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PROPOSED ATTORNEYS FOR THE DEBTORS AND DEBTORS-IN-POSSESSION

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

_____ )	
In re )	Chapter 11 Case
_____ )	
MIRANT CORPORATION, <u>et al.</u> , )	Case No. 03-46590(DML)11
_____ )	Jointly Administered
Debtors. )	
_____ )	Hearing Date and Time: To Be Set

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

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

Mirant Corporation ("Mirant") and its affiliated debtors (collectively, the "Debtors"), as debtors-in-possession, file this motion (the "Motion") pursuant to sections 365 and 554 of the Bankruptcy Code for this Court's approval of a procedure for rejecting executory contracts, and respectfully represent as follows:

**JURISDICTION**

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

## **PROCEDURAL BACKGROUND**

2. The Cases. On July 14, 2003 (the "Petition Date"), each of the Debtors filed a voluntary petition in this Court for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1330, as amended (the "Bankruptcy Code"). The Debtors continue to manage and operate their businesses as debtors-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.

3. Joint Administration Request is Pending. Concurrently with the filing of the Motion, the Debtors have moved the court to jointly administer the bankruptcy estates of the Debtors.

4. The Creditors' Committee. No creditors' committee has yet been appointed in these cases by the United States Trustee. Further, no trustee or examiner has been requested or appointed in any of the Debtors' chapter 11 cases.

## **FACTUAL BACKGROUND**

5. Mirant and its direct and indirect subsidiaries comprise a competitive energy concern that generates and sells electricity in North America, the Philippines and the Caribbean. Through its direct and indirect subsidiaries, Mirant produces, sells and delivers reliable energy products and services to utilities, municipal systems, aggregators, electric-cooperative utilities, producers, generators, marketers and large industrial customers. Mirant's core business centers on the production and sale of electricity and electrical capacity (essentially the ability to produce electricity on demand). Mirant currently owns or controls more than 21,800 megawatts of electric generating capacity around the world, of which more than 18,000 megawatts is located in the United States. In 2002, Mirant produced 73 million megawatt-hours of electricity, sold 312 million megawatt-hours of electricity and sold or marketed an aggregate average of 21 billion cubic feet per day of natural gas.

6. Mirant employs in excess of 7,000 employees worldwide, of which approximately 1,100 employees are based at Mirant's corporate headquarters in Atlanta and approximately 5,900 employees are based at operating facilities. In 2002, Mirant recorded \$542 million loss in earnings before interest, taxes and depreciation ("EBITDA") on a consolidated basis. Its 2002 operating revenues were approximately \$6.4 billion.

7. A more detailed description of Mirant's assets, liabilities, and business operations, and a discussion of the events leading to the commencement of these chapter 11 cases is set forth in the Affidavit of John W. Ragan in Support of Certain First Day Motions.

#### **RELIEF REQUESTED**

8. The Debtors are parties to several thousand contracts and leases, including (a) non-residential real property leases, (b) forward contracts, (c) swap agreements, (d) leases for personal property, (e) contracts for provision of gas or power to retail customers, (f) contracts for operations and management services, (g) contracts for construction services, (h) contracts for the provision of bundled services that include the provision of gas or power to retail customers, contracts for operations and management services, and/or contracts for constructions services, and/or (i) any other executory contracts (collectively, the "Contracts and Leases"). In an effort to conserve the resources of these estates, the Debtors have developed procedures described below for which they are seeking Court approval, which are designed to facilitate an expeditious and efficient process for rejecting many of these numerous Contracts and Leases upon any determination by the Debtors in the exercise of their business judgment that they are unnecessary or burdensome.

9. Thus, by this Motion and pursuant to sections 365 and 554 of the Bankruptcy Code, the Debtors seek this Court's approval of a procedure for rejecting Contracts and Leases during the chapter 11 cases.

