not in a position to authorize transmission of the submission sooner because the conflicts checking process was still underway.

22. On Wednesday, February 4, 2004, the Debtors filed their application to expand, retroactively, the scope of Deloitte's retention.

23. Deloitte only later learned that the Court had requested that retention applications seeking retroactive approval of professional retention be filed by Sunday, February 1, 2004. Deloitte had had no notice or knowledge of this deadline, but counsel for the Debtors believe that the February 1, 2004, deadline applied only to those applications seeking approval of new

professionals retroactive to July 14, 2003, and not applications seeking approval to expand the scope of an already-employed professional's retention retroactive to November 2003.

Respectfully submitted this 10th day of March 2004.



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Counsel for the Debtors

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Respectfully submitted this ___ day of March 2004.

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**Office of the United States Trustee
for the Northern District of Texas**

CERTIFICATE OF SERVICE

I certify that on this 10th day of March 2004, a true copy of the foregoing document was filed with the electronic case filing system of the Northern District of Texas. I further certify that I served all parties who did not receive the filing electronically and who are entitled to service in accordance with the Local Rules of this Court and applicable law, via first-class U.S. mail.



C. Luckey McDowell

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**Deloitte
& Touche**

November 13, 2003

Mr. Dan Streek
Vice President & Controller
Mirant Corporation
1155 Perimeter Center West
Atlanta, Georgia 30338-5416

Dear Mr. Streek:

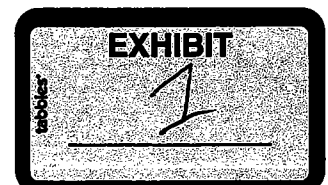
Pursuant to your request, Deloitte & Touche LLP ("Deloitte") is pleased to have the opportunity to assist Mirant Corporation ("Mirant") and its affiliates (including, but not limited to, its affiliated debtors) (together with Mirant, the "Mirant Group") by providing the services described herein. This letter including Deloitte's General Business Terms, attached as Appendix A (collectively, the "Agreement"), sets forth the agreement between the Mirant Group and Deloitte, effective as of November 13, 2003. Mirant acknowledges and agrees that, in the event that the United States Bankruptcy Court for the Northern District of Texas Fort Worth Division (the "Court") has not entered a final order appointing Deloitte pursuant to the terms hereof (as modified by the Court's Order Restricting Pursuit of Certain Persons signed August 5, 2003 and the Court's Extending Order Restricting Pursuit of Certain Persons signed September 29, 2003) on or before December 13, 2003, Deloitte may terminate this Agreement in its sole discretion and, following such termination, shall have no obligation or liability to the Mirant Group hereunder.

SCOPE OF SERVICES

We expect that our accounting and business advisory services may include, but not be limited to, the following:

1. Develop alternative cost allocation methodologies based on Deloitte's knowledge of publicly available industry practice and methodologies established by various regulatory and standard-setting entities, for use by Mirant in allocating Mirant and Mirant Services, LLC ("Mirant Services") costs to affiliates and allocating costs from Mirant Americas Energy Marketing Investments, Inc. ("MAEM") to Mirant Americas Generation, LLC ("MAGI") on a prospective basis. Mirant will select cost allocation methodologies from the alternatives developed by Deloitte to apply on a prospective basis;
2. Based on the results obtained in 1. above, we will assist Mirant in reallocating on a pro forma basis those costs allocated to the Mirant Group by Mirant and Mirant Services for the period July 2003 through October 2003, as well as any costs that are currently retained at Mirant or Mirant Services. We will also compare the results of such pro forma cost reallocation to the cost allocations that were recorded each month during the

Deloitte
Touche
Tahmatsu



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period July 2003 through October 2003 using an Excel spreadsheet format, with a focus on the results of reallocation at four primary Mirant entities: Mirant Corporation, MAGI, Mirant Mid-Atlantic, LLC ("MirMA"), and MAEM.

Mirant acknowledges that these comparisons will be developed solely in order for Mirant to assess the impact of implementing the suggested allocation methodologies on a prospective basis. Mirant agrees that the alternative allocation methodologies selected by Mirant shall be used solely on a prospective, and not an historic, basis;

3. Prepare a report to include a discussion of the new allocation methodologies, Mirant's rationale for selecting each, and other methodologies proposed by Deloitte but not selected by Mirant for cost allocation purposes;
4. Document the new allocation methodologies and the basis for their application in a policies and procedures format (e.g., a cost allocation manual) for use by Mirant;
5. Assist Mirant in the incorporation of any new allocation methodologies into Mirant's General Ledger system; and
6. Assist with such other accounting and related matters as Mirant may, from time to time, request and as may be agreed to by Deloitte.

The services to be provided by Deloitte will be performed under the Standards for Consulting Services of the American Institute of Certified Public Accountants ("AICPA"). The specific tasks to be performed by Deloitte will be established based on discussions with Mirant as the engagement progresses and additional information is obtained during the course of the engagement. It is our understanding that our services may include, for purposes of gathering information, access to the work of other public accountants or to financial statements or financial information reported on by other public accountants. Mirant agrees, however, that access is not for the purpose of affirming or evaluating the auditing procedures or professional standards used by other accountants. Deloitte will also consider providing mutually agreeable assistance in any other areas that may be identified during the course of this engagement.

ENGAGEMENT TEAM

Deloitte's engagement team leaders and their anticipated roles are described below.

Bernard L. Uffelman, the U.S. Regulatory Services Leader for Deloitte's Energy & Resources practice, will serve as the Engagement Partner maintaining responsibility for this engagement on behalf of Deloitte. Mr. Uffelman will be actively involved in all aspects of this engagement.

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Mr. Jacien Steele will serve as the Lead Client Service Partner on this engagement and has overall responsibility for the services provided to Mirant by Deloitte.

Mr. Michael Puleo, a Director in Deloitte's Reorganization Services Group, will serve in an advisory capacity and will provide services related to bankruptcy-specific issues on an as-needed basis.

Mr. Mark R. Young, a Director in Deloitte's Energy & Resources practice, will be actively involved in assisting Mr. Uffelman and Ms. Katherine S. Hale in evaluating the existing cost allocation methodologies used by Mirant to assign or allocate corporate overhead costs, shared services costs, and professional fees to its affiliates, developing alternative cost allocation methodologies, as necessary, developing cost allocation policies and procedures, and reallocating such costs to Mirant affiliates.

Ms. Katherine S. Hale, a Senior Manager in Deloitte's Energy & Resources practice, will serve as the engagement manager for this project. In this role, Ms. Hale will have day-to-day responsibility for all project management activities. In addition, Ms. Hale will be actively involved in assisting Mr. Uffelman and Mr. Young in the assignment and allocation of corporate overhead costs, shared services costs and professional fees as described above.

The engagement team leaders will be assisted by other Deloitte professionals to provide assistance and technical support on an as-needed basis during the course of this engagement.

ENGAGEMENT FEES AND EXPENSES

Many of the cost allocation issues that will be addressed in this engagement are complex, and the scope for each phase of this engagement is fact specific. As such, our professional fees will be determined by the scope of the project, the experience of our professionals assigned to the engagement, and the time required to complete the project tasks at our hourly rates. We endeavor to use staff in the most cost-effective manner possible. The following table provides a range of Deloitte hourly billing rates by classification of personnel.

<u>Personnel Classification</u>	<u>Range of Rates</u>
Partner/Director	\$450 - \$600
Senior Manager	\$350 - \$500
Manager	\$300 - \$450
Senior Staff	\$175 - \$325
Staff	\$125 - \$225

We will abide by the interim compensation and reimbursement procedures established in the August 1, 2003 Administrative Order in Case No. 03-46590 and supplemented by the August 27, 2003 Memorandum Order regarding compensation of professionals as well as the procedures established by Mirant in its letter dated October 9, 2003.

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During the first several weeks of the engagement, we will be actively reviewing documents and talking with you to develop a more comprehensive understanding of the issues and supporting materials that will have been provided to us. During this time, we will be able to estimate the required work effort and associated fees for this engagement. The nature of our work will require that this estimate be flexible, but we will discuss any substantial variances with you in advance.

