

**COMPANY LEASE AGREEMENT**

between

**MIRANT BOWLINE, LLC and  
HUDSON VALLEY GAS CORPORATION**

and

**COUNTY OF ROCKLAND INDUSTRIAL DEVELOPMENT AGENCY**

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Dated as of June 30, 2006

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**Straight-Lease Transaction  
(Mirant Bowline, LLC Project)**

## COMPANY LEASE AGREEMENT

**THIS COMPANY LEASE AGREEMENT**, made as of June 30, 2006 (this “**Company Lease**”), by and among **MIRANT BOWLINE, LLC**, a limited liability company duly organized and existing under the laws of the State of Delaware, and authorized to do business in the State of New York (“**Mirant Bowline**”) having an office at 140 Samsondale Avenue, West Haverstraw, New York 10993, **HUDSON VALLEY GAS CORPORATION**, a corporation duly organized and existing under the laws of the State of New York (“**HVG**”, and together with Mirant Bowline, the “**Company**” in relation to their respective interests herein), having an office at 140 Samsondale Avenue, West Haverstraw, New York 10993, and **COUNTY OF ROCKLAND INDUSTRIAL DEVELOPMENT AGENCY**, a corporate governmental agency constituting a body corporate and politic and a public benefit corporation of the State of New York, duly organized and existing under the laws of the State of New York (the “**Agency**”), having its principal office at One Blue Hill Plaza, P.O. Box 1576, Pearl River, New York 10965-8576.

THE MEANING OF CAPITALIZED TERMS CAN BE DETERMINED  
BY REFERENCE TO ARTICLE I OF THE LEASE AGREEMENT REFERRED  
TO HEREINBELOW.

### WITNESSETH:

**WHEREAS**, the Agency was established by the Act, for the benefit of Rockland County (the “**County**”) and the inhabitants thereof; and

**WHEREAS**, the Company desires to lease the Project Facility to the Agency on the terms and conditions set forth in this Company Lease; and

**WHEREAS**, pursuant to the Lease Agreement dated of even date herewith (the “**Lease Agreement**”) by and between the Agency and the Company, the Agency will lease the Project Facility to the Company;

**NOW, THEREFORE**, for and in consideration of the premises and the mutual covenants and representations hereinafter contained, the Company and the Agency hereby agree as follows (*provided that* in the performance of the agreements of the Agency herein contained, any obligation it may incur for the payment of money shall not subject the Agency to any pecuniary or other liability nor create a debt of the State or of the County, and neither the State nor the County shall be liable on any obligation so incurred):

### ARTICLE I

The Company does hereby lease to the Agency the Project Facility, as described in Schedule A hereto, including all improvements thereto and fixtures now or hereafter located,

constructed or installed thereon or therein, and the Agency hereby leases the Project Facility for the term herein provided.

## **ARTICLE II**

The term of this Company Lease shall commence as of June 30, 2006 and expire on the earliest of (i) the expiration of the PILOT Agreement, or (ii) the termination of the Lease Agreement. At the expiration of the term hereof or any extension thereof by mutual agreement, or as otherwise provided herein or in the Lease Agreement, the leasehold interest of the Agency under this Company Lease shall automatically expire without any further action by the parties hereto. Upon termination or expiration of the term of this Company Lease, the Company shall prepare a Termination and Release Agreement for execution by the Agency and the Company and record such instrument at the Company's expense in the office of the Rockland County Clerk.

## **ARTICLE III**

The sole rental hereunder shall be the single sum of Ten Dollars (\$10.00), receipt of which is hereby acknowledged by the Company.

## **ARTICLE IV**

The Company hereby delivers possession to the Agency of the Project Facility.