## **BASIS FOR RELIEF**

10. In light of the number of Contracts and Leases, the Debtors request approval of the following rejection procedures (the “Rejection Procedures”):
- a. Any Contract or Lease determined by the Debtors, in the exercise of their business judgment, to be unnecessary and/or burdensome to the Debtors’ ongoing business operations shall be rejected following five (5) business days written notice (the “Rejection Notice”), via facsimile or overnight mail, to: (i) the counterparty under the respective Contract or Lease at the last known address available to the Debtors and (ii) counsel to any statutory committee of unsecured creditors (the “Committee”).
  - b. The Rejection Notice shall be substantially in the form of the Rejection Notice attached hereto as Exhibit “A” and shall include a copy of the Order approving this Application.
  - c. If an objection to a Notice of Rejection is filed by a counterparty to a Contract or a Lease, or by the Committee, and timely served upon, and actually received by, counsel to the Debtors prior to the expiration of the (5) business day notice period, the Debtors will seek a hearing to consider the objection at the Court’s earliest convenience.
  - d. If no objections by either a counterparty to a Contract or a Lease, or by the Committee, are timely received, then the applicable Contract or Lease shall be deemed rejected as of the date of the Rejection Notice unless otherwise agreed, in writing, by the Debtors and the counterparty to a particular Contract or Lease.
  - e. If an objection to a Rejection Notice is timely received, and the Court ultimately upholds the Debtors’ determination to reject the applicable Contract or Lease, then the applicable Contract or Lease shall be deemed rejected as of the Rejection Notice unless otherwise agreed, in writing, by the Debtors and the counterparty to the applicable Contract or Lease.
  - f. Claims arising out of the rejection of Contracts and Leases must be filed with the Bankruptcy Court or any Court approved claims processing agent by the later of: (i) the deadline for filing proofs of claims established by this Court or (ii) thirty (30) days after the effective date of the rejection which shall be the date of the Rejection Notice unless otherwise agreed, in writing, by the Debtors and the counterparty to a particular Contract or Lease.
11. The Debtors request that the deadline for filing proofs of claim arising out of the Debtors’ rejection of an executory contract or unexpired lease pursuant to the above-proposed procedures (the “Rejection Claim Deadline”) be the later of: (i) thirty (30) days from

the date of the Rejection Notice; or (b) any date established by the Court as the final date to file proofs of claim against the Debtors in these cases. The Debtors propose that any holder of a claim allegedly arising from the rejections contemplated hereunder or in accordance with the Rejection Procedures who fails to timely file a proof of such claim on or prior to the expiration of the Rejection Claims Deadline be: (i) forever barred from asserting such claim against any of the Debtors or their estates; (ii) forever barred from sharing in any distribution of the Debtors' estates or assets under any plan of reorganization confirmed in these chapter 11 cases or order of the Court authorizing distributions from the Debtors' estates; and (iii) bound by the terms of any plan of reorganization confirmed in these chapter 11 cases or any order of the Court authorizing distributions from the Debtors' estates.

12. Further, the Debtors request that they be authorized to execute and deliver all instruments and documents, and take such other actions as may be necessary or appropriate to implement and effectuate the Rejection Procedures, as approved by this Court, and that entry of the requested Order be without prejudice to the Debtors' right to seek further, other or different relief regarding the Contracts and the Leases.

#### **BASIS FOR RELIEF REQUESTED**

13. Section 365(a) of the Bankruptcy Code allows a debtor, subject to the bankruptcy court's approval, to reject any executory contract or unexpired lease. See Stewart Title Guaranty Co. v. Old Republic National Title Insurance Co., 83 F.3d 735, 741 (5<sup>th</sup> Cir. 1996). "This provision allows a [debtor] to relieve the bankruptcy estate of burdensome agreements which have not been completely performed." Id. (quoting In re Murexco Petroleum, Inc., 15 F.3d 60, 62 (5<sup>th</sup> Cir. 1994)). A debtor's decision to reject executory contracts or unexpired leases is subject to the business judgment test. See Sharon Steel Corp. v. National Fuel Gas Distrib. Corp., 872 F.2d 36, 39-40 (3<sup>d</sup> Cir. 1989); In re Food City, Inc., 94 B.R. 91, 93

(Bankr. W.D. Tex. 1988); In re Transamerican Natural Gas Corp., 79 B.R. 663, 667 (Bankr. S.D. Tex. 1987). The sole inquiry is whether the rejection will benefit the estate. See Commercial Fin., Ltd. v. Hawaii Dimensions, Inc. (In re Hawaii Dimensions, Inc.), 47 B.R. 425, 427 (D. Haw. 1985) (“Under the business judgment test, a court should approve a debtor’s proposed rejection if such rejection will benefit the estate.”).

14. In applying the “business judgment” standard, courts show great deference to a debtor’s decision to reject executory contracts. See Summit Land Co. v. Allen (In re Summit Land Co.), 13 B.R. 310, 315 (Bankr. D. Utah 1981) (absent extraordinary circumstances, court approval of debtor’s decision to assume or reject an executory contract “should be granted as a matter of course”). As long as the decision to reject is a reasonable exercise of business judgment, a court should approve the rejection of an executory contract or unexpired lease. See, e.g., NLRB v. Bildisco and Bildisco, 465 U.S. 513, 523 (1984); Group of Institutional Investors v. Chicago M. St. P. & P. R.R. Co., 318 U.S. 523 (1943); Sharon Steel Corp. v. National Fuel Gas Distribution, 872 F. 2d at 39-40.