In addition, we will be compensated for any time and expenses (including, without limitation, reasonable legal fees and expenses) that we may incur in considering or responding to discovery requests or other requests for documents or information, or in participating as a witness or otherwise in any legal, regulatory, arbitration, or other proceedings, including without limitation, those other than as a result of or in connection with this engagement.

MISCELLANEOUS

The services provide by Deloitte to Mirant will not constitute (1) a fairness or solvency opinion or (2) a compilation, examination, review, or audit of any entity's information, financial or otherwise, historical or prospective, as described in the pronouncements on professional standards issued by the AICPA. In addition, we will not make any predictions or provide any opinions or other assurances concerning the outcomes of future events, including, without limitation, those that pertain to the operating results of any entity, the achievability of any business plan, the success of any investment, the recovery of any asset, or the ability to pay any debt. Additionally, we do not provide legal advice; you will be responsible for all legal matters.

Mirant recognizes and acknowledges that by performing the services described herein, Deloitte is not acting in any Mirant management capacity and that Mirant has not asked Deloitte to make, nor has Deloitte agreed to make, any business decisions on behalf of Mirant. All decisions concerning the execution of transactions with other entities and the establishment of terms for such transactions remain the sole responsibility of Mirant's management. By signing this letter, Mirant expressly acknowledges that Deloitte does not guarantee, warrant, or otherwise provide any assurances that Mirant will restructure successfully.

GENERAL BUSINESS TERMS

This engagement letter, together with the General Business Terms attached hereto, constitutes the entire agreement among the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings among the parties, whether written or oral, with respect to the subject matter hereof, and may not be amended except by written agreement signed by the parties. For purposes of the attached General Business Terms, the term "Client" shall mean the Mirant Group.

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AUTHORIZATION

If the foregoing represents your agreement, please sign both enclosed original letters and return a signed original of this letter to me.

We look forward to assisting you with this project. If you have any questions regarding this engagement letter, please call me at (512) 691-2305.


Very truly yours,

Deloitte & Touche LLP

By: 
Bernard L. Uffelman, Partner
U.S. Regulatory Services Leader
Energy & Resources

Attachments: General Business Terms

Accepted and Agreed to by Mirant Corporation, on behalf of itself and its affiliates:

By: 
Title: VP + Controller
Date: 11/17/03

Appendix A

Form ERS104 (3-03)

GENERAL BUSINESS TERMS

1. **Services.** It is understood and agreed that D&T's services may include advice and recommendations, but all decisions in connection with the implementation of such advice and recommendations shall be the responsibility of, and made by, the Client. In connection with its services hereunder, D&T shall be entitled to rely on all decisions and approvals of the Client.

2. **Payment of Invoices.** Properly submitted invoices upon which payment is not received within thirty (30) days of the invoice date shall accrue a late charge of the lesser of (i) 1½% per month or (ii) the highest rate allowable by law, in each case compounded monthly to the extent allowable by law. Without limiting its rights or remedies, D&T shall have the right to halt or terminate its services entirely if payment is not received within thirty (30) days of the invoice date.

3. **Term.** Unless terminated sooner in accordance with its terms, this engagement shall terminate on the completion of D&T's services hereunder. Subject to D&T's right of termination set forth in the engagement letter, this engagement may be terminated by either party at any time by giving written notice to the other party not less than thirty (30) days before the effective date of termination.

4. **Ownership.**

a) **D&T Technology.** D&T has created, acquired or otherwise has rights in, and may, in connection with the performance of services hereunder, employ, provide, modify, create, acquire or otherwise obtain rights in, various concepts, ideas, methods, methodologies, procedures, processes, know-how, and techniques (including, without limitation, function, process, system and data models); templates; generalized features of the structure, sequence and organization of software, user interfaces and screen designs; general purpose consulting and software tools, utilities and routines; and logic, coherence and methods of operation of systems (collectively, the "D&T Technology").

b) **Ownership of Deliverables.** Except as provided below, upon full and final payment to D&T hereunder, the tangible items specified as deliverables or work product in the engagement letter to which these terms are attached (the "Deliverables") shall become the property of the Client. To the extent that any D&T Technology is contained in any of the Deliverables, D&T hereby grants the Client, upon full and final payment to D&T hereunder, a royalty-free, fully paid-up, worldwide, non-exclusive license to use such D&T Technology in connection with the Deliverables.

c) **Ownership of D&T Property.** To the extent that D&T utilizes any of its property (including, without limitation, the D&T Technology or any hardware or software of D&T) in connection with the performance of services hereunder, such property shall remain the property of D&T and, except for the license expressly granted in the preceding paragraph, the Client shall acquire no right or interest in such property. Notwithstanding anything herein to the contrary, the parties acknowledge and agree that (a) D&T shall own all right, title, and interest, including, without limitation, all rights under all copyright, patent and other intellectual property laws, in and to the D&T Technology and (b) D&T may employ, modify, disclose, and otherwise exploit the D&T Technology (including, without limitation, providing services or creating programming or materials for other clients). D&T does not agree to any terms that may be construed as precluding or limiting in any way its right to (a) provide consulting or other services of any kind or nature whatsoever to any person or entity as D&T in its sole discretion deems appropriate or (b) develop for itself, or for others, materials that are competitive with those produced as a result of the services provided hereunder, irrespective of their similarity to the Deliverables.

5. **Limitation on Warranties. THIS IS A SERVICES ENGAGEMENT. D&T WARRANTS THAT IT SHALL PERFORM SERVICES HEREUNDER IN GOOD FAITH. D&T DISCLAIMS ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

6. **Limitation on Damages and Indemnification.**

a) The Client agrees that D&T and its personnel shall not be liable to the Client for any claims, liabilities, or expenses relating to this engagement for an aggregate amount in excess of the fees paid by the Client to D&T pursuant to this engagement, except to the extent finally judicially determined to have resulted primarily from the bad faith or intentional misconduct of D&T. In no event shall D&T or its personnel be liable for consequential, special, indirect, incidental, punitive or exemplary loss, damage, or expense relating to this engagement.

b) The Client shall indemnify and hold harmless D&T and its personnel from all claims, liabilities, and expenses relating to this engagement, except to the extent finally judicially determined to have resulted primarily from the bad faith or intentional misconduct of D&T.

c) The provisions of this Paragraph and Paragraph 9 shall apply to the fullest extent of the law, whether in contract, statute, tort (such as negligence), or otherwise. In circumstances where all or any portion of the provisions of this Paragraph are finally judicially determined to be unavailable, D&T's aggregate liability for any claims, liabilities, or expenses relating to this engagement shall not exceed an amount which is proportional to the relative fault that D&T's conduct bears to all other conduct giving rise to such claims, liabilities, or expenses.

7. **Cooperation.** The Client shall cooperate with D&T in the performance by D&T of its services hereunder, including, without limitation, providing D&T with reasonable facilities and timely access to data, information and personnel of the Client. The Client shall be responsible for the performance of its personnel and agents and for the accuracy and completeness of all data and information provided to D&T for purposes of the performance by D&T of its services hereunder.

8. **Force Majeure.** D&T shall not be liable for any delays or non-performance resulting from circumstances or causes beyond its reasonable control, including, without limitation, acts or omissions or the failure to cooperate by the Client (including, without limitation, entities or individuals under its control, or any of their respective officers, directors, employees, other personnel and agents), acts or omissions or the failure to cooperate by any third party, fire or other casualty, act of God, strike or labor dispute, war or other violence, or any law, order or requirement of any governmental agency or authority.

Appendix A
Form ERS104 (3-03)

9. **Limitation on Actions.** No action, regardless of form, relating to this engagement, may be brought by either party more than one year after the cause of action has accrued, except that an action for non-payment may be brought by a party not later than one year following the date of the last payment due to such party hereunder.

