

## ADA INDEMNIFICATION AGREEMENT

Rockland County, New York  
June \_\_, 2006

The undersigned, in consideration of the **COUNTY OF ROCKLAND INDUSTRIAL DEVELOPMENT AGENCY** (the “**Agency**”) granting financial assistance to **MIRANT LOVETT, LLC** (the “**Company**”) in connection with the Company’s occupancy and use of the premises known as the Lovett Electric Generating Facility, County of Rockland, State of New York (the “**Premises**”) as Lessee under a certain lease agreement by and between the Agency and the Company (the “**Lease Agreement**”), does hereby indemnify and keep indemnified and hold harmless the Agency, its successors and assigns (each an “**Indemnified Person**”), from and against any costs, expenses, claims, demands, penalties, fines, liabilities, settlements or damages of whatever kind or nature (including reasonable counsel and attorneys’ fees), known or unknown, contingent or otherwise, arising out of or in any way related to any violation of the Americans With Disabilities Act of 1990 (42 U.S.C.A. SEC. 12101 et seq.), as the same may be amended from time to time (the “**ADA**”) and all other federal, state and local laws pertaining to the accessibility of the Premises by persons with disabilities (the ADA and such other laws are, collectively, the “**Accessibility Laws**”). All such costs, expenses, claims, demands, penalties, fines, liabilities, settlements or damages are hereinafter collectively referred to as the “**Liabilities**”.

If the undersigned receives any notice that the undersigned or the Premises is in default under or is not in compliance with any applicable Accessibility Laws, or receives notice of any proceeding initiated under or with respect to any of the foregoing, the undersigned will promptly furnish a copy of such notice to the Agency.

The undersigned agrees to promptly pay, upon the Agency’s demand, any and all Liabilities, and to indemnify the Agency against any suit or claim based on any allegation that the Premises are not in compliance with any applicable Accessibility Laws, and in such an event, the Agency may employ any attorney of its own selection to appear and defend the suit on its behalf, at the expense of the undersigned.

The undersigned represents and warrants to the Agency that: (i) to the best of the undersigned’s knowledge, all representations made to the Agency by the undersigned concerning the compliance of the administrative office portion of the Premises (the “**ADA Premises**”) with all Accessibility Laws are true and complete; (ii) only the ADA Premises must comply with Accessibility Laws; (iii) if any alterations to the ADA Premises are undertaken after the date hereof, the undersigned will comply with the requirements of any applicable Accessibility Laws; and (iv) the undersigned will maintain accurate records of all expenditures made in connection with any alterations to the ADA Premises.

Upon the request of the Agency, the undersigned shall conduct, at no expense to the Agency, such surveys of the ADA Premises as the Agency shall require to ascertain that the ADA Premises are in compliance with all Accessibility Laws.

Foreclosure or the exercise of any other remedy shall not operate as a discharge of the Company’s engagements herein.

The Company is executing this ADA Indemnification Agreement to induce the Agency to grant certain benefits ( the “**Benefits**”) to the Company. This ADA Indemnification Agreement shall be binding upon successive owners of the Premises, the Company, and their respective successors and assigns.

The obligations of the Company are in addition to, and not in diminution of, the obligations of the undersigned under the Project Documents (as defined in the Lease Agreement).

Every provision of this ADA Indemnification Agreement is intended to be severable; if any term or provision of this ADA Indemnification Agreement shall be invalid, illegal or unenforceable for any reason whatsoever, the validity, legality and enforceability of the remaining provisions hereof shall not in any way be affected or impaired thereby.

No failure on the part of the Agency to exercise, and no delay in exercising, any right, remedy or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by the Agency of any right, remedy or power hereunder preclude any other or future exercise thereof or the exercise of any other right, remedy or power.

This ADA Indemnification Agreement contains the entire agreement and understanding between the Agency and the Company with respect to the subject matter hereof and supersedes all prior agreements and understandings relating to the subject matter hereof. This ADA Indemnification Agreement may not be amended, and compliance with its terms may not be waived orally or by course of dealing, but only by a writing signed by an authorized officer of the Agency.

**THIS ADA INDEMNIFICATION AGREEMENT SHALL BE CONSTRUED AND INTERPRETED, AND ALL RIGHTS AND OBLIGATIONS HEREUNDER SHALL BE DETERMINED, IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK WITHOUT REGARD TO PRINCIPLES OF CONFLICT OF LAWS. THE COMPANY SUBMITS TO THE JURISDICTION OF STATE AND FEDERAL COURTS LOCATED IN THE STATE OF NEW YORK AND AGREES THAT ALL ACTIONS AND PROCEEDINGS RELATING DIRECTLY OR INDIRECTLY TO THIS ADA INDEMNIFICATION AGREEMENT SHALL BE LITIGATED ONLY IN SAID COURTS AND THAT SUCH COURTS ARE CONVENIENT FORUMS. THE COMPANY WAIVES PERSONAL SERVICE UPON THE COMPANY AND CONSENTS TO SERVICE OF PROCESS OUT OF SAID COURTS BY MAILING A COPY THEREOF TO THE COMPANY BY REGISTERED OR CERTIFIED MAIL.**

**THE COMPANY AND THE AGENCY WAIVE THE RIGHT TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING BASED UPON, ARISING OUT OF OR IN ANY WAY CONNECTED TO THIS ADA INDEMNIFICATION AGREEMENT OR ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY.**

**IN WITNESS WHEREOF**, this ADA Indemnification Agreement has been executed as of the date first written above.

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

By: Mirant New York, Inc., its sole member

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

**ACCEPTED BY:**

**COUNTY OF ROCKLAND INDUSTRIAL  
DEVELOPMENT AGENCY**

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

STATE OF NEW YORK     )  
  ) ss.:  
COUNTY OF                                     )

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year 2006, before me, the undersigned, a notary public in and for said state, personally appeared JEFFREY R. PERRY 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.

\_\_\_\_\_  
Notary Public

STATE OF NEW YORK     )  
  ) ss.:  
COUNTY OF                                     )

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year 2006, before me, the undersigned, a notary public in and for said state, 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.

\_\_\_\_\_  
Notary Public