15. The Debtors seek approval of the Rejection Procedures to streamline the process of rejecting the Contracts and Leases that are unnecessary and/or burdensome to the Debtors’ ongoing business operations. The counterparties to the Contracts and Leases will not be prejudiced by the Rejection Procedures because, upon receipt of a Rejection Notice, such counterparties will have received specific advance notice of the Debtors’ intent to reject their respective Contract or Lease and the pre-approved subsequent effective date of the rejection. See, e.g., In re Mid Region Petroleum, Inc., 111 B.R. 968 (Bankr. N.D. Okla. 1990)(effective date of rejection of leases was the date the trustee gave notice to lessor of intent to reject); Carlisle Homes, Inc. v. Azzari (In re Carlisle Homes, Inc.), 103 B.R. 524, 535 (Bankr. D.N.J. 1988)(debtor may reject executory contract by clearly communicating intention to reject). In

addition, courts in other large chapter 11 cases have authorized similar rejection procedures. See, e.g., In re Lechters N.Y.C., Inc. et. al., Case No. 01-41432 (AJG) (Bankr. S.D.N.Y. 2001); In re Bradlees, Inc., et. al., Case No. 00-16035 (BRL) (Bankr. S.D.N.Y. 2000). The Rejection Procedures balance the need for an expeditious reduction of burdensome costs to the Debtors' estates while providing advance notice of the proposed rejection to the counterparties.

16. Finally, approval of the Rejection Procedures is warranted under Bankruptcy Code section 105(a)<sup>1</sup> and will streamline the process of rejecting the Contracts and Leases that are unnecessary and/or burdensome to the Debtors' ongoing business operations. The Contracts and Leases that the Debtors will reject throughout these cases utilizing the Rejection Procedures are those that provide no further benefit to the Debtors' estates and cannot be profitably assumed and assigned to a third party. The rejection of the Contracts and Leases pursuant to the Rejection Procedures, and the attendant reduction in the estates' administrative costs, will reflect the Debtors' exercise of sound business judgment.

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<sup>1</sup> "[T]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title." 11 U.S.C. § 105(a).

**CONCLUSION**

WHEREFORE, the Debtors respectfully request entry of an order pursuant to sections 365 and 554 of the Bankruptcy Code for this Court's approval of a procedure for rejecting Contracts and Leases during the chapter 11 cases and granting such other and further relief as is just and proper.

Dated: Fort Worth, Texas  
July 14, 2003

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

By /s/ Robin Phelan

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

-and-

Thomas E Lauria  
State Bar No. 11998025  
Gerard Uzzi  
Linda M. Leali  
WHITE & CASE LLP  
Wachovia Financial Center  
200 South Biscayne Blvd.  
Miami, Florida 33131  
(305) 371-2700

PROPOSED ATTORNEYS FOR THE DEBTORS  
AND DEBTORS-IN-POSSESSION

Exhibit "A"

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

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

**NOTICE OF REJECTION OF EXECUTORY CONTRACTS OR  
UNEXPIRED LEASES OF NONRESIDENTIAL REAL PROPERTY**

**PLEASE TAKE NOTICE**, that on \_\_\_\_\_, 2003, the Court entered an order (the "Order") approving procedures (the "Rejection Procedures") for the rejection of Contracts and Leases from time to time in furtherance of the reorganization efforts of Mirant Corporation, and certain of its affiliated debtor entities (collectively, the "Debtors"), as debtors and debtors-in-possession. In summary, the Order procedures allow the Debtors, in the exercise of their business judgment, to reject any Contract or Lease determined to be unnecessary and/or burdensome to the Debtors' ongoing business operations following five (5) business days written notice via facsimile or overnight mail, to: (i) the counterparty under the respective Contract or Lease at the last known address available to the Debtors; and (ii) counsel for the statutory committee of unsecured creditors (the "Creditors Committee"). A copy of the Order is enclosed.