10. **Independent Contractor.** It is understood and agreed that each of the parties hereto is an independent contractor and that neither party is, nor shall be considered to be, an agent, distributor, partner, fiduciary or representative of the other. Neither party shall act or represent itself, directly or by implication, in any such capacity in respect of the other or in any manner assume or create any obligation on behalf of, or in the name of, the other.

11. **Confidentiality and Internal Use.**

a) The Client agrees that all services hereunder and Deliverables shall be solely for the Client's informational purposes and internal use, and are not intended to be and should not be used by any person or entity other than the Client. Except as otherwise specifically provided in the engagement letter to which these terms are attached, the Client further agrees that such services and Deliverables shall not be circulated, quoted, disclosed, or distributed to, nor shall reference to such services or Deliverables be made to, any person or entity other than the Client.

b) To the extent that, in connection with this engagement, D&T comes into possession of any proprietary or confidential information of the Client, D&T will not disclose such information to any third party without the Client's consent, except (a) as may be required by law, regulation, judicial or administrative process, or in accordance with applicable professional standards, or in connection with litigation pertaining hereto, or (b) to the extent such information (i) shall have otherwise become publicly available (including, without limitation, any information filed with any governmental agency and available to the public) other than as the result of a disclosure by D&T in breach hereof, (ii) is disclosed by the Client to a third party without substantially the same restrictions as set forth herein, (iii) becomes available to D&T on a nonconfidential basis from a source other than the Client which D&T believes is not prohibited from disclosing such information to D&T by obligation to the Client, (iv) is known by D&T prior to its receipt from the Client without any obligation of confidentiality with respect thereto, or (v) is developed by D&T independently of any disclosures made by the Client to D&T of such information.

12. **Survival and Interpretation.** The agreements and undertakings of the Client contained in the engagement letter to which these terms are attached, together with the provisions of Paragraphs 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16 hereof, shall survive the expiration or termination of this engagement. For purposes of these terms, "D&T" shall mean Deloitte & Touche LLP and its subsidiaries; to the extent providing services under the engagement letter to which these terms are attached, Deloitte Touche Tohmatsu, its member firms, and the affiliates of Deloitte & Touche LLP, Deloitte Touche Tohmatsu and its member firms; all of their partners, principals, members, owners, directors, staff and agents; and in all cases any successor or assignee.

13. **Assignment.** Except as provided below, neither party may assign, transfer or delegate any of its rights or obligations hereunder (including, without limitation, interests or claims relating to this engagement) without the prior written consent of the other party. D&T may, without the consent of the Client, assign or subcontract its rights and obligations hereunder to (a) any affiliate or related entity or (b) any entity that acquires all or a substantial part of the assets or business of D&T.

14. **Waiver of Jury Trial.** D&T AND THE CLIENT HEREBY IRREVOCABLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER IN CONTRACT, STATUTE, TORT (SUCH AS NEGLIGENCE), OR OTHERWISE) RELATING TO THIS ENGAGEMENT.

15. **Entire Agreement, Amendment and Notices.** These terms, and the engagement letter to which these terms are attached, including exhibits, constitute the entire agreement between D&T and the Client with respect to this engagement, supersede all other oral and written representations, understandings or agreements relating to this engagement, and may not be amended except by written agreement signed by the parties. In the event of any conflict, ambiguity, or inconsistency between these terms and the engagement letter to which these terms are attached, these terms shall govern and control. All notices hereunder shall be (i) in writing, (ii) delivered to the representatives of the parties at the addresses first set forth above, unless changed by either party by notice to the other party, and (iii) effective upon receipt.

16. **Governing Law and Severability.** These terms, the engagement letter to which these terms are attached, including exhibits, and all matters relating to this engagement (whether in contract, statute, tort (such as negligence), or otherwise) shall be governed by, and construed in accordance with, the laws of the State of New York (without giving effect to the choice of law principles thereof). If any provision of such terms or engagement letter is found by a court of competent jurisdiction to be unenforceable, such provision shall not affect the other provisions, but such unenforceable provision shall be deemed modified to the extent necessary to render it enforceable, preserving to the fullest extent permissible the intent of the parties set forth herein.

**Deloitte
& Touche**

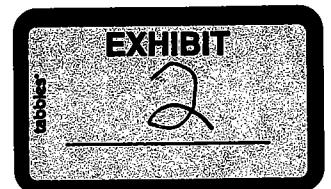


Mirant Corporation

Valuation and Consulting Services

December 10, 2003

**Deloitte
Touche
Tohmatsu**



Deloitte & Touche LLP
 191 Peachtree Street, N.E.,
 Suite 1500
 Atlanta, Georgia 30303-1924
 Tel: (404) 220-1800
 Fax: (404) 220-1683
 www.us.deloitte.com

**Deloitte
& Touche**

December 10, 2003

Mr. Dan Stroek
 Vice President and Controller
 Mirant Corporation
 1155 Perimeter Center West
 Atlanta, GA 30338

Dear Mr. Stroek:

On behalf of Deloitte & Touche LLP ("D&T"), we are pleased to furnish this engagement letter to provide valuation services to Mirant Corporation ("Mirant" or the "Client") in connection with management's obligations in implementing the reporting requirements of Statement of Financial Accounting Standards No. 142 and 144, *Accounting for Goodwill and Other Intangible Assets* ("SFAS 142") and *Accounting for the Impairment or Disposal of Long Lived Assets* ("SFAS 144") as of June 30, 2003. This letter, which will be effective as of December 1, 2003, outlines the scope of our engagement, the responsibilities of Mirant and D&T, timing and fees, and the business terms to which this engagement is subject. Mirant acknowledges and agrees that, in the event that the United States Bankruptcy Court for the Northern District of Texas Fort Worth Division (the "Court") has not entered a final order appointing Deloitte pursuant to the terms hereof (as modified by the Court's Order Restricting Pursuit of Certain Persons signed August 5, 2003 and the Court's Extending Order Restricting Pursuit of Certain Persons signed September 29, 2003) on or before January 1, 2004, Deloitte may terminate this Agreement in its sole discretion and, following such termination, shall have no obligation or liability to Mirant hereunder.

Scope of Services

The purpose of D&T's services is to provide Mirant's management with certain valuation analyses to assist in meeting the reporting obligations under SFAS 142 and SFAS 144. In the provision of these consulting services, we will work with and be guided by you and your independent public accountants in matters related to the interpretation and measurements to be made by D&T in connection with assisting you meet the requirements of the relevant accounting standards.

SFAS 142

It is our understanding that analyses will be completed for the following reporting units ("RUs") pursuant to SFAS 142:

- Mirant Asia Pacific ("MAP")
- Mirant Americas Generation ("MAG");
- Mirant Mid-Atlantic ("MIRMA");
- Americas Non-Tolling; and
- Mirant Americas Energy Marketing ("MAEM").

This engagement letter assumes that management, in addition to the determination of the above RUs, has completed a valuation of each of the above RU's, with the exception of MAP, as of June 30, 2003. Accordingly, it is our understanding that Mirant will provide D&T, among other data necessary for the analysis, its internal analyses along with balance sheets for each of the RUs indicating carrying value as of June 30, 2003, including allocations of corporate assets and liabilities. We further understand that Mirant will require D&T's assistance in providing valuation analyses as follows:

- Read and comment on internally prepared RU valuation estimates prepared pursuant to Step 1 of SFAS 142 for each RU identified above (to include an analysis of appropriate discount rates), with the exception of MAP;
- Perform the Step 1 test for MAP;
- Based on our preliminary conversations with management, we expect to perform additional procedures related to the valuation of MAEM, consisting primarily of testing the methodology currently being used by management and applying other techniques to estimate the value of this RU;
- Complete Step 2 analyses for each RU that does not pass the Step 1 test;
- Perform an analysis of Mirant's forward curve (power and fuel) methodology and the results of its analyses to assess the appropriateness of using these curves in valuation analysis pursuant to SFAS 142 and SFAS 144; and
- Prepare a report detailing our procedures and conclusions.

Standard of Value

Fair value is defined under SFAS 142 as "the amount at which property could be bought or sold in a current transaction between willing parties, that is, other than in a forced or liquidation sale."