## **ARTICLE V**

The Company represents and warrants that its execution and delivery of this Company Lease and the performance of its obligations under this Company Lease and the consummation of the transactions herein contemplated have been duly authorized by all requisite corporate action on its part and will not violate (i) any provision of law, or any order of any court or agency of government; (ii) its Certificate of Formation and Limited Liability Company Operating Agreement, or its Certificate of Incorporation and By-Laws, as the case may be; or (iii) any indenture, agreement or other instrument to which it is a party or by which it or any of its property is subject to or bound or which would be in conflict with or result in a breach of or constitute (with due notice and/or lapse of time) a default under any such indenture, agreement or other instrument, or would result in the imposition of any lien, charge or encumbrance of any nature whatsoever on the Project Facility other than Permitted Encumbrances. The Company represents and warrants that it has full right and lawful authority to enter into this Company Lease for the full term hereof. The Company covenants and agrees that, so long as this Company Lease shall be in full force and effect, the Agency shall have, hold and enjoy a valid leasehold estate in the Project Facility during the term hereof, and the Company shall from time to time take all necessary action to that end.

The Company shall at all times protect and hold the IDA and any director, member, officer, employee, servant or agent thereof and persons under the IDA's control or supervision (collectively, the "**Indemnified Parties**" and each an "**Indemnified Party**") harmless of, from and against any and all claims (whether in tort, contract or otherwise), demands expenses and liabilities for losses, damages, injury and liability of every kind and nature and however caused, and taxes (of any kind and by whomsoever imposed), resulting from, arising out of, or in any way connected with the occupation and use of the Premises or any portion thereof. The Indemnified Parties, jointly or severally, shall not be liable for any damage or injury to the person or property of the Company or its respective directors, officers, partners, employees, agents or servants or persons under the control or supervision of the Company or any other person who may be at the Premises.

## **ARTICLE VI**

Neither the Agency nor the Company shall assign or transfer this Company Lease, nor sublease the whole or any part of the Project Facility, nor subject this Company Lease to any Lien, claim, or encumbrance (other than Permitted Encumbrances), in any manner, nor sell, assign, convey or otherwise dispose of the Project Facility or any part thereof, during the term of this Company Lease, in any manner, to any Person, except the lease by the Agency to the Company pursuant to the Lease Agreement.

Contemporaneously with the execution and delivery of this Company Lease, the Agency is entering into the Lease Agreement, pursuant to which the Agency agrees to sublease the Project Facility to the Company.

This Company Lease shall terminate automatically upon the termination of the Lease Agreement upon the terms set forth therein.

## **ARTICLE VII**

Except for the Lease Agreement, the PILOT Agreement, and the Stipulation of Settlement and Order, this Company Lease contains the entire agreement between the parties hereto with respect to the subject matter hereof and all prior negotiations and agreements are merged in this Company Lease. This Company Lease may not be changed, modified or discharged in whole or in part except by a written instrument executed by the Company and the Agency. No consent or approval of the Company shall be deemed to have been given or to be effective for any purposes unless such consent or approval is set forth in a written instrument executed by such party. No consent or approval of the Agency shall be deemed to have been given or to be effective for any purposes unless such consent or approval is set forth in a written instrument executed by the Agency.

## **ARTICLE VIII**

All notices, certificates or other communications hereunder shall be sufficient if sent (i) by registered or certified United States mail, postage prepaid, (ii) by a nationally recognized overnight delivery service, charges prepaid or (iii) by hand delivery, addressed, as follows:

(a) if to the Agency, to the Chairperson, County of Rockland Industrial Development Agency, One Blue Hill Plaza, Pearl River, New York 10965 with copies to the Executive Director of the Agency at the same address and to counsel to the Agency at Montalbano, Condon & Frank, P.C., 67 North Main Street, New City, NY 10956;

(b) if to the Company, to 140 Samsondale Avenue, West Haverstraw, New York 10993, Attention: President, with a copy to Hiscock & Barclay, LLP, 300 South State Street, Syracuse, New York 13202; and

The Agency and the Company may, by like notice, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent. Any notice, certificate or other communication hereunder shall, except as may expressly be provided herein, be deemed to have been delivered or given (i) three (3) Business Days following posting if transmitted by mail, (ii) one (1) Business Day following sending if transmitted by a nationally recognized overnight delivery service, or (iii) upon delivery if given by hand delivery, with refusal by an Authorized Representative of the intended recipient party to accept delivery of a notice given as prescribed above to constitute delivery hereunder. Notices may also be given in compliance with this Company Lease by telecopy, provided that the recipient party consents to the use of telecopy transmissions for giving of notices hereunder and receipt of any such telecopy transmission is confirmed by the transmitting party.