**PLEASE TAKE FURTHER NOTICE**, that pursuant to the terms of the Order, unless a written objection hereto is filed and served in accordance with the terms of the Order, the following Leases and/or Contracts will be rejected pursuant to 11 U.S.C. section 365(a) effective as of the date of this Notice:

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

**Debtor:** Linda M. Leali, Esq.  
WHITE & CASE LLP  
Wachovia Financial Center  
200 South Biscayne Blvd.  
Miami, Florida 33131  
(305) 371-2700

**Counter-Party:**

**Ian Peck, Esq.  
HAYNES AND BOONE, LLP  
901 Main Street  
Suite 3100  
Dallas, TX 75202  
(214) 651-5000**

**PLEASE TAKE FURTHER NOTICE**, that if an objection to this Notice is timely filed and served upon: White & Case LLP Wachovia Financial Center, 200 South Biscayne Blvd., Miami, Florida 33131 and Haynes and Boone, LLP, 901 Main Street, Suite 3100, Dallas, Texas 75202 counsel for the Debtors, so that such objection is actually received by counsel to the Debtors not later than five (5) days from the date hereof the Debtors shall seek a hearing on the objection at the Court's earliest convenience. If such an objection to a Rejection Notice is timely received, and the Court ultimately upholds the Debtors' determination to reject the applicable Contract or Lease, then the applicable Contract or Lease shall be deemed rejected as of the date of this Rejection Notice unless otherwise agreed, in writing, by the Debtors and the counterparty to the applicable Contract or Lease.

**PLEASE TAKE FURTHER NOTICE** that claims arising out of the rejection of Contracts and Leases must be filed with the Bankruptcy Court or any Court approved claims processing agent by the later of: (i) the deadline for filing proofs of claims established by this Court or (ii) thirty (30) days after the effective date of the rejection which shall be the date of the Rejection Notice unless otherwise agreed, in writing, by the Debtors and the counterparty to a particular Contract or Lease (the "Rejection Claims Deadline").

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

Dated: Fort Worth, Texas  
July 14, 2003

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

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

-and-

Thomas E Lauria  
State Bar No. 11998025  
Gerard Uzzi  
Linda M. Leali  
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200 South Biscayne Blvd.  
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(305) 371-2700

PROPOSED ATTORNEYS FOR THE DEBTORS  
AND DEBTORS-IN-POSSESSION



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

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

ORDERED that the last date to file timely proofs of claim against the Debtors arising from the rejection of any Contracts and Leases (the "Rejection Claims Deadline") will be and hereby is the later of: (i) the deadline for filing proofs of claims established by this Court; and (ii) thirty (30) days after the effective date of the rejection which shall be the date of the Rejection Notice unless otherwise agreed, in writing, by the Debtors and the counterparty to a particular Contract or Lease; and it is further

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

### End of Order ###

**PREPARED BY:**

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

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**PROPOSED ATTORNEYS FOR THE DEBTORS  
AND DEBTORS-IN-POSSESSION**

Exhibit "A"

**Rejection Procedures**

- a. Any Contract or Lease determined by the Debtors, in the exercise of their business judgment, to be unnecessary and/or burdensome to the Debtors' ongoing business operations shall be rejected following five (5) business days written notice (the "Rejection Notice"), via facsimile or overnight mail, to: (i) the counterparty under the respective Contract or Lease at the last known address available to the Debtors; and (ii) counsel for the statutory committee of unsecured creditors (the "Creditors Committee").
- b. The Rejection Notice shall be substantially in the form of the Rejection Notice attached hereto as Exhibit A-1 and shall include a copy of the Order approving this Application.
- c. If an objection to a Notice of Rejection is filed by a counterparty to a Contract or Lease, or by the Creditors' Committee, and timely served upon, and actually received by, counsel to the Debtors prior to the expiration of the five (5) business day notice period, the Debtors will seek a hearing to consider the objection at the Court's earliest convenience.
- d. If no objections by either a counterparty to a Contract or Lease, or by the Creditors' Committee, are timely received, then the applicable Contract or Lease shall be deemed rejected as of the date of the Rejection Notice unless otherwise agreed, in writing, by the Debtors and the counterparty to a particular Contract or Lease.
- e. If an objection to a Rejection Notice is timely received, and the Court ultimately upholds the Debtors' determination to reject the applicable Contract or Lease, then the applicable Contract or Lease shall be deemed rejected as of the date of the Rejection Notice unless otherwise agreed, in writing, by the Debtors and the counterparty to the applicable Contract or Lease.
- f. Claims arising out of the rejection of Contracts and Leases must be filed with the Bankruptcy Court or any Court approved claims processing agent by the later of (i) the deadline for filing proofs of claim established by this Court or (ii) thirty (30) days after the effective date of the rejection which shall be the date of the Rejection Notice unless otherwise agreed, in writing, by the Debtors and the counterparty to a particular Contract or Lease.