SFAS 144

We will assist Mirant in meeting the reporting requirements of SFAS 144 by preparing undiscounted cash flow tests of all long-lived North-American assets, by appropriate groups. This analysis will include scenario analysis prepared pursuant to the Financial Accounting Standards Board Concepts Statement No. 7, *Using Cash Flow Information and Present Value in Accounting Measurements*. Information gathered during this analysis will also be applied in the SFAS 142 Step 2 analyses, when appropriate. Upon completion of these analyses, we will prepare a report detailing our procedures and conclusions.

Timing, Fees And Expenses

Timeline

We are prepared to begin work immediately upon your authorization to proceed and receipt of payment for our initial invoice. Assuming immediate commencement, we expect to provide our preliminary valuation analyses by February 16, 2004 and a draft report by March 3, 2004.

Completion of the engagement on schedule will depend upon the timely receipt of authorization to proceed and provision of the information necessary to complete the assignment as well as access to management and operating personnel. We recognize that portions of requested information may not be immediately available in their entirety; however, we will work with Mirant to obtain the most pertinent information available in a usable format.

We will provide Mirant with periodic status reports, which will inform you of our progress and preliminary results. Should data or information received require the structure or scope of our analysis to be altered, we will immediately notify you of how such information might impact our fees.

Fees and Expenses

Many of analyses that will be performed in this engagement are complex, and the scope portion of this engagement is fact specific. As such, our professional fees will be determined by the scope of the project, the experience of our professionals assigned to the engagement, and the time required to complete the project tasks at our hourly rates. We endeavor to use staff in the most cost-effective manner possible. The following table provides a range of Deloitte hourly billing rates by classification of personnel:

<i>Personnel Classification</i>	<i>Range of Rates</i>
Partner/Director	\$450 - \$600
Senior Manager	\$350 - \$500
Manager	\$300 - \$450
Senior Staff	\$175 - \$325
Staff	\$125 - \$225

Based on our current understanding of the scope of the work to be performed, we estimate our professional fees will range between \$500,000 and \$600,000. The nature of our work will require that this estimate be flexible, but we will discuss any substantial variances with you in advance. During the first few weeks of the engagement, we will be actively reviewing documents and talking with you to develop a more comprehensive understanding of the issues and supporting materials are provided to us. During this time, we will be able to estimate the required work effort and associated fees for this engagement.

We will also bill for out-of-pocket expenses at cost. Such expenses may include travel, report processing, database requests, and other expenses directly related to this assignment.

In addition, we will be compensated for any time and expenses (including, without limitation, reasonable legal fees and expenses) that we may incur in considering or responding to discovery requests or other requests for documents or information, or in participating as a witness or otherwise in any legal, regulatory, arbitration, or other proceedings, including without limitation, those other than as a result of or in connection with this engagement.

We will abide by the interim compensation and reimbursement procedures established in the August 1, 2003 Administrative Order in Case No. 03-46590 and supplemented by the August 27, 2003 Memorandum Order regarding compensation of professionals as well as the procedures established by Mirant in its letter dated October 9, 2003.

Miscellaneous

Mirant understands and agrees that D&T's services are consultative in nature and are provided under the AICPA Standards for Consulting Services. As such, Mirant agrees that D&T is not and will not, in the provision of the services described herein, provide any accounting advice or attestation services nor any form of assurance with respect to Mirant's financial statements. The responsibility for the company's financial statements is that of management in conjunction with Mirant's independent public accountants.

We will be submitting analyses to you in draft form for your review and comment. You acknowledge that no reliance will be placed on draft analyses, reports or advice, oral or written, as all may be subject to revision, further analysis or other factors which could cause those to be significantly different from any final reports or advice ultimately provided.

D&T may require, prior to issuing any final reports or analyses ("Deliverables"), a letter from Mirant confirming representations made by Mirant and its personnel and on which we may have relied. In addition, with respect to any information, including but not limited to that provided by Mirant or its personnel, we may require written confirmation that such information was accurate and that no significant information essential to the valuation estimates or the final report has been withheld from us.

This engagement letter, together with the General Business Terms attached as Appendix A hereto, constitutes the entire agreement among the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings among the parties, whether written or oral, with respect to the subject matter hereof, and may not be amended except by written agreement signed by the parties. For purposes of the attached General Business Terms, the term "Client" shall mean Mirant.

We appreciate the opportunity to serve Mirant Corporation. Please notify Kevin Moss at (404) 220-1464 with questions or comments regarding the specifications of this engagement letter or the nature of the services to be provided. If the terms and conditions of this engagement are acceptable to you, please sign a copy of this engagement letter and return it to us.

Very truly yours,

Deloitte & Touche LLP

Deloitte & Touche LLP

By:

Kevin Moss
Principal, Valuation Services

Attachments: Appendix A - General Business Terms

Accepted by: *Mirant Corporation*

By:

Title:

Date:

[Handwritten signature]
[Handwritten signature]
12/15/03

GENERAL BUSINESS TERMS & CONDITIONS-(Valuation Services)

1. Services & Responsibilities.

- a) It is understood and agreed that D&T's services hereunder may include advice, opinions and recommendations, but all decisions in connection with the implementation of such advice, opinions and recommendations shall be the responsibility of, and made by, Client. In connection with D&T's services hereunder, D&T shall be entitled to rely on all decisions and approvals of Client. To the extent that D&T serves as the Client's independent auditor:

(i) The Client agrees that the Client responsibilities include, without limitation: (a) making all its management decisions and performing all its management functions; (b) designating a competent employee, preferably within senior management, to oversee such services on behalf of Client; (c) evaluating on behalf of Client the adequacy and results of such services; (d) accepting responsibility for the results of such services; and (e) establishing and maintaining internal controls, including, without limitation, monitoring ongoing activities.

(ii) The Client acknowledges that, to the extent D&T serves as the Client's independent auditor, D&T is required to maintain independence with respect to the Client in accordance with applicable professional standards, laws, and regulations ("Independence"). In connection with the services to be provided by D&T hereunder, D&T will endeavor to avoid providing any services that would, in D&T's sole judgment, impair D&T's independence.

(iii) The Client acknowledges (a) that D&T believes that, based on the facts and circumstances currently known to D&T, the performance of the services under the terms and conditions of this engagement letter to which these terms are appended, does not impair D&T's independence, and agrees that; (b), notwithstanding anything to the contrary contained in this engagement letter, to which these terms are appended, D&T may, at any time, immediately terminate this engagement and the provision of services hereunder, without any liability on the part of D&T or its personnel by reason of such termination if any facts or circumstances should come to D&T's attention that would cause D&T to conclude that D&T's independence with respect to Client or any of its affiliates could be impaired or otherwise affected by the provision of the services described in the engagement letter.