## **ARTICLE IX**

This Company Lease shall be governed by, and construed in accordance with, the laws of the State without regard to conflicts of laws principles.

The terms of this Company Lease shall inure to the benefit of, and shall be binding upon, successive owners of the Project Facility, each of the Agency and the Company, and, as permitted by this Agreement, their respective successors and assigns.

If any provision of this Company Lease shall, for any reason, be held or shall, in fact, be inoperative or unenforceable in any particular case, such circumstance shall not render the provision in question inoperative or unenforceable in any other case or circumstance or render any other provision herein contained inoperative or unenforceable. The invalidity of any one or more phrases, sentences, clauses, paragraphs or sections in this Company Lease shall not affect the remaining portions of this Company Lease or any part thereof.

## **ARTICLE X**

The Company Lease may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

## **ARTICLE XI**

All covenants, stipulations, promises, agreements and obligations of the Agency contained in this Company Lease shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Agency, and not of any member, director, officer, employee or agent of the Agency in his individual capacity, and no recourse shall be had for the payment of any amounts hereunder against any member, director, officer, employee or agent of the Agency. In addition, in the performance of the agreements of the Agency herein contained, any obligation it may incur shall not subject the Agency to any pecuniary or other liability nor create a debt of the State or of the County, and neither the State nor the County shall be liable on any obligation so incurred.

All covenants, stipulations, promises, agreements and obligations of the Company contained in this Company Lease shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the Company and not of any director, officer, employee or agent of the Company in his individual capacity, and no recourse shall be had for the payment of any amounts hereunder against any director, officer, employee or agent of the Company.

## **ARTICLE XII**

The Agency and the Company agree that this Company Lease or a memorandum hereof shall be recorded by the Company at its sole cost in the appropriate office of the County Clerk of Rockland County.

## **ARTICLE XIII**

The use of the Project Facility, and all other rights, duties, liabilities and obligations of the Company and the Agency with respect thereto and including the use and operation of the Project Facility, not fixed in this Company Lease, shall be as set forth in the Lease Agreement.

**IN WITNESS WHEREOF**, the Company has caused its corporate name to be subscribed hereto by its Authorized Signatory, and the Agency has caused its corporate name to be hereunto subscribed by its duly authorized officer, all being done as of the year and day first above written.

**MIRANT BOWLINE, LLC,**  
a Delaware limited liability company

By: Mirant New York, Inc., Sole Member

By: \_\_\_\_\_  
Jeffrey R. Perry  
President

**HUDSON VALLEY GAS CORPORATION,**  
a Delaware corporation

By: \_\_\_\_\_  
Jeffrey R. Perry  
President

**COUNTY OF ROCKLAND INDUSTRIAL  
DEVELOPMENT AGENCY**

By: \_\_\_\_\_  
Eric Dranoff  
Chairperson of the Board of Directors

STATE OF NEW YORK )  
 ) SS.:  
COUNTY OF ROCKLAND)

On the \_\_\_\_\_ day of \_\_\_\_\_, 2006, before me, the undersigned, personally appeared **JEFFREY R. PERRY**, President of Mirant New York, Inc., personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

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NOTARY PUBLIC

STATE OF NEW YORK )  
 ) SS.:  
COUNTY OF ROCKLAND)

On the \_\_\_\_\_ day of \_\_\_\_\_, 2006, before me, the undersigned, personally appeared **JEFFREY R. PERRY**, President of Hudson Valley Gas Corporation, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

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NOTARY PUBLIC

STATE OF NEW YORK )  
 ) SS.:  
COUNTY OF ROCKLAND)

On the \_\_\_\_\_ day of \_\_\_\_\_, 2006, before me, the undersigned, personally appeared **ERIC DRANOFF**, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

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NOTARY PUBLIC



**SCHEDULE A**

**DESCRIPTION OF PROJECT FACILITY**