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a California corporation
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8 UNITED STATES BANKRUPTCY COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 OAKLAND DIVISION

11 In re
12 ASYST TECHNOLOGIES, INC., a California
corporation,
13 Debtor.
14

Case No. 09-43246
Chapter 11

**DEBTOR'S PLAN OF LIQUIDATION
UNDER CHAPTER 11 OF THE
BANKRUPTCY CODE DATED
DECEMBER 23, 2009**

Date: February 3, 2010
Time: 2:00 p.m.
Dept: 220
Judge: Hon. Randall J. Newsome

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19 **INTRODUCTION**

20
21 Asyst Technologies, Inc. (the "Debtor"), proposes the following plan of liquidation for the
22 resolution of the outstanding claims and interests in the Debtor (the "Plan").

23 Reference is made to the Disclosure Statement for Plan of Liquidation, dated December 23,
24 2009 (the "Disclosure Statement"), for a discussion of the Debtor's history, business, capital
25 structure, historical financial information, and for a summary and analysis of the Plan.
26

27 The Plan contemplates the creation of a Liquidation Trust, for the benefit of all creditors of
28 the Estate holding allowed Claims, as the means of execution and implementation of the Plan. *See*

1 Article 5 (Implementation).

2 All creditors entitled to vote on the Plan should review the Disclosure Statement before
3 voting to accept or reject the Plan. Documents referenced in the Plan and/or the Disclosure
4 Statement are also available for review at :

5 Asyst Technologies, Inc.
6 c/o Epiq Bankruptcy Solutions, LLC
7 757 Third Avenue, 3rd Floor
8 New York, NY 10017
9 Telephone: 1-800-411-3486

10 If you wish to obtain, at your own expense, unless otherwise specifically required by Federal
11 Rule of Bankruptcy Procedure (the "Bankruptcy Rules") 3017(d), an additional copy of the Plan, the
12 Disclosure Statement, or any appendices or exhibits to such documents, please contact the Balloting
13 Agent at the address or telephone number set forth above. Copies of the Plan and Disclosure
14 Statement (including all exhibits, schedules and appendices) and all pleadings and orders of the
15 Court (i) are available for no charge on the Balloting Agent's Website at:
16 <http://www.chap11epiqsystems.com/asyst> and (ii) are publicly available at the Court's general
17 Website at: (<http://www.canb.uscourts.gov>).

18 **ARTICLE 1 - DEFINITIONS**

19 The capitalized terms set forth below shall have the following meanings:

20
21 **1.1 Administrative Claim** means an unsecured Claim, other than a Fee Claim, for
22 payment of costs or expenses of administration specified in sections 503(b) and 507(a)(1) of the
23 Bankruptcy Code, including, without limitation: (a) the actual, necessary costs and expenses
24 incurred after the Petition Date of preserving the Estate and operating the business of the Debtor; and
25 (b) all fees and charges assessed against the Estates pursuant to section 1930 of title 28 of the United
26 States Code.

27 **1.2 Available Cash** means as determined from time to time by the Liquidation Trustee,
28 all unrestricted Cash of the Estate or Liquidation Trust on or after the Effective Date, after deduction
of, without duplication: (a) amounts to be distributed to holders of Fee Claims; (b) actual post-
Petition Date expenses and liabilities of the Estates that have not been paid, including expenses
which accrued prior to the Effective Date; (c) amounts held in the Wind-down Reserve; and (d) Cash
to be distributed to or reserved for holders of Administrative Claims, Fee Claims, and Lender
Secured Claims.

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1.3 Ballot means the ballot distributed to each eligible claimant by the Balloting Agent, on which ballot such claimant may, inter alia, vote for or against the Plan.

1.4 Ballot Deadline means the date and time set by the Court by which the Balloting Agent must receive all Ballots.

1.5 Balloting Agent means the entity designated by the Court to distribute, collect and tally Ballots from claimants. Initially, the Balloting Agent is Epiq Bankruptcy Solutions LLC.

1.6 Bankruptcy Code means title 11 of the United States Code, as now in effect or hereafter amended.

1.7 Bankruptcy Rules means the Federal Rules of Bankruptcy Procedure and the local rules of the Court now in effect or hereafter amended.

1.8 Bar Date means (i) for any Claim that is not a Fee Claim or Administrative Claim, August 17, 2009; and (ii) for any Fee Claim or Administrative Claim, 45 days after the Effective Date.

1.9 Budget means the budget, as may be amended from time to time, approved by the Court pursuant to the Final Order Pursuant to 11 U.S.C. 105, 361, 362, 363, 503 and 507, and Bankruptcy Rule 4001; (I) Authorizing Debtor to Use Cash Collateral; (II) Granting Replacement Liens; (III) Granting Adequate Protection; and (IV) Modifying Automatic Stay entered in the Chapter 11 Case May 21, 2009.

1.10 Business Day means any day except a Saturday, Sunday, or "legal holiday" as such term is defined in Bankruptcy Rule 9006(a).

1.11 Cash means cash and cash equivalents, including, but not limited to, bank deposits, checks, and other similar items.

1.12 Chapter 11 Case means the chapter 11 case of Asyst Technology, Inc., Case No. 09-43246, pending before the Court.

1.13 Claim means a claim against the Debtor, whether or not asserted, known or unknown, as such term is defined in section 101(5) of the Bankruptcy Code.

1.14 Class means a group of Claims or Interests described in Article 3 of the Plan.

1.15 Committee means the Official Committee of Unsecured Creditors in the Chapter 11 Case, as appointed by the United States Trustee and amended from time to time.

1.16 Confirmation Date means the date the Court enters the Confirmation Order on its docket.

1.17 Confirmation Hearing means the hearing by the Court to consider confirmation of the Plan.

1.18 Confirmation Order means the order of the Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code.

1.19 Court means the United States Bankruptcy Court for the Northern District of California, or any other court exercising competent jurisdiction over the Chapter 11 Case or any proceeding therein.

1 **1.20 D&O Policy** means that certain Policy No. ELU112969-09 issued by XL Specialty
Insurance Company dated August 7, 2009, including all endorsements to same, and as may be
2 amended from time to time..

3 **1.21 Debtor** has the meaning ascribed to such term on the first page of this Plan.

4 **1.22 Deficiency Claim** means that portion of a Claim that is subject to a valid, perfected
and enforceable security interest, lien, mortgage or other encumbrance, that is not subject to
5 avoidance under applicable bankruptcy or non-bankruptcy law, in or upon any right, title or interest
of any of the Debtor in and to property of the Estate, to the extent such Claim exceeds the value of
6 the holder's interest in such property as of the Confirmation Date.

7 **1.23 Disclosure Statement** means the Disclosure Statement that relates to this Plan and is
approved by the Court pursuant to section 1125 of the Bankruptcy Code, as such Disclosure
8 Statement may be amended, modified, or supplemented (and all exhibits and schedules annexed
thereto or referred to therein).

9 **1.24 Disclosure Statement Order** means the order of the Court approving the Disclosure
Statement as containing adequate information pursuant to section 1125 of the Bankruptcy Code.
10

11 **1.25 Distribution** means the distribution in accordance with this Plan of Cash or other
property, as the case may be, or the Cash or other property so distributed.

12 **1.26 Distribution Address** means the address set forth in the relevant proof of claim. If no
13 proof of claim is filed in respect to a particular Claim, such defined term means the address set forth
in the Debtor's Schedules of Assets and Liabilities.

14 **1.27 Distribution Date** means (a) with respect to Administrative Claims, and Lender
15 Secured Claims, the date that is the later of: (i) the Effective Date (or as soon thereafter as
reasonably practicable); and (ii) the date (or as soon thereafter as reasonably practicable) such
16 Claims become allowed Claims or otherwise become payable under the Plan, (b) with respect to Fee
Claims, the date (or as soon thereafter as reasonably practicable) that such Claims are allowed by
17 Final Order of the Court, and (c) with respect to Priority Claims and General Unsecured Claims
(subject to the priority scheme set forth in the Plan), such date established by the Court or designated
18 by the Liquidation Trustee in his/her reasonable discretion.

19 **1.28 Distribution Fund** means the fund which shall be established on the Effective Date
by the Liquidation Trustee to (i) receive the Cash proceeds of recoveries, if any on the Lenders'
20 collateral that are received *subsequent* to the initial Distribution Date, and make payment from such
Cash proceeds to holders of Class 1 Lender Secured Claims, and, (ii) receive the Cash proceeds from
21 the liquidation of property, if any, that is not the Lenders' collateral, and to pay from the Cash
proceeds of such property to holders of Class 2 Priority Claims and Class 3 General Unsecured
22 Claims pursuant to the provisions of the Plan.