- b) D&T shall be entitled to assume, without independent verification, the accuracy of all information and data that the Client and its representatives provide to D&T. D&T may use information and data furnished by others if D&T in good faith believes such information and data to be reliable; however, D&T shall not be responsible for, and D&T shall provide no assurance regarding, the accuracy of any such information or data.
- c) D&T does not assume any responsibility for, and the Client will have responsibility for, any financial and tax reporting with respect to the assets, properties or business interests covered by D&T's services. D&T shall have no responsibility for any assumptions provided by the Client or its representatives, which assumptions shall be the responsibility of the Client. D&T shall have no responsibility to address any legal matters or questions of law. Any reports, recommendations, analyses, conclusions or other documents prepared by D&T are valid only when presented in their entirety and only for the purpose stated therein. It is expressly understood that: (i) D&T's reports, recommendations, analyses, conclusions and other documents, if any, do not, in whole or in part, constitute a fairness or solvency opinion and (ii) D&T will not perform any review, audit or other attestation procedures with respect to financial information as defined by the American Institute of Certified Public Accountants and will not issue any opinion, report or other form of assurance with respect to any financial information in connection with its services hereunder.
- d) To the extent that D&T's services include assets, properties or business interests, D&T shall assume no responsibility for matters of legal description or title, and D&T shall be entitled to make, and shall have no responsibility for, the following assumptions about the subject assets, properties, or business interests: (i) Title is good and marketable, (ii) The subject assets, properties, or business interests are free and clear of any and all liens or encumbrances, (iii) There is full compliance with all applicable Federal, state, local and national regulations and laws (including, without limitation, zoning regulations), (iv) There are no encroachments, (v) The land is free of adverse soil conditions which would prohibit development of the property to its highest and best use, (vi) There is responsible ownership and competent management with respect to the subject assets, properties, or business interests, (vii) All required licenses, certificates of occupancy, consents, or legislative or administrative authority from any Federal, state, local or national government, private entity or organization have been or can be obtained or renewed for any use on which D&T's services are to be based, and (viii) Any plot plans, sketches, drawings or other exhibits that may be included in D&T's report, if any, are included only to assist the reader in visualizing the property, and D&T will not make, and shall not assume any responsibility for, any survey.
- e) D&T shall not assume any responsibility for identifying structural conditions. D&T's services will be based upon surface rights only, and no analysis will be made of the subsurface or of hazardous waste conditions, if any. D&T's services shall not take into consideration the possibility of the existence of asbestos, PCB transformers, or other toxic, hazardous or contaminated substances or underground storage tanks, or the cost of removal. D&T is not qualified to detect, and shall not be responsible for detecting such substances.
- f) D&T, by reason of its services hereunder, is not required to furnish additional work or services, or to give testimony, or to be in attendance in court with reference to the assets, properties, or business interests in question or to update any report, recommendation, analysis, conclusion or other document relating to its services for any events or circumstances occurring

subsequent to the date of such report, recommendation, analysis, conclusion or other document unless arrangements acceptable to D&T have been separately agreed upon with the Client.

2. **Payment of Invoices.** Properly submitted invoices upon which payment is not received within thirty (30) days of the invoice date shall accrue a late charge of the lesser of (i) 1½% per month or (ii) the highest rate allowable by law, in each case compounded monthly to the extent allowable by law. Without limiting its rights or remedies, D&T shall have the right to halt or terminate its services entirely if payment is not received within thirty (30) days of the invoice date.
3. **Term.** Unless terminated sooner in accordance with its terms, this engagement shall terminate on the completion of D&T's services hereunder. This engagement may be terminated by either party at any time by giving written notice to the other party not less than ten (10) days before the effective date of termination. In the event of termination by the Client pursuant to this paragraph, D&T shall be entitled to payment in full for fees and expenses incurred in connection with services provided prior to the effective date of termination as well as reasonable termination expenses in an amount of [insert amount].
4. **Ownership.**
 - a) **D&T Technology.** D&T has created, acquired or otherwise has rights in, and may, in connection with the performance of services hereunder, employ, provide, modify, create, acquire or otherwise obtain rights in, various concepts, ideas, methods, methodologies, procedures, processes, know-how, and techniques (including, without limitation, function, process, system and data models); templates; generalized features of the structure, sequence and organization of software, user interfaces and screen designs; general purpose consulting and software tools, utilities and routines; and logic, coherence and methods of operation of systems (collectively, the "D&T Technology").
 - b) **Ownership of Deliverables.** Except as provided below, upon full and final payment to D&T hereunder, the tangible items specified as deliverables or work product in the engagement letter to which these terms are attached (the "Deliverables") shall become the property of the Client. To the extent that any D&T Technology is contained in any of the Deliverables, D&T hereby grants the Client, upon full and final payment to D&T hereunder, a royalty-free, fully paid-up, worldwide, non-exclusive license to use such D&T Technology in connection with the Deliverables.
 - c) **Ownership of D&T Property.** To the extent that D&T utilizes any of its property (including, without limitation, the D&T Technology or any hardware or software of D&T) in connection with the performance of services hereunder, such property shall remain the property of D&T and, except for the license expressly granted in the preceding paragraph, the Client shall acquire no right or interest in such property. Notwithstanding anything herein to the contrary, the parties acknowledge and agree that (a) D&T shall own all right, title, and interest, including, without limitation, all rights under all copyright, patent and other intellectual property laws, in and to the D&T Technology and (b) D&T may employ, modify, disclose, and otherwise exploit the D&T Technology (including, without limitation, providing services or creating programming or materials for other clients). D&T does not agree to any terms that may be construed as precluding or limiting in any way its right to (a) provide consulting or other services of any kind or nature whatsoever to any person or entity as D&T in its sole discretion deems appropriate or (b) develop for itself, or for others, materials that are competitive with those produced as a result of the services provided hereunder, irrespective of their similarity to the Deliverables.
5. **Limitation on Warranties.** **THIS IS A SERVICES ENGAGEMENT. D&T WARRANTS THAT IT SHALL PERFORM SERVICES HEREUNDER IN GOOD FAITH. D&T DISCLAIMS ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**
6. **Limitation on Damages and Indemnification.**
 - a) The Client agrees that D&T and its personnel shall not be liable to the Client for any claims, liabilities, or expenses relating to this engagement for an aggregate amount in excess of the fees paid by the Client to D&T pursuant to this engagement, except to the extent finally judicially determined to have resulted primarily from the bad faith or intentional misconduct of D&T. In no event shall D&T or its personnel be liable for consequential, special, indirect, incidental, punitive or exemplary loss, damage, or expense relating to this engagement.
 - b) The Client shall indemnify and hold harmless D&T and its personnel from all claims, liabilities, and expenses relating to this engagement, except to the extent finally judicially determined to have resulted primarily from the bad faith or intentional misconduct of D&T.
 - c) The provisions of this Paragraph and Paragraphs 9 and 11(b) shall apply to the fullest extent of the law, whether in contract, statute, tort (such as negligence), or otherwise. In circumstances where all or any portion of the provisions of this Paragraph or Paragraph 11(b) are finally judicially determined to be unavailable, D&T's aggregate liability for any claims, liabilities, or expenses relating to this engagement shall not exceed an amount which is proportional to the relative fault that D&T's conduct bears to all other conduct giving rise to such claims, liabilities, or expenses.
7. **Cooperation.** The Client shall cooperate with D&T in the performance by D&T of its services hereunder, including, without limitation, providing D&T with reasonable facilities and timely access to data, information and personnel of the Client. The Client shall be responsible for the performance of its personnel and agents and for the accuracy and completeness of all data and information provided to D&T for purposes of the performance by D&T of its services hereunder.
8. **Force Majeure.** D&T shall not be liable for any delays or non-performance resulting from circumstances or causes beyond its reasonable control, including, without limitation, acts or omissions or the failure to cooperate by the Client (including, without limitation, entities or individuals under its control, or any of their respective officers, directors, employees, other personnel and agents), acts or omissions or the failure to cooperate by any third party, fire or other casualty, act of God, strike or labor dispute, war or other violence, or any law, order or requirement of any governmental agency or authority.