Exhibit "A-1"

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

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

**NOTICE OF REJECTION OF EXECUTORY CONTRACTS OR  
UNEXPIRED LEASES OF NONRESIDENTIAL REAL PROPERTY**

**PLEASE TAKE NOTICE**, that on \_\_\_\_\_, 2003, the Court entered an order (the "Order") approving procedures (the "Rejection Procedures") for the rejection of Contracts and Leases from time to time in furtherance of the reorganization efforts of Mirant Corporation, and certain of its affiliated debtor entities (collectively, the "Debtors"), as debtors and debtors-in-possession. In summary, the Order procedures allow the Debtors, in the exercise of their business judgment, to reject any Contract or Lease determined to be unnecessary and/or burdensome to the Debtors' ongoing business operations following five (5) business days written notice via facsimile or overnight mail, to: (i) the counterparty under the respective Contract or Lease at the last known address available to the Debtors; and (ii) counsel for the statutory committee of unsecured creditors (the "Creditors Committee"). A copy of the Order is enclosed.

**PLEASE TAKE FURTHER NOTICE**, that pursuant to the terms of the Order, unless a written objection hereto is filed and served in accordance with the terms of the Order, the following Leases and/or Contracts will be rejected pursuant to 11 U.S.C. section 365(a) effective as of the date of this Notice:

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

<b>Debtor:</b>	<b>Linda M. Leali, Esq.</b> <b>WHITE &amp; CASE LLP</b> <b>Wachovia Financial Center</b> <b>200 South Biscayne Blvd.</b> <b>Miami, Florida 33131</b> <b>(305) 371-2700</b>
----------------	---

**Counter-Party:**

**Ian Peck, Esq.  
HAYNES AND BOONE, LLP  
901 Main Street  
Suite 3100  
Dallas, TX 75202  
(214) 651-5000**

**PLEASE TAKE FURTHER NOTICE**, that if an objection to this Notice is timely filed and served upon: White & Case LLP Wachovia Financial Center, 200 South Biscayne Blvd., Miami, Florida 33131 and Haynes and Boone, LLP, 901 Main Street, Suite 3100, Dallas, Texas 75202 counsel for the Debtors, not later than five (5) days from the date hereof the Debtors shall seek a hearing on the objection at the Court's earliest convenience. If such an objection to a Rejection Notice is timely received, and the Court ultimately upholds the Debtors' determination to reject the applicable Contract or Lease, then the applicable Contract or Lease shall be deemed rejected as of the date of this Rejection Notice unless otherwise agreed, in writing, by the Debtors and the counterparty to the applicable Contract or Lease.

**PLEASE TAKE FURTHER NOTICE** that claims arising out of the rejection of Contracts and Leases must be filed with the Court or any Court approved claims processing agent by the later of: (i) the deadline for filing proofs of claims established by this Court or (ii) thirty (30) days after the effective date of the rejection which shall be the date of the Rejection Notice unless otherwise agreed, in writing, by the Debtors and the counterparty to a particular Contract or Lease (the "Rejection Claims Deadline").

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

Dated: Fort Worth, Texas  
July 14, 2003

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

By \_\_\_\_\_

Robin Phelan  
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-and-

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**PROPOSED ATTORNEYS FOR THE DEBTORS  
AND DEBTORS-IN-POSSESSION**

## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that she provided true and correct copies of the foregoing to Bankruptcy Services, LLC and directed them to effect service upon all persons on the attached Service Lists via facsimile and email transmission, where indicated, or via overnight courier, on the 15th day of July, 2003.

\_\_\_\_\_  
s/s Judith Elkin

## Service List

Environmental Protection Agency  
EPA East  
1201 Constitution Avenue, N.W.  
Room number 4101 M  
Washington, DC 20004  
eMail:  
Fax:

United States Attorney  
Office of the United States Attorney  
3rd Floor, 1100 Commerce Street  
Dallas, Texas 75242  
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Attorney General  
Office of the Attorney General  
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Special Procedures Staff  
Internal Revenue Service  
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Texas Workforce Commission  
TEC Building Bankruptcy  
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Austin, Texas 78778  
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Neuberger Berman LLC  
C/o Issuer Services  
ADP Proxy Services  
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Environmental Protection Agency  
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61 Forsyth Street, SW  
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Georgia Department of Labor  
148 Andrew Young International Blvd  
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Fax:

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Wells Fargo Bank Minnesota NA  
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Wells Fargo Bank Minnesota NA  
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ADP Proxy Services  
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State Comptroller of Public Accounts  
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Jill Akre  
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Morgan Stanley Senior Funding Inc.  
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