23 **1.29 Distribution Record Date** means, initially, the Confirmation Date, and with respect
to each Distribution Date after the first Distribution Date, a prior Business Day chosen by the
24 Liquidation Trustee.

25 **1.30 Effective Date** means: (a) if no stay of the Confirmation Order is in effect, the first
Business Day after the date each of the conditions set forth in Section 9.1 of the Plan has been
26 satisfied or waived as set forth in Section 9.2 of the Plan, or such later date as may reasonably be
determined by the Debtor and noted in a Notice of Effective Date filed with the Court; or (b) if a stay
27 of the Confirmation Order is in effect, on the first Business Day (or such later date as may
reasonably be determined by the Debtor after the later of: (i) the date such stay is vacated or any
28 appeal, rehearing, remand or petition for certiorari is resolved in a manner that does not reverse or

1 materially modify the Confirmation Order; and (ii) the date each condition set forth in Section 9.1 of
2 the Plan has been satisfied or waived as set forth in Section 9.2 of the Plan.

3 **1.31 Estate** means the relevant estate created in the Chapter 11 Case pursuant to section
4 541 of the Bankruptcy Code.

5 **1.32 Fee Claim** means a Claim for compensation or reimbursement of expenses pursuant
6 to sections 327, 328, 330, 331 or 503(b) of the Bankruptcy Code in connection with the Chapter 11
7 Cases, provided however that the aggregate amount of a professional's Claim such may not exceed
8 the maximum amount set forth in the Budget for the fees of the relevant professional.

9 **1.33 Fee Order** means the Court's Order Establishing Procedures for Interim
10 Compensation and Reimbursement of Expenses of Professionals entered June 9, 2009, as such Order
11 may be subsequently amended and/or superseded.

12 **1.34 Final Order** means an order or judgment of the Court, as entered on the docket of the
13 Court, that has not been reversed, stayed, modified, or amended, and as to which: (a) the time to
14 appeal, seek review or rehearing or petition for certiorari has expired.

15 **1.35 General Unsecured Claim** means any Claim that is not: (a) an Administrative
16 Claim, (b) a Fee Claim, (c) a Lender Secured Claim, (d) a Priority Claim; or (e) a Claim included
17 within any other Class of Claims or Interests other than Class 3.

18 **1.36 Interest** means an equity security, within the meaning of section 101(16) of the
19 Bankruptcy Code, in the Debtor, including, but not limited to, the shares of stock of the Debtor.

20 **1.37 KeyBank** means KeyBank National Association.

21 **1.38 Key Bank Credit Facility** means (a) that certain senior secured Credit Agreement,
22 dated as of July 27, 2007 (as the same has been amended, modified and supplemented, among the
23 Debtor and its direct and indirect subsidiaries, Asyst Japan Holdings and Asyst Technologies Japan,
24 as borrowers and the Lenders; and (b) each of the other Loan Documents (as defined in such Credit
25 Agreement).

26 **1.39 Lender** means, any of: (i) KeyBank, as administrative agent, lead manager, and
27 lender pursuant to the Key Bank Credit Facility; and (ii) the lenders from time to time party thereto.

28 **1.40 Lender Secured Claim** means any Secured Claim held by any Lender, each of which
are allowed Secured Claims pursuant to section 502(a) of the Bankruptcy Code and by confirmation
of this Plan.

1.41 Litigation Causes of Action means any claim, right or cause of action of the Debtor
including, but not limited to, a claim, right or cause of action accruing or incorporated under chapter
5 of the Bankruptcy Code which may be asserted by or on behalf of the Debtor, whether known or
unknown, in law, equity or otherwise, including (a) a claim, right or cause of action accruing under
section 547 of the Bankruptcy Code, or under section 550 of the Bankruptcy Code to recover a
transfer avoided under section 547 of the Bankruptcy Code, and which may be asserted by or on
behalf of the Debtor, (b) any claims the Debtor may have against current or former officers, directors
or insiders of the Debtor, other than claims released hereby; (c) any fraudulent conveyance or
fraudulent transfer claims the Debtor may have, pursuant to sections 544, 548 and/or 550 of the
Bankruptcy Code or applicable non-bankruptcy law, including any such claims against affiliates of
the Debtor; and (d) all Non-Debtor Intercompany Claims.

1.42 Liquidation Trust means the trust created pursuant to Section 5.3 of the Plan.

1 **1.43 Liquidation Trust Agreement** means the Liquidation Trust Agreement to be dated
2 as of the Effective Date establishing the terms and conditions of the Liquidation Trust in form and
3 substance substantially identical in all material respects to the proposed Liquidation Trust
4 Agreement that is annexed hereto as **Exhibit "A"**.

5 **1.44 Liquidation Trustee** means the trustee of the Liquidation Trust, as designated in
6 Section 5.5 of this Plan and the Liquidation Trust Agreement.

7 **1.45 Net Proceeds** means the Cash consideration received from the sale or transfer of
8 property of the Estate or the conversion of such property to Cash in some other manner as
9 contemplated in this Plan (including, without limitation, any recoveries from the Litigation Causes
10 of Action), whether occurring prior to or after the Effective Date, less the reasonable, necessary and
11 customary expenses attributable to such sale, transfer, collection or conversion, including costs of
12 curing defaults under executory contracts or unexpired leases that are assigned, paying personal
13 property or other taxes accruing in connection with such sale, transfer or conversion of such
14 property, brokerage fees and commissions, collection costs, reasonable attorneys' fees and expenses
15 and any applicable taxes or other claims of any governmental authority in connection with such
16 property and any escrows or accounts established to hold funds for purchase price adjustments,
17 indemnification claims, or other purposes in connection with such sale, transfer or collection.

18 **1.46 Non-Debtor Intercompany Claims** means all of the Debtor's claims against
19 interests in, and/or rights to payment from their non-debtor affiliates, and subsidiaries (and each of
20 their successors).

21 **1.47 Person** means any individual, corporation, partnership, association, organization,
22 joint stock company, joint venture, estate, trust, governmental unit or any political subdivision
23 thereof, the Committee, Interest holders, holders of Claims, current or former employees of the
24 Debtor, or any other entity.

25 **1.48 Petition Date** means April 21, 2009.

26 **1.49 Plan** means this Plan of Liquidation Under Chapter 11 of the Bankruptcy Code, dated
27 as of the date set forth on the first page hereof, for the Debtor, together with any amendments or
28 modifications hereto as may be filed hereafter in accordance with the terms of the Plan, the
Bankruptcy Code and other applicable law.

1.50 Priority Claim means any Priority Non-Tax Claim or any Priority Tax Claim.

1.51 Priority Non-Tax Claim means any Claim entitled to priority pursuant to section
507(a) of the Bankruptcy Code, other than: (a) an Administrative Claim; (b) a Priority Tax Claim; or
(c) a Fee Claim.

1.52 Priority Tax Claim means a Claim entitled to priority pursuant to section 507(a)(8)
of the Bankruptcy Code.

1.53 Ratable, Ratably or Ratable Share means a number (expressed as a percentage)
equal to the proportion that an allowed Claim in a particular Class bears to the aggregate amount of:
(a) allowed Claims plus (b) disputed Claims (in their aggregate amount) in such Class as of any date
of determination.

1.54 Released Party means such persons having rendered service in connection with this
Bankruptcy Case to protect the Debtor and/or the administration of the Estate, including, the Debtor,
the Committee, the Steering Committee, and each of the Committee's and the Steering Committee's
former and current members thereof (in their capacity as such and specifically excluding any
member of the Committee as a vendor of, or in a similar relationship to, the Debtor), the Liquidation

1 Trustee, and any current or former agent, representative, employee benefit plan fiduciary, employee
2 benefit plan administrator, officer, director, employee, attorney, accountant, financial advisor or
3 other professional of the Debtor, the Liquidating Trustee, the Committee, or Steering Committee, but
4 only if such party listed in this paragraph served in such capacity on or after April 22, 2009.

5 **1.55 Schedules of Assets and Liabilities** means Debtor's schedules of assets and
6 liabilities filed with the Court pursuant to sections 521(1) and 1106(a)(2) of the Bankruptcy Code, as
7 the same may be amended thereafter.

8 **1.56 Secured Claim** means, pursuant to section 506 of the Bankruptcy Code, that portion
9 of a Claim that is secured by a valid, perfected and enforceable security interest, lien, mortgage or
10 other encumbrance, that is not subject to avoidance under applicable bankruptcy or non-bankruptcy
11 law, in or upon any right, title or interest of any of the Debtor in and to property of the Estate, to the
12 extent of the value of the holder's interest in such property as of the relevant determination date.
13 Such defined term shall not include for voting or Distribution purposes any Claim that has been or
14 will be paid in connection with the cure of defaults under an assumed executory contract or
15 unexpired lease under section 365 of the Bankruptcy Code.