9. **Limitation on Actions.** No action, regardless of form, relating to this engagement, may be brought by either party more than one year after the cause of action has accrued, except that an action for non-payment may be brought by a party not later than one year following the date of the last payment due to such party hereunder.
10. **Independent Contractor.** It is understood and agreed that each of the parties hereto is an independent contractor and that neither party is, nor shall be considered to be, an agent, distributor, partner, fiduciary or representative of the other. Neither party shall act or represent itself, directly or by implication, in any such capacity in respect of the other or in any manner assume or create any obligation on behalf of, or in the name of, the other.
11. **Confidentiality and Internal Use.**
- The Client agrees that all services hereunder and Deliverables shall be solely for the Client's informational purposes and internal use, and are not intended to be and should not be used by any person or entity other than the Client. The Client further agrees that such services and Deliverables shall not be circulated, quoted, disclosed, or distributed to, nor shall reference to such services or Deliverables be made to, any person or entity other than the Client.
 - Notwithstanding anything to the contrary in these terms or the engagement letter to which these terms are attached, the provisions of Paragraph 11(a) regarding confidentiality and internal use will not apply to any tax services or Deliverables provided to the Client by D&T under these terms or such engagement letter to the extent such tax services or Deliverables involve a "tax shelter" as defined in Section 6111(d)(1)(A) of the Internal Revenue Code of 1986, as amended (the "IRC"). In such an instance, D&T hereby acknowledges and agrees that there are no conditions of confidentiality associated with such tax services or Deliverables, if any ("Subject Tax Planning Advice"), provided by D&T or its personnel under these terms or such engagement letter. Neither D&T nor any party known to D&T has or claims to have any proprietary interest in the Subject Tax Planning Advice. Nothing in this Paragraph 11 shall be construed as limiting or restricting disclosure of the Subject Tax Planning Advice or any significant tax feature thereof for purposes of Section 6111(d) of the IRC. The Client and its employees, representatives or agents may disclose the structure and tax aspects of the Subject Tax Planning Advice, and any and all related materials, opinions or tax analyses of any kind, to any and all persons without limitation of any kind. However, all services and Deliverables in connection with this engagement shall be solely for the Client's informational purposes and internal use and this engagement does not create privity between D&T and any person or party other than the Client ("third party"). This engagement is not intended for the express or implied benefit of any third party. Unless otherwise agreed to in writing by D&T, no third party is entitled to rely in any manner or for any purpose, on the advice, opinions, reports, or other services or Deliverables of D&T. In the event of any unauthorized reliance, the Client agrees to indemnify and hold harmless D&T and its personnel from all third-party claims, liabilities, costs and expenses. *[If, after consultation with your Risk Manager, it is clear that the services or Deliverables provided will not involve a "tax shelter" under Section 6111(d) of the IRC, subsection (b) of this Paragraph 11 may be deleted; the paragraph numbers and paragraph cross references, including the cross references in Paragraph 6(c), should be adjusted accordingly.]*
 - To the extent that, in connection with this engagement, D&T comes into possession of any proprietary or confidential information of the Client, D&T will not disclose such information to any third party without the Client's consent, except (a) as may be required by law, regulation, judicial or administrative process, or in accordance with applicable professional standards, or in connection with litigation pertaining hereto, or (b) to the extent such information (i) shall have otherwise become publicly available (including, without limitation, any information filed with any governmental agency and available to the public) other than as the result of a disclosure by D&T in breach hereof, (ii) is disclosed by the Client to a third party without substantially the same restrictions as set forth herein, (iii) becomes available to D&T on a nonconfidential basis from a source other than the Client which D&T believes is not prohibited from disclosing such information to D&T by obligation to the Client, (iv) is known by D&T prior to its receipt from the Client without any obligation of confidentiality with respect thereto, or (v) is developed by D&T independently of any disclosures made by the Client to D&T of such information. *[If the Client is an attest client, the following sentence should be added. "In addition, the Client acknowledges and agrees that any such information that comes to the attention of D&T in the course of performing this engagement may be considered and used by D&T in the context of responding to its professional obligations as the independent accountants for the Client."]* *[If D&T has entered into a separate nondisclosure agreement with the Client, subsection (c) of this Paragraph 11 should be deleted and the following sentence should be added as subsection (c) of this Paragraph 11. "The confidentiality agreement, dated as of [insert date], between the Client and D&T is incorporated by reference in and subject to these terms."]*
12. **Survival and Interpretation.** The agreements and undertakings of the Client contained in the engagement letter to which these terms are attached, together with the provisions of Paragraphs 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16 hereof, shall survive the expiration or termination of this engagement. For purposes of these terms, "D&T" shall mean Deloitte & Touche LLP; to the extent providing services under the engagement letter to which these terms are attached, Deloitte & Touche LLP and its subsidiaries, Deloitte Touche Tohmatsu, its member firms, and the affiliates of Deloitte & Touche LLP, Deloitte Touche Tohmatsu and its member firms; all of their partners, principals, members, owners, directors, staff and agents; and in all cases any successor or assignee.
13. **Assignment.** Except as provided below, neither party may assign, transfer or delegate any of its rights or obligations hereunder (including, without limitation, interests or claims relating to this engagement) without the prior written consent of the other party. D&T may assign or subcontract its rights and obligations hereunder to any affiliate or related entity without the consent of the Client.
14. **Waiver of Jury Trial.** D&T AND THE CLIENT HEREBY IRREVOCABLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER IN CONTRACT, STATUTE, TORT (SUCH AS NEGLIGENCE), OR OTHERWISE) RELATING TO THIS ENGAGEMENT.
15. **Entire Agreement, Amendment and Notices.** These terms, and the engagement letter to which these terms are attached, including exhibits, constitute the entire agreement between D&T and the Client with respect to this engagement, supersede all other

oral and written representations, understandings or agreements relating to this engagement, and may not be amended except by written agreement signed by the parties. In the event of any conflict, ambiguity, or inconsistency between these terms and the engagement letter to which these terms are attached, these terms shall govern and control. All notices hereunder shall be (i) in writing, (ii) delivered to the representatives of the parties at the addresses first set forth above, unless changed by either party by notice to the other party, and (iii) effective upon receipt.

- 16. Governing Law and Severability.** These terms, the engagement letter to which these terms are attached, including exhibits, and all matters relating to this engagement (whether in contract, statute, tort (such as negligence), or otherwise), shall be governed by, and construed in accordance with, the laws of the State of New York (without giving effect to the choice of law principles thereof). If any provision of such terms or engagement letter is found by a court of competent jurisdiction to be unenforceable, such provision shall not affect the other provisions, but such unenforceable provision shall be deemed modified to the extent necessary to render it enforceable, preserving to the fullest extent permissible the intent of the parties set forth herein.

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January 15, 2004

Mr. Dan Streek
Vice President & Controller
Mirant Corporation
1155 Perimeter Center West
Atlanta, Georgia 30338-5416

Dear Mr. Streek:

Pursuant to your request, Deloitte & Touche LLP ("Deloitte") is pleased to have the opportunity to assist Mirant Corporation ("Mirant") by providing the services described herein. This letter including Deloitte's General Business Terms, attached as Appendix A (collectively, the "Agreement"), sets forth the agreement between the Mirant and Deloitte, effective as of December 3, 2003. Mirant acknowledges and agrees that, in the event that the United States Bankruptcy Court for the Northern District of Texas Fort Worth Division (the "Court") has not entered a final order appointing Deloitte pursuant to the terms hereof (as modified by the Court's Order Restricting Pursuit of Certain Persons signed August 5, 2003 and the Court's Extending Order Restricting Pursuit of Certain Persons signed September 29, 2003) on or before March 12, 2004, Deloitte may terminate this Agreement in its sole discretion by the delivery of written notice of termination to Mirant and, following such termination, shall have no obligation or liability to Mirant hereunder.

PROJECT OBJECTIVES

It is our understanding that Mirant requires assistance with performing various Middle Office daily functions as well as functional support of the Endur application. The personnel provided by D&T hereunder will work directly for Mirant under Mirant's supervision, and Mirant will be responsible for the direction and control of their work. Accordingly, D&T will not be responsible for the scope and nature of the services provided by its personnel nor for the direction or control of their work.

SCOPE OF SERVICES

We expect that our services under this Agreement may include, but not be limited to, the following:

Middle Office – Outsourcing Support

We will assist Mirant's Middle Office personnel at the direction of Mirant's Risk Control Director to provide support on the following tasks that may include but are not limited

to:



Deloitte.

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- ⇒ Assisting Mirant in its development of market data validation procedures for forward price and volatility curves Mirant transacts in.
- ⇒ Reconciling daily profit and loss reports for designated trading desks requested by Middle Office personnel against data sources specified by Mirant.
- ⇒ Reconciling daily unrealized profit and loss reports for designated trading desks requested by Middle Office personnel against data sources specified by Mirant.
- ⇒ Reconciling daily risk reports for Front, Middle and Back Office personnel against data sources specified by Mirant.
- ⇒ Customizing and performing other ad hoc and periodic reporting requests upon request (i.e., month-end, quarter end, year end and custom developed reports)
- ⇒ Acting as a liaison between Middle and Back Office personnel providing deep industry knowledge to translate and understand operational market requirements in conjunction with performing month-end and general ledger reconciliations.
- ⇒ Documenting custom developed or current refined procedures for Mirant's review and approval prior to inclusion into existing energy risk management procedures.

Middle Office and Back Office – Endur Functional Support

We will provide to Mirant's personnel functional Endur application support on the following tasks that may include but are not limited to:

- ⇒ Restructuring, consolidating and migrating Mirant's energy portfolio book structure at the direction of Mirant, which may entail the following activities: canceling and re-booking transactions, checking counterparty netting configuration, checking invoicing and broker fee reporting configuration, reconciling realized and unrealized P/L, verifying deal linkage (i.e., information flow from deal capture to settlements and invoicing, checking applicable curve structures, and reviewing mark-to-market (MTM), position and risk report results). Note: These activities will be performed in a Test environment prior to migrating reconfigured book structure into Production.
- ⇒ Reconfiguring select Accounting Manager configuration and corresponding user tables, at the direction of Mirant, to support the Mirant' book structure consolidation initiative.
- ⇒ Performing as needed Endur application configuration modifications at the direction of Middle and/or Back Office management.
- ⇒ Performing ad hoc trouble shooting on Endur application functionality at Mirant's request
- ⇒ Assisting Mirant in its efforts to close-out identified open Endur issues and requests that are documented on Mirant's Issues and Management Report request file.

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The specific tasks to be performed by Deloitte will be established based on discussions with Mirant as the engagement progresses and additional information is obtained during the course of the engagement.

The services to be provided by Deloitte will be performed under the Standards for Consulting Services of the American Institute of Certified Public Accountants ("AICPA"). The services will not result in the issuance of any written or oral communications by D&T to Mirant or a third party expressing a conclusion or any form of assurance with respect to financial data, internal controls or compliance with laws, regulations or other matters. D&T will not provide any assurance regarding the sufficiency of the services for Mirant's purpose.

ENGAGEMENT TEAM

Deloitte's engagement team leaders and their anticipated roles are described below.

Craig R. Brown, Firm Director, will serve as the Engagement Partner maintaining responsibility for this engagement on behalf of Deloitte.

Mr. Jacien Steele will serve as the Lead Client Service Partner on this engagement and has overall responsibility for the services provided to Mirant by Deloitte.

Mr. Michael Puleo, a Director in Deloitte's Reorganization Services Group, will serve in an advisory capacity and will provide services related to bankruptcy-specific issues on an as-needed basis.

Mr. Thaddeus Malit, a Senior Manager in Deloitte's Global Energy Markets practice, will serve as the engagement manager on this project. Specifically, Thaddeus' will be actively involved in assisting both Middle and Back Office personnel with Endur application related tasks and activities and will act as the subject matter expert liaison between Middle and Back Office personnel.

Mr. Dan Foley, a Senior Manager in Deloitte's Global Energy Markets practice, will be actively involved in assisting the Middle Office with special projects and ad hoc requests.

Mr. David Fletcher, a Senior Consultant in the Global Energy Markets practice of Deloitte & Touche LLP, the Canadian member firm of Deloitte Touche Tohmatsu, will be actively involved in assisting the Middle Office with the day-to-day risk analyst responsibilities of select trade desk profit and loss reconciliation as well as other Middle Office special projects and ad hoc requests.

The engagement team leaders may be assisted by other Deloitte professionals to provide assistance and technical support on an as-needed basis during the course of this engagement.

ENGAGEMENT FEES AND EXPENSES

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Many of the Middle Office and Back Office support tasks that will be addressed in this engagement are complex, and the scope for each prospective support task requires deep industry knowledge and specific technical expertise. As such, our professional fees will be determined by the scope of the project, the experience of our professionals assigned to the engagement, and the time required to complete the project tasks at our hourly rates. We endeavor to use staff in the most cost-effective manner possible. The following table provides the Deloitte hourly billing rates by classification of personnel.

<u>Personnel Classification</u>	<u>Rates</u>
Partner/Director	\$600
Senior Manager	\$500
Manager	\$450
Senior Staff	\$325
Staff	\$225

We will abide by the interim compensation and reimbursement procedures established in the August 1, 2003 Administrative Order in Case No. 03-46590 and supplemented by the August 27, 2003 Memorandum Order regarding compensation of professionals as well as the procedures established by Mirant in its letter dated October 9, 2003.

MISCELLANEOUS

The services provide by Deloitte to Mirant will not constitute (1) a fairness or solvency opinion or (2) a compilation, examination, review, or audit of any entity's information, financial or otherwise, historical or prospective, as described in the pronouncements on professional standards issued by the AICPA. In addition, we will not make any predictions or provide any opinions or other assurances concerning the outcomes of future events, including, without limitation, those that pertain to the operating results of any entity, the achievability of any business plan, the success of any investment, the recovery of any asset, or the ability to pay any debt. Additionally, we do not provide legal advice; you will be responsible for all legal matters.

Mirant recognizes and acknowledges that by performing the services described herein, Deloitte is not acting in any Mirant management capacity and that Mirant has not asked Deloitte to make, nor has Deloitte agreed to make, any business decisions on behalf of Mirant. All decisions concerning the execution of transactions with other entities and the establishment of terms for such transactions remain the sole responsibility of Mirant's management. By signing this letter, Mirant expressly acknowledges that Deloitte does not guarantee, warrant, or otherwise provide any assurances that Mirant will restructure successfully.

GENERAL BUSINESS TERMS

This engagement letter, together with the General Business Terms attached hereto, constitutes the entire agreement among the parties with respect to the subject matter hereof and supersedes all prior agreements and understandings among the parties, whether written or oral, with respect to the subject matter hereof, and may not be amended except by

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written agreement signed by the parties. For purposes of the attached General Business Terms, the term "Client" shall mean Mirant.


AUTHORIZATION

If the foregoing represents your agreement, please sign both enclosed original letters and return a signed original of this letter to me.

We look forward to assisting you with this project. If you have any questions regarding this engagement letter, please call me at (212) 436-3356.

Very truly yours,

Deloitte & Touche LLP

By: 
Craig R. Brown, Firm Director
Global Energy Markets

Attachments: Appendix A; General Business Terms

Accepted and Agreed to by Mirant Corporation:

By: 

Title: VP Controller

Date: 1/15/04

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Appendix A – General Business Terms

1. **Services.** It is understood and agreed that Deloitte's services may include advice and recommendations, but all decisions in connection with the implementation of such advice and recommendations shall be the responsibility of, and made by, the Client. In connection with its services hereunder, Deloitte shall be entitled to rely on all decisions and approvals of the Client.
2. **Payment of Invoices.** Properly submitted invoices upon which payment is not received within thirty (30) days of the invoice date shall accrue a late charge of the lesser of (i) 1½% per month or (ii) the highest rate allowable by law, in each case compounded monthly to the extent allowable by law. Without limiting its rights or remedies, Deloitte shall have the right to halt or terminate its services entirely if payment is not received within thirty (30) days of the invoice date.
3. **Term.** Unless terminated sooner in accordance with its terms, this engagement shall terminate on the completion of Deloitte's services hereunder. This engagement may be terminated by either party at any time by giving written notice to the other party not less than thirty (30) days before the effective date of termination.
4. **Ownership.**
 - a) **Deloitte Technology.** Deloitte has created, acquired or otherwise has rights in, and may, in connection with the performance of services hereunder, employ, provide, modify, create, acquire or otherwise obtain rights in, various concepts, ideas, methods, methodologies, procedures, processes, know-how, and techniques (including, without limitation, function, process, system and data models); templates; generalized features of the structure, sequence and organization of software, user interfaces and screen designs; general purpose consulting and software tools, utilities and routines; and logic, coherence and methods of operation of systems (collectively, the "Deloitte Technology").
 - b) **Ownership of Deliverables.** Except as provided below, upon full and final payment to Deloitte hereunder, the tangible items specified as deliverables or work product in the engagement letter to which these terms are attached (the "Deliverables") shall become the property of the Client. To the extent that any Deloitte Technology is contained in any of the Deliverables, Deloitte hereby grants the Client, upon full and final payment to Deloitte hereunder, a royalty-free, fully paid-up, worldwide, non-exclusive license to use such Deloitte Technology in connection with the Deliverables.
 - c) **Ownership of Deloitte Property.** To the extent that Deloitte utilizes any of its property (including, without limitation, the Deloitte Technology or any hardware or software of Deloitte) in connection with the performance of services hereunder, such property shall remain the property of Deloitte and, except for the license expressly granted in the preceding paragraph, the Client shall acquire no right or interest in such property. Notwithstanding anything herein to the contrary, the parties acknowledge and agree that (a) Deloitte shall own all right, title, and interest, including, without limitation, all rights under all copyright, patent and other intellectual property laws, in and to the Deloitte Technology and (b) Deloitte may employ, modify, disclose, and otherwise exploit the Deloitte Technology (including, without limitation, providing services or creating programming or materials for other clients). Deloitte does not agree to any terms that may be construed as precluding or limiting in any way its right to (a) provide consulting or other services of any kind or nature whatsoever to any person or entity as Deloitte in its sole discretion deems appropriate or (b) develop for itself, or for others, materials that are competitive with those produced as a result of the services provided hereunder, irrespective of their similarity to the Deliverables.
5. **Limitation on Warranties.** **THIS IS A SERVICES ENGAGEMENT. DELOITTE WARRANTS THAT IT SHALL PERFORM SERVICES HEREUNDER IN GOOD FAITH. DELOITTE DISCLAIMS ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.**