16 **1.57 Unclaimed Property** means any Cash or other distributable property unclaimed after
17 90 days following a Distribution Date as provided in Section 6.4 of the Plan and any property that
18 becomes "Unclaimed Property" pursuant to Section 6.5 of the Plan. Unclaimed Property shall
19 include: (a) checks (and the funds represented thereby) mailed to a Distribution Address and
20 returned as undeliverable without a proper forwarding address; (b) funds for uncashed checks; and
21 (c) checks (and the funds represented thereby) not mailed or delivered because no Distribution
22 Address to mail or deliver such property was available, notwithstanding efforts by the Debtor or the
23 Liquidation Trustee to locate such address which were reasonable under the circumstances.

24 **1.58 United States Trustee** means the Office of the United States Trustee for the Northern
25 District of California.

26 **1.59 Wind-down Budget** means a budget to be prepared by the Debtor, estimating the
27 funds necessary to administer the Plan and wind up the Debtor's affairs, including, but not limited
28 to, the costs of holding and liquidating Estate property, objecting to Claims, making the
Distributions required by the Plan, prosecuting Litigation Causes of Action in accordance with the
Plan, paying taxes, filing tax returns, paying professionals' fees, providing for the purchase of errors
and omissions insurance, and/or other forms of indemnification for the Liquidation Trustee, and
other necessary and usual business expenses.

1.60 Wind-down Reserve means the reserve to be established on the Effective Date by
the Liquidation Trustee in accordance with the terms of the Wind-down Budget to fund the winding
up of the affairs of the Debtor and administering the Plan and Liquidation Trust. After the Effective
Date, the Wind-down Reserve shall be supplemented to the extent considered necessary or desirable
by the Liquidation Trustee with proceeds of any collection, sale, liquidation, or other disposition of
any non-Cash property of the Debtor or the Liquidation Trust existing on or created after the
Effective Date, including, without limitation, Litigation Causes of Action.

ARTICLE 2 TREATMENT OF ADMINISTRATIVE CLAIMS AND FEE CLAIMS

Administrative Claims and Fee Claims have not been classified and are excluded from the
Classes set forth in Article 3 in accordance with section 1123(a)(1) of the Bankruptcy Code.

1 **2.1** Administrative Claims and Fee Claims

2 Unless otherwise provided for herein, each holder of an allowed Administrative Claim or allowed
3 Fee Claim shall be paid 100% of the unpaid allowed amount of such Administrative Claim or Fee
4 Claim in Cash on or as soon as reasonably practicable after the Distribution Date. Notwithstanding
5 the immediately preceding sentence: (i) any Administrative Claims for goods sold or services
6 rendered representing liabilities incurred by the Debtor in the ordinary course of business during the
7 Chapter 11 Case involving trade, service or vendor Claims, subject to compliance with any
8 applicable Bar Date, shall be paid by the Debtor or Liquidation Trustee in the ordinary course in
9 accordance with the terms and conditions of any agreements relating thereto; and (ii) Administrative
10 Claims of the United States Trustee for fees pursuant to 28 U.S.C. § 1930(a)(6) shall be paid in
11 accordance with the applicable schedule for payment of such fees. Notwithstanding the foregoing,
12 the holder of an allowed Administrative Claim may receive such other, less favorable treatment as
13 may be agreed upon by such holder and the Debtor or Liquidation Trustee, as applicable. Allowed
14 Administrative Claims shall not, for any purpose under the Plan, include interest on such
15 Administrative Claim on or after the Petition Date.

16 **2.2** Bar Date for Administrative Claims and Fee Claims

17 Notwithstanding anything to the contrary in Section 2.1 or otherwise, Proofs of claim or
18 applications for payment of Administrative Claims and Fee Claims arising before the Effective Date
19 must be filed with the Court, with copies to the parties listed in Section 11.3 within 45 days after the
20 Effective Date. Any Person that fails to file such a proof of claim or application with the Court
21 within that time shall be forever barred from asserting such an Administrative Claim or Fee Claim
22 against the Debtor, the Estate, or its property, or commencing or continuing any action, employment
23 of process, or act to collect, offset, or recover any such Administrative Claim or Fee Claim.
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25 **ARTICLE 3 -- CLASSIFICATION AND TREATMENT OF CLAIMS AND INTERESTS**

26
27 **A. Classification of Claims and Interests**

28 In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Claims and

1 Fee Claims, as described in Article 2, have not been classified and thus are excluded from the
 2 Classes that follow. The following table designates the Classes of Claims and specifies which of
 3 those Classes are (i) impaired or unimpaired by the Plan, and (ii) entitled to vote to accept or reject
 4 the Plan in accordance with section 1126 of the Bankruptcy Code or deemed to reject the Plan.

	Class	Status	Voting Rights	
5	Class 1	Lender Secured Claims	Impaired	Yes
6	Class 2	Priority Claims	Impaired	No (deemed to reject)
7	Class 3	General Unsecured Claims	Impaired	No (deemed to reject)
8	Class 4	Interests	Impaired	No (deemed to reject)

9 Generally, a Claim is classified in a particular Class for voting and distribution purposes only
 10 to the extent the Claim has not been paid, released or otherwise satisfied and qualified within the
 11 description of that Class, and is classified in another class or Classes to the extent any remainder of
 12 the Claim qualifies within the description of such other Class or Classes. For voting and distribution
 13 purposes, a holder of more than one Claim in a Class shall be deemed to have a single Claim in such
 14 Class.

15 **B. Treatment of Claims and Interests**

16 **1. Class 1 - Lender Secured Claims**

17 (a) Classification: Class 1 consists of Lender Secured Claims.

18 (b) Treatment: Class 1 is impaired. Each holder of a Lender Secured Claim shall
 19 receive the sum of (i) Cash on hand as of the Distribution Date, less the Wind-down Reserve, (ii)
 20 when available, any additional proceeds of the Lenders' collateral including, but not limited to, the
 21 proceeds of any Non-Debtor Intercompany Claims, (iii) following payment in full of allowed Fee
 22 Claims and Administrative Claims, the excess, if any, of the Wind-down Reserve attributed to
 23 Administrative Claims and Fee Claims, (iv) on the final Distribution Date, the remaining balance, if
 24 any, of the Wind-down Reserve, and (v) a Class 1 beneficial interest in the Liquidation Trust as set
 25 forth in Section 5.10, entitling such holder to receive on account of such Claims, on or as soon as
 26 reasonably practicable after the initial Distribution Date and on each periodic Distribution Date
 27 thereafter, its Ratable Share of any Cash distribution from the Distribution Fund which constitute
 28 Net Proceeds of the Lenders' collateral under the KeyBank Credit Facility which are received by the

1 Liquidation Trustee after the initial Distribution Date. Each holder of an allowed Class 1 Claim shall
2 receive such distributions from the Liquidation Trust in accordance with the provisions set forth in
3 Section 6.10. Any Deficiency Claim of a Lender shall be a Class 3 General Unsecured Claim.
4 Allowed Class 1 Claims shall not, for any purpose under the Plan, include interest on such Class 1
5 Claim on or after the Petition Date.

6 **3. Class 2 - Priority Claims**

7 (a) Classification: Class 2 consists of Priority Claims.

8 (b) Treatment: Class 2 is impaired. Each holder of an allowed Claim in Class 2
9 shall receive a beneficial interest in the Liquidation Trust as set forth in Section 5.10, entitling such
10 holder to receive on account of such Claims, on or as soon as reasonably practicable after the initial
11 Distribution Date and on each periodic Distribution Date thereafter, their Ratable Share of any Cash
12 distribution from the Distribution Fund. Each holder of an allowed Class 2 Claim shall receive such
13 distributions in accordance with the provisions set forth in Section 6.10. Allowed Class 2 Claims
14 shall not, for any purpose under the Plan, include interest on such Class 2 Claim on or after the
15 Petition Date.

16 **4. Class 3 - General Unsecured Claims**

17 (a) Classification: Class 3 consists of General Unsecured Claims.

18 (b) Treatment: Class 3 is impaired, and each holder of an allowed Claim in Class
19 3 shall receive a beneficial interest in the Liquidation Trust as set forth in Section 5.10, entitling such
20 holder to receive on account of such Claims, on or as soon as reasonably practicable after the initial
21 Distribution Date and on each periodic Distribution Date thereafter, their Ratable Share of any Cash
22 distribution from the Distribution Fund. Each holder of an allowed Class 3 Claim shall receive such
23 distributions in accordance with the provisions set forth in Section 6.10. Allowed Class 3 Claims
24 shall not, for any purpose under the Plan, include interest on such Class 3 Claim on or after the
25 Petition Date.

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5. Class 4 - Interests

(a) Classification: Class 4 consists of holders of Interests in the Debtor.

(b) Treatment: Class 4 is impaired and the holders of Interests in Class 4 will not receive any distributions on account of Interests. Holders of Interests in Class 4 shall be deemed to have rejected the Plan and shall not have the opportunity to vote.

On the Effective Date, all shares of stock in ATI will be cancelled and will forever cease trading on the NASDAQ OTC Bulletin Board (“OTCBB”) or any other securities exchange or market. On or prior to the Effective Date, the Debtor will file a Form 15 with the SEC suspending the registration of ATI common stock under the Securities Exchange Act of 1934, as amended, and the obligation to file periodic SEC reports.

ARTICLE 4 – ACCEPTANCE OR REJECTION OF PLAN

4.1 Voting of Claims

Each holder of an allowed Claim in Class 1 (and only such holders) shall be entitled to vote to accept or reject this Plan.

4.2 Acceptance by a Class

Consistent with section 1126(c) of the Bankruptcy Code and except as provided for in section 1125(e) of the Bankruptcy Code, a Class of Claims shall have accepted this Plan if it is accepted by at least two-thirds in dollar amount, and more than one-half in number of the holders, of allowed claims of such Class that have timely and properly voted to accept or reject this Plan.

4.3 Deemed Acceptance of Plan

Pursuant to section 1126(f) of the Bankruptcy Code, any Class that is unimpaired under a plan is conclusively deemed to accept a plan.

4.4 Deemed Rejection of Plan

In accordance with section 1126(g) of the Bankruptcy Code, any Class that is to receive no distribution under a plan is conclusively deemed to reject a plan. Accordingly, Classes, 2, 3, and 4 are conclusively presumed to reject this Plan and the votes of such holders will not be solicited with respect to such Claims.

1 **ARTICLE 5-- IMPLEMENTATION OF THE PLAN**

2 In addition to the provisions set forth elsewhere in this Plan, the following shall constitute the
3 means of execution and implementation of the Plan.

4 **5.1 Dissolution of ATI Corporate Entity**

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6 Within the respective times determined by the Liquidation Trustee as necessary or
7 appropriate under the circumstances (including with respect to the pursuit of causes of action in the
8 name of the Estate), the Debtor shall be dissolved without any further action by the Debtor. The
9 Liquidation Trustee may, in his or her discretion, file all necessary certificates of dissolution and
10 take any other actions necessary or appropriate to reflect the dissolution of the Debtor under
11 California state law, where the Debtor is incorporated.

12 **5.2 Dissolution of Asyst Technologies Malaysia, Sdn. Bhd.**

13 The Debtor is the owner of 100 percent of the shares of its wholly-owned subsidiary, Asyst
14 Technologies Malaysia, Sdn. Bhd. ("Malaysia Sub"). The Liquidation Trustee is authorized, in his
15 or her discretion, to take any actions necessary or appropriate, including the appointment of agents,
16 to facilitate the dissolution of the Malaysia Sub under applicable law. All applicable regulatory or
17 governmental agencies shall accept any certificates or other papers filed or executed by the
18 Liquidation Trustee on behalf of the Debtor in connection with the dissolution of the Malaysia Sub
19 and shall take all steps necessary to allow and reflect the prompt dissolution of the Malaysia Sub,
20 without the payment of any fee, tax, or charge and without need for the filing of reports or
21 certificates, except as the Liquidation Trustee may determine in his or her sole discretion.

22 **5.3 Liquidation Trust**

23 **5.3.1 Creation of Liquidation Trust.**

24 As of the Effective Date, the Liquidation Trust shall be created and established for the benefit
25 of all creditors of the Estate holding allowed Claims, into which Trust all assets of the Debtor
26 (*excepting* the Cash distributions to be made from the Net Proceeds on the Distribution Date to the
27 holders of Lender Secured Claims) shall be transferred and become vested pursuant to and in
28 accordance with the terms hereunder. The Liquidation Trust shall operate under the provisions of an

1 agreement between the Debtor and the Liquidation Trustee establishing the Liquidation Trust, a copy
2 of which in substantially final form is annexed hereto as **Exhibit "A"**.

3 After the Effective Date, the Debtor shall have no liability to holders of Claims or Interests
4 other than as provided for in the Plan. The Plan will be administered and actions will be taken in the
5 name of the Debtor or Liquidation Trust, as appropriate, through the Liquidation Trustee,
6 irrespective of whether the Debtor has been dissolved.

7 **5.3.2** Transfer to the Liquidation Trust.

8 On the Effective Date, subject to Section 5.33, the Debtor and Estate shall be deemed to have
9 transferred and/or assigned as of the Effective Date any and all assets of the Debtor and the Estate
10 (*excepting* the Cash distributions to be made from the Net Proceeds on the Distribution Date to the
11 holders of Lender Secured Claims) including, without limitation, (i) Cash and accounts, including,
12 without limitation, any and all moneys held in escrow or separate segregated accounts during the
13 pendency of the Chapter 11 Case, (ii) Litigation Causes of Action, (iii) the Debtor's ownership
14 interest in the Malaysia Sub, and any and all rights, powers and duties associated therewith; (iv) all
15 other property interests, rights, claims, defenses and causes of action with respect to any and all
16 Non-Debtor Intercompany Claims; and (v) any and all other property interests, rights, claims,
17 defenses and causes of action of the Debtor or the Estate, to the Liquidation Trust, and all such
18 transferred assets shall be held by the Liquidation Trust subject to the Lenders' Liens but otherwise
19 free and clear of all Claims, Liens and contractually imposed restrictions, except for the rights to
20 Distribution afforded to holders of allowed Claims hereunder.

21 **5.3.3** Creation of Reserve Within Liquidation Trust.

22 As of the Effective Date, and upon receipt of the assets transferred pursuant to Section 5.3.2,
23 the Liquidation Trustee shall establish and use the transferred assets to fund the Wind-down Reserve
24 in accordance with the terms hereof.

25 **5.4** Powers

26 **5.4.1** Directors, Officers and Employees.

27 On the Effective Date, the authority, power and incumbency of the persons then acting as
28 directors of the Debtor shall be terminated and such directors shall be deemed to have resigned. The

1 employment by the Debtor of each officer and all employees in the employment of the Debtor as of
2 the Effective Date shall automatically on the Effective Date cease to be officers and employees of
3 the Debtor. To the extent the Liquidation Trust hires any prior employees of the Debtor, neither the
4 Liquidation Trustee nor the Liquidation Trust shall be deemed a successor to the Debtor.

5 **5.4.2 Succession by Liquidation Trustee.**

6 Upon the Effective Date of the Plan, the Liquidation Trustee succeeds to such powers as
7 would have been applicable to the Debtor's officers, directors and shareholders, and the Debtor is
8 deemed dissolved. The Court may issue one or more Orders noting the Effective Date as evidence of
9 the Debtor's dissolution and the termination of all of the Debtor's employees.

10 **5.5 Liquidation Trustee**

11 The Debtor has designated Dan Scouler of Scouler & Company as the Liquidation Trustee.
12 The salient terms of the Liquidation Trustee's employment, including the Liquidation Trustee's
13 duties and compensation (which compensation shall be negotiated by the Liquidation Trustee and
14 the Debtor), to the extent not set forth in the Plan, shall be set forth in the Liquidation Trust
15 Agreement. In general, the Liquidation Trustee shall be the exclusive trustee of the Liquidation Trust
16 for the purposes of 31 U.S.C. § 3713(b) and 26 U.S.C. § 6012(b)(3), as well as the representative of
17 the Estate appointed pursuant to section 1123(b)(3)(B) of the Bankruptcy Code. The Liquidation
18 Trustee shall have fiduciary duties to beneficiaries of the Liquidation Trust. The Liquidation Trust
19 Agreement shall specify the terms and conditions of the Liquidation Trustee's compensation,
20 responsibilities and powers. The duties and powers of the Liquidation Trustee, shall generally
21 include, without limitation, the following:

22 1. To exercise all power and authority that may be or could have been exercised,
23 commence all proceedings that may be or could have been commenced and take all actions that may
24 be or could have been taken by any officer, director or shareholder of the Debtor with like effect as if
25 authorized, exercised and taken by unanimous action of such officers, directors and shareholders;
26 including, without limitation, amendment of the certificates of incorporation and by-laws of the
27 Debtor, and the dissolution of the Debtor;

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1 2. To maintain escrows and other accounts, make Distributions and take other actions
2 consistent with the Plan and the implementation of thereof, including the establishment, re-
3 evaluation, adjustment and maintenance of appropriate reserves, in the name of the Debtor or the
4 Liquidation Trustee, even in the event of the dissolution of the Debtor;