6. Limitation on Damages and Indemnification.

- a) The Client agrees that Deloitte and its personnel shall not be liable to the Client for any claims, liabilities, or expenses relating to this engagement for an aggregate amount in excess of the fees paid by the Client to Deloitte pursuant to this engagement, except to the extent finally judicially determined to have resulted primarily from the bad faith or intentional misconduct of Deloitte. In no event shall Deloitte or its personnel be liable for consequential, special, indirect, incidental, punitive or exemplary loss, damage, or expense relating to this engagement.
- b) The Client shall indemnify and hold harmless Deloitte and its personnel from all claims, liabilities, and expenses relating to this engagement, except to the extent finally judicially determined to have resulted primarily from the bad faith or intentional misconduct of Deloitte.
- c) The provisions of this Paragraph and Paragraph 9 shall apply to the fullest extent of the law, whether in contract, statute, tort (such as negligence), or otherwise. In circumstances where all or any portion of the provisions of this Paragraph are finally judicially determined to be unavailable, Deloitte's aggregate liability for any claims, liabilities, or expenses relating to this engagement shall not exceed an amount which is proportional to the relative fault that Deloitte's conduct bears to all other conduct giving rise to such claims, liabilities, or expenses.

7. Cooperation. The Client shall cooperate with Deloitte in the performance by Deloitte of its services hereunder, including, without limitation, providing Deloitte with reasonable facilities and timely access to data, information and personnel of the Client. The Client shall be responsible for the performance of its personnel and agents and for the accuracy and completeness of all data and information provided to Deloitte for purposes of the performance by Deloitte of its services hereunder.

8. Force Majeure. Deloitte shall not be liable for any delays or non-performance resulting from circumstances or causes beyond its reasonable control, including, without limitation, acts or omissions or the failure to cooperate by the Client (including, without limitation, entities or individuals under its control, or any of their respective officers, directors, employees, other personnel and agents), acts or omissions or the failure to cooperate by any third party, fire or other casualty, act of God, strike or labor dispute, war or other violence, or any law, order or requirement of any governmental agency or authority.

9. Limitation on Actions. No action, regardless of form, relating to this engagement, may be brought by either party more than one year after the cause of action has accrued, except that an action for non-payment may be brought by a party not later than one year following the date of the last payment due to such party hereunder.

10. Independent Contractor. It is understood and agreed that each of the parties hereto is an independent contractor and that neither party is, nor shall be considered to be, an agent, distributor, partner, fiduciary or representative of the other. Neither party shall act or represent itself, directly or by implication, in any such capacity in respect of the other or in any manner assume or create any obligation on behalf of, or in the name of, the other.

11. Confidentiality and Internal Use.

- a) The Client agrees that all services hereunder and Deliverables shall be solely for the Client's informational purposes and internal use, and are not intended to be and should not be used by any person or entity other than the Client. Except as otherwise specifically provided in the engagement letter to which these terms are attached, the Client further agrees that such services and Deliverables shall not be circulated, quoted, disclosed, or distributed to, nor shall reference to such services or Deliverables be made to, any person or entity other than the Client.
- b) To the extent that, in connection with this engagement, Deloitte comes into possession of any proprietary or confidential information of the Client, Deloitte will not disclose such information to any third party without the Client's consent, except (a) as may be required by law, regulation, judicial or administrative process, or in accordance with applicable professional standards, or in connection with litigation pertaining hereto, or (b) to the extent such information (i) shall have otherwise become publicly available (including, without limitation, any information filed with any governmental agency and available to the public) other than as the result of a disclosure by Deloitte in breach hereof, (ii) is disclosed by the Client to a third party

without substantially the same restrictions as set forth herein, (iii) becomes available to Deloitte on a nonconfidential basis from a source other than the Client which Deloitte believes is not prohibited from disclosing such information to Deloitte by obligation to the Client, (iv) is known by Deloitte prior to its receipt from the Client without any obligation of confidentiality with respect thereto, or (v) is developed by Deloitte independently of any disclosures made by the Client to Deloitte of such information.

12. Survival and Interpretation. The agreements and undertakings of the Client contained in the engagement letter to which these terms are attached, together with the provisions of Paragraphs 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 16 hereof, shall survive the expiration or termination of this engagement. For purposes of these terms, "Deloitte" shall mean Deloitte & Touche LLP and its subsidiaries; to the extent providing services under the engagement letter to which these terms are attached, Deloitte Touche Tohmatsu, its member firms, and the affiliates of Deloitte & Touche LLP, Deloitte Touche Tohmatsu and its member firms; all of their partners, principals, members, owners, directors, staff and agents; and in all cases any successor or assignee.

13. Assignment. Except as provided below, neither party may assign, transfer or delegate any of its rights or obligations hereunder (including, without limitation, interests or claims relating to this engagement) without the prior written consent of the other party. Deloitte may, without the consent of the Client, assign or subcontract its rights and obligations hereunder to (a) any affiliate or related entity or (b) any entity that acquires all or a substantial part of the assets or business of Deloitte.

14. Waiver of Jury Trial. DELOITTE AND THE CLIENT HEREBY IRREVOCABLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER IN CONTRACT, STATUTE, TORT (SUCH AS NEGLIGENCE), OR OTHERWISE) RELATING TO THIS ENGAGEMENT.

15. Entire Agreement, Amendment and Notices. These terms, and the engagement letter to which these terms are attached, including exhibits, constitute the entire agreement between Deloitte and the Client with respect to this engagement, supersede all other oral and written representations, understandings or agreements relating to this engagement, and may not be amended except by written agreement signed by the parties. In the event of any conflict, ambiguity, or inconsistency between these terms and the engagement letter to which these terms are attached, these terms shall govern and control. All notices hereunder shall be (i) in writing, (ii) delivered to the representatives of the parties at the addresses first set forth above, unless changed by either party by notice to the other party, and (iii) effective upon receipt.

16. Governing Law and Severability. These terms, the engagement letter to which these terms are attached, including exhibits, and all matters relating to this engagement (whether in contract, statute, tort (such as negligence), or otherwise), shall be governed by, and construed in accordance with, the laws of the State of New York (without giving effect to the choice of law principles thereof). If any provision of such terms or engagement letter is found by a court of competent jurisdiction to be unenforceable, such provision shall not affect the other provisions, but such unenforceable provision shall be deemed modified to the extent necessary to render it enforceable, preserving to the fullest extent permissible the intent of the parties set forth herein.