5 3. Subject to the applicable provisions of the Plan, to collect and liquidate all assets
6 of the Estate pursuant to the Plan and to administer the winding-up of the affairs of the
7 Debtor;

8 4. To object to any Claims (disputed or otherwise), including, without limitation, as
9 discussed in Section 6.1, and to defend, compromise and/or settle any Claims prior to objection
10 without the necessity of approval of the Court, and/or to seek Court approval for any Claims
11 settlements, to the extent thought appropriate by the Litigation Trustee or to the extent such approval
12 is required by prior order of the Court;

13 5. To make decisions, without further Court approval, regarding the retention or
14 engagement of professionals, employees and consultants by the Liquidation Trust and to pay, from
15 the Wind-down Reserve, the charges incurred by the Liquidation Trust on or after the Effective Date
16 for services of professionals, disbursements, expenses or related support services relating to the
17 winding down of the Debtor and implementation of the Plan, without application to the Court;

18 6. To cause, on behalf of the Liquidation Trust, the Debtor and the Estate, all necessary
19 tax returns and all other appropriate or necessary documents related to municipal, State, Federal or
20 other tax law to be prepared or filed timely;

21 7. To make all Distributions to holders of allowed Claims provided for or contemplated
22 by the Plan;

23 8. To collect any accounts receivable or other claims and assets of the Debtor or the
24 Estate not otherwise disposed of pursuant to the Plan, including all Non-Debtor Intercompany
25 Claims;

26 9. To enter into any agreement or execute any document required by or consistent with
27 the Plan and perform all of the obligations of the Debtor or the Liquidation Trustee thereunder;

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1 10. To abandon in any commercially reasonable manner, including abandonment or
2 donation to a charitable organization, any assets that the Liquidation Trustee concludes are of no
3 benefit to creditors of the Estate or, at the conclusion of the Chapter 11 Case, are determined to be
4 too impractical to distribute;

5 11. To investigate, prosecute and/or settle Litigation Causes of Action, participate in or
6 initiate any proceeding before the Court or any other court of appropriate jurisdiction, participate as
7 a party or otherwise in any administrative, arbitative or other nonjudicial proceeding, litigate or
8 settle such Litigation Causes of Action on behalf of the Liquidation Trust and pursue to settlement or
9 judgment such actions;

10 12. To utilize trust assets to purchase or create and carry all appropriate insurance
11 policies and pay all insurance premiums and costs it deems necessary or advisable to insure the acts
12 and omissions of the Liquidation Trustee;

13 13. To implement and/or enforce all provisions of the Plan;

14 14. To maintain appropriate books and records (including financial books and records);

15 15. To collect and liquidate all assets of the Estate pursuant to the Plan and administer the
16 winding-up of the affairs of the Debtor including, but not limited to, closing the Chapter 11 Case;

17 16. To pay fees incurred pursuant to 28 U.S.C. § 1930(a)(6) and to file with the Court and
18 serve on the United States Trustee monthly financial reports until such time as such reports are no
19 longer required, a final decree is entered closing this Case or the Case is converted or dismissed, or
20 the Court orders otherwise;

21 17. To provide the Court, within 20 days after the end of each quarter, with a monthly
22 report setting forth (i) the receipt and disposition by the Liquidation Trustee of property of the Estate
23 or the Debtor during the prior month, including the disposition of funds in the Liquidation Trust, the
24 Wind-down Reserve and Distribution Fund; (ii) all disputed Claims resolved by the Liquidation
25 Trustee during such period and all remaining disputed Claims; (iii) all known material non-Cash
26 assets of the Debtor remaining to be disposed of; (iv) the status of Litigation Causes of Action and
27 other causes of action; (v) an itemization of all expenses the Liquidation Trustee anticipates will
28

1 become due and payable within the subsequent three months; and (vi) the Liquidation Trustee's
2 forecast of cash receipts and expenses for the subsequent three months;

3 18. To do all other acts or things consistent with the provisions of the Plan that the
4 Liquidation Trustee deems reasonably necessary or desirable with respect to implementing the Plan;
5 and

6 19. To carry out all member duties and obligations in connection with the Malaysia Sub
7 until the Liquidation Trust's interest in the Malaysia Sub has been liquidated

8 **5.6 Investments**

9 All Cash held by the Liquidation Trustee shall be invested as deemed appropriate by the
10 Liquidation Trustee, and need not be invested in accordance with section 345 of the Bankruptcy
11 Code.

12 **5.7 Steering Committee**

13 A Steering Committee, which shall have general oversight over the Liquidation Trustee, shall
14 be created within ten (10) days of the Effective Date. The Steering Committee shall consist of three
15 members: (i) two representatives selected by KeyBank, and (ii) a representative selected by the
16 Committee. Each of the members of the Steering Committee shall have one vote in connection with
17 any matters that are subject to the determination of the Steering Committee.

18 **5.8 Resignation, Death or Removal of Liquidation Trustee**

19 The Liquidation Trustee may resign at any time upon 30 days' written notice to the Steering
20 Committee and the Office of the U.S. Trustee provided that a successor Liquidation Trustee is
21 appointed by the majority vote of the Steering Committee within the 30-day period. The Steering
22 Committee in the exercise of its sole discretion, may remove or replace the Liquidation Trustee upon
23 notice to parties in interest pursuant to Section 11.13 of the Plan and in accordance with the
24 Liquidation Trust Agreement. No successor Liquidation Trustee shall in any event have any liability
25 or responsibility for the acts or omissions of any of his or her predecessors. Every successor
26 Liquidation Trustee shall execute, acknowledge and file with the Court an instrument in writing
27 accepting such appointment hereunder, and thereupon such successor Liquidation Trustee, without
28 any further act, shall become fully vested with all of the rights, powers, duties and obligations of his

1 or her predecessor.

2 **5.9 Tax Treatment of Liquidation Trust**

3 The Debtor intends that the Liquidation Trust will be treated as a “liquidating trust” within
4 the meaning of section 301.770 1-4(d) of the Treasury Regulations. The transfer of the Debtor’s and
5 the Estate’s remaining assets to the Liquidation Trust shall be treated as a transfer to the
6 beneficiaries of the Liquidation Trust for all purposes of the Internal Revenue Code (*e.g.*, sections
7 61(a)(12), 483, 1001, 1012 and 1274) followed by a deemed transfer by such beneficiaries to the
8 Liquidation Trust. The Liquidation Trust shall be considered a “grantor” trust, and the beneficiaries
9 of the Liquidation Trust shall be treated as the grantors and deemed owners of the Liquidation Trust.
10 To the extent valuation of the transferred property to the Liquidation Trust is required under
11 applicable law, the Liquidation Trustee shall value the transferred property and notify in writing the
12 beneficiaries of the Liquidation Trust of such valuations. The assets transferred to the Liquidation
13 Trust shall be valued consistently by the Liquidation Trustee and the Trust beneficiaries, and these
14 valuations will be used for all federal income tax purposes.

15 **5.10 Liquidation Trust Interests**

16 The beneficial interests in the Liquidation Trust shall not be represented by certificates and
17 shall be transferable subject, as applicable, to Bankruptcy Rule 3001 (e) and any other provision of
18 law.

19 **5.11 Funding of the Plan**

20 **5.11.1 Source of Distributions.**

21 The Cash Distributions to be made pursuant to the Plan and the funding of the Wind-down
22 Reserve will be derived from (i) Cash proceeds received by the Debtor from the liquidation of its
23 assets as of the Effective Date and other funds then available, and (ii) any payments to be received
24 by the Debtor from the further liquidation of assets and the prosecution and enforcement of causes of
25 action of the Debtor, and other funds available after the Effective Date.

26 **5.11.2 Reserves.**

27 To the extent not otherwise provided for herein or ordered by the Court, the Liquidation
28 Trustee shall estimate appropriate reserves of Cash to be set aside in order to pay or reserve for

1 accrued expenses and for the payment of prospective expenses and liabilities of the Estate and the
2 Liquidation Trust after the Effective Date. Without limitation, these reserves shall include funds for
3 the Wind-down Reserve, Fee Claims, and Administrative Claims.

4 **5.11.3 No Physical Segregation of Funds.**

5 Notwithstanding any contrary provision contained herein, the Liquidation Trustee shall not
6 be obligated to physically segregate and maintain separate accounts for reserves or for the
7 Distribution Fund. Separate reserves and funds may be merely bookkeeping entries or accounting
8 methodologies, which may be revised from time to time, to enable the Liquidation Trustee to
9 determine Available Cash, reserves and amounts to be paid to parties in interest.

10 **5.12 Wind-down Reserve**

11 On the Effective Date, or as soon thereafter as reasonably practicable, the Liquidation
12 Trustee shall create the Wind-down Reserve and shall transfer an appropriate amount into such
13 reserve from the assets transferred by the Debtor to the Liquidation Trust. The Liquidation Trustee
14 shall pay Plan administration costs and costs of holding and liquidating any non-Cash property,
15 including but not limited to taxes and professional fees, from the Wind-down Reserve. To the extent
16 that the Liquidation Trustee determines that funds allocated to the Wind-down Reserve are
17 insufficient for such purposes, the Net Proceeds of the continuing liquidation of the Debtor's assets
18 and any other Available Cash shall, to the extent necessary for such purposes, be allocated to the
19 Wind-down Reserve. After all costs associated with the Wind-down Reserve have been paid, and/or
20 upon the reasonable determination of the Liquidation Trustee that the funds in the Wind-down
21 Reserve exceed the amounts necessary to pay the expenses for which such fund is established, the
22 remaining or excess funds, as applicable, in the Wind-down Reserve shall be paid to the Lenders on
23 account of the Lender Secured Claim.

24 **5.13 Distribution Fund**

25 **5.13.1 Funding of Distribution Fund.**

26 After all payments have been made or properly reserved for holders of unpaid Administrative
27 Claims, Fee Claims, Lender Secured Claims, and/or upon the reasonable determination of the
28 Liquidation Trustee that the funds in the Wind-down reserve exceed the amount necessary for such

1 reserves, the remaining Available Cash, if any, shall be allocated to the Distribution Fund.

2 **5.13.2 Allocation of Available Cash.**

3 Distribution of Cash proceeds (i) of recoveries, if any on the Lenders' collateral that are
4 received *subsequent* to the initial Distribution Date, to holders of Class 1 Lender Secured Claims,
5 and (ii) from the liquidation of property, if any, that is not the Lenders' collateral, to holders of Class
6 2 Priority Claims and Class 3 General Unsecured Claims pursuant to the provisions herein, in each
7 case shall be made solely from the Distribution Fund.

8 **5.14 Exemption from Certain Transfer Taxes**

9 The issuance, transfer, or exchange of a security, or the making or delivery of an instrument
10 of transfer pursuant to the confirmed Plan shall not be subject to any law imposing a stamp tax or
11 similar tax, to the fullest extent provided for under section 1146(a) of the Bankruptcy Code.

12 **5.15 Employee Programs**

13 To the extent not earlier terminated in accordance with their terms, all employee programs,
14 including but not limited to any retirement plans or agreements and health benefits and disability
15 plans are deemed terminated in accordance with their terms with no further action required by the
16 Debtor or the Liquidation Trustee, and to the extent any of such employee programs constitute
17 distinct executory contracts with individual employees or otherwise, such contracts are rejected as of
18 the Petition Date in accordance with Section 7.1. The Liquidation Trustee is authorized to take any
19 actions to permit the termination of such programs and discharge all benefit liabilities to participants
20 and beneficiaries of such programs, including, without limitation, continuation of the termination of
21 the Debtor's 401(k) plan.

22 **5.16 Non-Cash Property**

23 All non-Cash assets or property of the Estates (other than collateral returned to the holder of
24 a Secured Claim) not previously disposed of may be transferred, sold or otherwise liquidated or, if
25 appropriate in the judgment of the Liquidation Trustee, abandoned in any commercially reasonable
26 manner, including to a charitable organization or organizations in respect of assets of
27 inconsequential value, without further order of the Court. Notice of such sale, transfer or
28 abandonment shall be provided to the U.S. Trustee and to the holders, if any, of Secured Claims

1 holding liens on such assets or property. Subject to the provisions hereof with regard to
2 Distributions to the holders of Lender Secured Claims, in the case of collateral, the Net Proceeds of
3 such sales shall be deposited in the Liquidation Trust. Except in the case of gross negligence or
4 willful misconduct, no party in interest shall have a cause of action against the Debtor, its directors,
5 officers, employees, consultants or professionals, the Liquidation Trustee, the Liquidation Trust, its
6 employees, consultants or professionals, or the Committee, its former and current members,
7 consultants or professionals, arising from or related to: (a) the disposition of non-Cash assets or
8 property in accordance with this Section 5.16; or (b) the investment of amounts by the Liquidation
9 Trustee.

10 Notwithstanding anything to the contrary in the Plan, to the extent any sale of non-Cash
11 assets or property requires the Liquidation Trustee to escrow or otherwise retain any consideration
12 received in the sale (for example, pending post-closing adjustments), such escrowed or retained
13 funds will not be deposited in the Wind-down Reserve or Distribution Fund or distributed to holders
14 of Claims as set forth in the Plan until the Liquidation Trustee or the Debtor are contractually
15 allowed to distribute such funds, or the Court otherwise authorizes such Distribution.

16 **5.17** Withdrawal of the Plan

17 The Debtor, in consultation with the Lenders, reserves the right to revoke and withdraw or to
18 modify the Plan in accordance with Section 11.1.1 at any time up to the Effective Date. If the Debtor
19 revokes or withdraws the Plan, (a) nothing contained in the Plan shall be deemed to constitute a
20 waiver or release of any Claims by or against the Debtor or its Estate or to prejudice in any manner
21 the rights of the Debtor or any Person in any further proceeding involving the Debtor, and (b) the
22 result shall be the same as if the Confirmation Order were not entered, and Plan was not filed and the
23 Effective Date did not occur.

24 **5.18** Preservation of Insurance Policies

25 Nothing in the Plan, including any releases, diminishes or impairs the enforceability of any
26 insurance policies that may cover any claim against the Debtor or any other Person.

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1 **5.19** Retention of Actions and Defenses

2 1. All claims, rights, defenses, offsets, recoupments, causes of action, actions in equity
3 or otherwise, whether arising under the Bankruptcy Code or federal, state or common law, which
4 constitute property of the Estate within the meaning of section 541 of the Bankruptcy Code
5 (including, without limitation, the Litigation Causes of Action and the Non-Debtor Intercompany
6 Claims), as well as all claims, rights, defenses, offsets, recoupments and causes of action arising
7 under chapter 5 of the Bankruptcy Code with respect to the Debtor or the Estate, shall be and hereby
8 are preserved for the benefit of the beneficiaries of the Liquidation Trust, and shall be and hereby are
9 deemed to be part of the assets transferred and assigned to the Liquidation Trust as of the Effective
10 Date in accordance with section 1123(b) of the Bankruptcy Code. Prosecution and settlement of
11 such claims, rights, defenses, and causes of action shall be the responsibility of the Liquidation
12 Trustee, pursuant to the provisions of the Liquidation Trust Agreement, and the Liquidation Trustee
13 shall pursue those claims, rights, defenses and causes of action, as appropriate, in accordance with
14 the Liquidating Trustee's sole judgment of what is in the best interests, and for the benefit of, the
15 beneficiaries of the Liquidation Trust; provided, however, that nothing in the Plan is intended to or
16 does confer upon the Liquidation Trustee standing to pursue claims or causes of action that do not
17 constitute property of the Estate, except as may otherwise be provided in the Confirmation Order.

18 2. Nothing herein or in the Confirmation Order shall limit, impair or otherwise restrict
19 the rights of the Liquidation Trustee to bring any claim or cause of action against any Person (not
20 otherwise released pursuant to the Plan) for any reason whatsoever, including, without limitation, the
21 failure of the Plan to identify and/or describe such potential claim(s) or causes of action(s) with
22 specificity. In addition to the general reservation of rights, the Liquidation Trustee reserves the right
23 to modify the Plan at any time prior to substantial consummation of the Plan to include such
24 specificity, if necessary, or otherwise desirable, without the necessity of complying with section
25 1127(b) of the Bankruptcy Code.

26 3. Litigation Causes of Action may be prosecuted, settled or abandoned with or without
27 Court approval by the Liquidation Trustee after the Effective Date. Notwithstanding anything to the
28 contrary herein, no Distribution shall be made to the holder of any Claim, including by way of setoff

1 or recoupment by such claimant, if the Debtor or the Liquidation Trustee has taken action to recover,
2 or given notice to the applicable party of intent to take such action, on a Litigation Cause of Action
3 against the holder of such Claim (or the direct or indirect transferor to, or transferee of, such holder),
4 until such Litigation Cause of Action is resolved by Final Order or otherwise in accordance with
5 Section 5.19. The Liquidation Trustee will be substituted as the party in interest instead of the
6 Debtor or Committee for all Litigation Causes of Action, if any, pending on the Effective Date.

7 **ARTICLE 6--DISTRIBUTIONS**

8 **6.1** Objections to and Estimation of Claims

9
10 From and after the Effective Date, the Liquidation Trustee shall have the exclusive authority
11 to file, settle, compromise, withdraw, or litigate to judgment any objections to Claims. From and
12 after the Effective Date, the Liquidation Trustee may settle or compromise any disputed Claim
13 without approval of the Court. The Liquidation Trustee also reserves the right to resolve any
14 disputed Claim outside the Court under applicable governing law.

15 In addition, the Liquidation Trustee may, at any time request that the Court estimate,
16 pursuant to Section 502(c) of the Bankruptcy Code, any Claim that is contingent or unliquidated,
17 regardless of whether the Debtor has previously objected to such Claim or whether the Court has
18 ruled on any such objection, and the Court will retain jurisdiction to estimate any Claim at any time
19 during litigation concerning any objection to any Claim, including during the pendency of any
20 appeal relating to any such objection. In the event that the Court estimates any contingent or
21 unliquidated Claim, the amount of such estimation will constitute either the allowed Amount of such
22 Claim or a maximum limitation on such Claim, as determined by the Court. If the estimated amount
23 constitutes a maximum limitation on such Claim, the Liquidation Trustee may elect to pursue any
24 supplemental proceedings to object to any ultimate payment on such Claim. All of the
25 aforementioned Claims objection, estimation, and resolution procedures are cumulative and are not
26 necessarily exclusive of one another. Administrative and Priority Claims may be estimated and
27 thereafter resolved by any mechanism permitted under the Bankruptcy Code or the Plan.

28 Notwithstanding the contents of the Schedules, Claims listed therein as undisputed, liquidated

1 and not contingent shall be reduced by the amount, if any, that was paid by the Debtor prior to the
2 Effective Date including pursuant to orders of the Court. To the extent such payments are not
3 reflected in the Schedules, such Schedules will be deemed amended and reduced to reflect that such
4 payments were made.

5 **6.2 No Recourse to Liquidation Trustee**

6 Notwithstanding that the allowed Amount of any particular disputed Claim is reconsidered
7 under the applicable provisions of the Bankruptcy Code and Bankruptcy Rules or is allowed in an
8 amount for which there is insufficient Cash in the relevant fund or reserve to provide a recovery
9 equal to that received by other holders of allowed Claims in the relevant Class, no Claim holder shall
10 have recourse to the Debtor, the Liquidation Trust, the Liquidation Trustee, or any of their respective
11 professionals, or their successors or assigns, or the holder of any other Claim, or any of their
12 respective property. However, nothing in the Plan shall modify any right of a holder of a Claim
13 under section 502(o) of the Bankruptcy Code. **THUS, THE COURT'S ENTRY OF AN**
14 **ESTIMATION ORDER UNDER SECTION 502(c) OF THE BANKRUPTCY CODE MAY**
15 **LIMIT THE DISTRIBUTION TO BE MADE ON INDIVIDUAL DISPUTED CLAIMS,**
16 **REGARDLESS OF THE AMOUNT FINALLY ALLOWED ON ACCOUNT OF SUCH**
17 **DISPUTED CLAIMS.**

18 **6.3 Transmittal of Distributions and Notices**

19 Any property or notice which a Person is or becomes entitled to receive pursuant to the Plan
20 may be delivered by first class mail, postage prepaid, in an envelope addressed to that Person or
21 authorized agent at the address indicated on the latest notice of appearance or the latest proof of
22 claim or other paper filed by that Person or his authorized agent. Absent any of the foregoing, the
23 address set forth in the relevant Schedule of Assets and Liabilities for that Person may be used.
24 Property distributed in accordance with this Section shall be deemed delivered to such Person
25 regardless of whether such property is actually received by that Person.

26 **6.4 Unclaimed Property**

27 If any Distribution remains unclaimed for a period of 90 days after the relevant Distribution
28 Date to the holder of an allowed Claim entitled thereto, the Distribution shall constitute Unclaimed

1 Property and the holder shall no longer be entitled to that Distribution or any later Distributions. All
2 right, title and interest in and to Unclaimed Property shall immediately vest in the Liquidation Trust,
3 and such property shall be retained by the Liquidation Trust for distribution pursuant to the terms of
4 the Plan, subject, however, to the Liquidation Trustee's sole discretion to distribute Unclaimed
5 Property to holders entitled thereto if such holders are subsequently located.

6 **6.5 Withholding Taxes and Expenses of Distribution**

7 Any federal, state or local withholding taxes or other amounts required to be withheld under
8 applicable law shall be deducted from Distributions hereunder. All Persons holding Claims shall be
9 required to provide any information necessary to effect the withholding of such taxes, and the
10 Liquidation Trustee shall be authorized to withhold Distribution on such Claims until the requisite
11 information is received. If such information is not received within 180 days after the relevant
12 Distribution Date, the Unclaimed Property provisions of Section 6.5 shall apply. In such event, such
13 creditor will not be entitled to receive such Distribution. All Distributions under the Plan shall be net
14 of the actual and reasonable costs of making such Distributions and of any allocable fees or other
15 charges relating thereto.

16 **6.6 Disputed Payment**

17 If any dispute arises as to the identity of a holder of an allowed Claim who is to receive any
18 Distribution, the Liquidation Trustee may, in lieu of making such Distribution to such Person, make
19 such Distribution into an escrow account until the disposition thereof shall be determined by Court
20 order or by written agreement among the interested parties to such dispute.

21 **6.7 Distribution Record Date**

22 As of the close of business on the Distribution Record Date, the various transfer registers for
23 each of the Classes of Claims or Interests as maintained by the Debtor, or its agents, shall be closed,
24 and the Debtor or its agents shall not be required to make any further changes in the record holders
25 of any of the Claims or Interests. The Debtor or Liquidation Trustee shall have no obligation to
26 recognize any transfer of the Claims or Interests occurring on or after the Distribution Record Date.
27 The Liquidation Trustee and Debtor shall be entitled to recognize and deal for all purposes
28 hereunder only with those record holders stated on the transfer ledgers as of the close of business on

1 the Distribution Record Date, to the extent applicable.

2 **6.8 Setoffs**

3 Except as otherwise provided in the Plan, the Confirmation Order or in agreements
4 previously approved by Final Order of the Court, the Debtor or the Liquidation Trustee may,
5 pursuant to applicable law, set off against any Claim (for purposes of determining the allowed
6 amount of such Claim on which distribution shall be made and before any Distribution is made on
7 account of such Claim), any and all of the claims, rights and causes of action of any nature that the
8 Debtor, the Estate or the Liquidation Trust may hold against the holder of such Claim. Any and all
9 rights of setoff of the Debtor shall be transferred and assigned to the Liquidation Trust and be
10 enforceable by the Liquidation Trustee in the same manner and to the same extent that the Debtor
11 could have exercised such rights of setoff.

12 Neither the failure to effect such a setoff, the allowance of any Claim hereunder, any other
13 action or omission of the Debtor or the Liquidation Trust, nor any provision of the Plan shall
14 constitute a waiver or release by the Debtor or the Liquidation Trust of any such claims, rights and
15 causes of action that the Debtor or the Liquidation Trustee may possess against such holder. To the
16 extent the Debtor or the Liquidation Trustee fails to setoff against a creditor and seek to collect a
17 claim from such creditor after a Distribution to such creditor pursuant to the Plan, the Debtor or the
18 Liquidation Trustee, if successful in asserting such claim, shall be entitled to full recovery against
19 such creditor. The Liquidation Trustee may seek periodic Court approval for any such setoff or
20 setoffs.

21 **6.9 Miscellaneous Distribution Provisions**

22 **6.9.1 Method of Cash Distributions.**

23 Any Cash payment to be made by the Liquidation Trustee pursuant to the Plan will be in U.S.
24 dollars and may be made, at the sole discretion of the Liquidation Trustee, by draft, check, wire
25 transfer, or as otherwise required or provided in any relevant agreement or applicable law.

26 **6.9.2 Distributions on Non-Business Days.**

27 Any payment or Distribution due on a day other than a Business Day shall be made, without
28 interest, on the next Business Day.

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6.9.3 No Distribution in Excess of Allowed Amount of Claim.

Notwithstanding anything to the contrary herein, no holder of an allowed Claim shall receive in respect of such Claim any Distribution in excess of the allowed amount of such Claim. Except as otherwise expressly provided herein, no Claim shall be allowed nor Distribution made to the extent that it is for postpetition interest.

6.9.4 Minimum Distributions.

If a Distribution to be made to a given holder of an allowed Claim on or after the Effective Date or any subsequent Distribution Date would be \$25.00 or less in the aggregate, notwithstanding any contrary provision of the Plan, no such distribution will be made to such holder unless (except with respect to the final Distribution Date) a request therefor is made in writing to the Liquidation Trustee no later than thirty (30) days after the Distribution Date. Any unclaimed Distributions shall be retained by the Liquidation Trust for distribution pursuant to the terms of the Plan.

ARTICLE 7 -- EXECUTORY CONTRACTS AND UNEXPIRED LEASES

7.1 Assumption or Rejection of Executory Contracts and Unexpired Leases

On the Confirmation Date, all prepetition executory contracts and unexpired leases of the Estate that have not been assumed before such date shall be rejected by the Debtor under sections 365 and 1123 of the Bankruptcy Code, except any executory contract or unexpired lease that is the subject of a separate motion to assume or assume and assign filed pursuant to section 365 of the Bankruptcy Code by the Debtor before the entry of the Confirmation Order. Notwithstanding anything in the Plan to the contrary, no executory contract or unexpired lease shall be deemed assumed or rejected pursuant to the terms of this Article 7 if the Effective Date fails to occur for any reason.

ARTICLE 8-- EFFECT OF THE PLAN ON CLAIMS AND INTERESTS

8.1 Surrender of Securities and Cancellation of Existing Securities and/or Related Agreements

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1 **8.1.1** Surrender of Securities.

2 Each holder of any Claim against or Interest in the Debtor shall, to the extent not already in
3 the Debtor’s possession, surrender to the Liquidation Trustee any original note, instrument,
4 certificate, certificated security or other item evidencing such Claim, and provide copies of any
5 supporting agreement or other document. No Distribution hereunder shall be made to or on behalf of
6 any holder of a Claim unless and until such holder surrenders such items to the Liquidation Trustee,
7 or demonstrates the non-availability of such items to the satisfaction of the Liquidation Trustee,
8 including requiring such holder to post a lost instrument or other indemnity bond, among other
9 things, to hold the Debtor and the Liquidation Trustee harmless in respect of such instrument or
10 other item described above and any Distributions made in respect thereof. Any such holder that fails
11 to surrender such items described above or satisfactorily explain their non-availability to the
12 Liquidation Trustee within 180 days of the initial Distribution Date, or such later date as the
13 Liquidation Trustee may designate, shall be deemed to have no further Claim against the Debtor, the
14 Liquidation Trust or their property in respect of such Claim and shall not participate in any
15 Distribution under the Plan, and the Distribution that would otherwise have been made to such
16 holder shall be treated as Unclaimed Property. Notwithstanding the immediately preceding sentence,
17 any such holder of a disputed Claim shall not be required to surrender such items until the time such
18 Claim is allowed or disallowed.

19 **8.1.2** Cancellation of Existing Securities and/or Related Agreements.

20 Except for purposes of evidencing a right to Distributions under the Plan or otherwise
21 provided in the Plan, on the Effective Date, all agreements and other documents evidencing (i) any
22 Claims or rights of any holder of a Claim against or Interest in the applicable Debtor, and (ii) any
23 options or warrants to purchase Interests, obligating the applicable Debtor to issue, transfer or sell
24 Interests or any other capital stock of the applicable Debtor, shall be canceled and terminated and of
25 no further force or effect.

26 On the Effective Date, all shares of stock in ATI will be cancelled and will forever cease
27 trading on the NASDAQ OTC Bulletin Board (“OTCBB”) or any other securities exchange or
28 market. On or prior to the Effective Date, the Debtor intends to immediately file a Form 15 with the

1 SEC suspending the registration of ATI common stock under the Securities Exchange Act of 1934,
2 as amended, and the obligation to file periodic SEC reports.

3 **8.2 Releases, Exculpation, and Indemnification**

4 **8.2.1 Satisfaction of Claims and Interests in any Debtor.**

5 The treatment to be provided for respective allowed Claims against or Interests in the Debtor
6 pursuant to the Plan and the obligations of the Liquidation Trust to holders of Claims and Interests
7 shall be in full satisfaction, settlement and release of such respective Claims and Interests. Except as
8 otherwise expressly provided for herein, any claims of the Debtor or the Estate against holders of
9 any allowed Claims or Interests shall not be compromised.

10 **8.2.2 Release and Waiver of Claims.**

11 As of the Effective Date, for good and valuable consideration, the adequacy of which is
12 hereby acknowledged, the Debtor, on behalf of itself and the estate (*and by and on behalf of no other*
13 *person*), shall be, and is hereby, deemed to waive, release and discharge each Released Party of and
14 from any and all Claims, obligations, demands, actions, suits, judgments, damages, causes of action,
15 liabilities, costs, expenses and damages of any kind whatsoever, whether known or unknown,
16 foreseen or unforeseen, then existing or thereafter arising in law, equity or otherwise, in each case
17 arising out of or otherwise relating to any matter, fact, transaction, act or inaction which first arose
18 prior to the Effective Date, solely to the extent permissible pursuant to 11 U.S.C. § 524(e), and
19 *excepting* any Claim against any Released Party who is a current or former officer and/or director of
20 the Debtor: (a) for which coverage exists under the D&O Policy (up to the extent of that coverage or
21 the extent of any extra-contractual liability of the carriers to such Released Parties); or (b) brought
22 about or contributed to in fact by any (i) intentional, dishonest, fraudulent or criminal act or omission
23 or any willful violation of any statute, rule or law as determined by a final adjudication in the
24 underlying proceeding or in a separate action or proceeding; or (ii) profit or remuneration gained by
25 such Released Party to which such Released Party is not legally entitled as determined by a final
26 adjudication in the underlying proceeding or in a separate action or proceeding. Nothing in this
27 section, or otherwise, is intended to, or shall in any way, limit the right of any Released Party who is
28 a current or former director of officer of the Debtor to seek advancement by the carriers of the D&O

1 Policy of the fees, costs, and expenses of defending against any non-released Claim.

2 **8.2.3 Release of Liens and Perfection of Liens.**

3 Except as otherwise specifically provided in the Plan or in any agreement, instrument or
4 document created in connection with the Plan: (i) each holder of a judgment, personal property or ad
5 valorem tax, mechanics' or similar lien Claim, in each case regardless of whether such Claim is an
6 allowed Claim, shall, on or immediately before the Effective Date and regardless of whether such
7 Claim has been scheduled or proof of such Claim has been filed: (y) turn over and release to the
8 Estate or the Liquidation Trustee, as the case may be, any and all property of the Debtor or the Estate
9 that secures or purportedly secures such Claim, or such lien and/or Claim shall automatically, and
10 without further action by the Debtor, the Estate or Liquidation Trustee, be deemed released; and (z)
11 execute such documents and instruments as the Liquidation Trustee requires to evidence such Claim
12 holder's release of such property or lien, and if such holder refuses to execute appropriate documents
13 or instruments the Liquidation Trustee may, in his/her discretion, file a copy of the Confirmation
14 Order which shall serve to release any Claim holder's rights in such property; and (ii) on the
15 Effective Date, all right, title and interest in such property shall revert to the Debtor or the Estate or
16 be transferred to the Liquidation Trust, free and clear of all Claims and Interests, including, without
17 limitation, liens, escrows, charges, pledges, encumbrances and/or security interests of any kind.

18 Without limiting the automatic release provisions of the immediately preceding paragraph:
19 (i) no Distribution under the Plan shall be made to or on behalf of any Claim holder unless and until
20 such holder executes and delivers to the Debtor, the Estate or the Liquidation Trust (as applicable)
21 such release of liens or otherwise turns over and releases such Cash, pledge or other possessory
22 liens; and (ii) any such holder that fails to execute and deliver such release of liens within 180 days
23 of the Effective Date shall be deemed to have no Claim against the Debtor or the Estate or its assets
24 or property in respect of such Claim and shall not participate in any distribution hereunder.

25 **8.2.4 Indemnification.**

26 Notwithstanding anything to the contrary herein or otherwise, no Person shall have any right
27 to seek advancement or indemnification from the Debtor, the Estate, or the Liquidation Trustee for
28 any amounts relating to the non-released Claims. The Debtor shall not be permitted or required to

1 pay any amounts to any Person as advancement or indemnification relating to the non-Released
2 Claims. Such advancement or indemnification shall be sought solely from the carriers of the D&O
3 Policy. Unless otherwise ordered by the Court (which order may be entered at any time), no entity
4 shall be required to reserve for any such obligations and such obligations shall be terminated and
5 discharged upon the closing of this Case. Moreover, nothing contained herein shall elevate the
6 priority of any indemnification claim from a General Unsecured Claim to an Administrative Claim.

7 **8.2.5 Exculpation and Limitation of Liability.**

8 As of the Effective Date, no Released Party shall have or incur any liability for, and are
9 expressly exculpated and released from, any Claims (including without limitation, any Claims
10 whether known or unknown, foreseen or unforeseen, then existing or thereafter existing in law,
11 equity, or otherwise) for any past or present actions taken or omitted to be taken under or in
12 connection with, related to, effecting, or arising out of such services rendered in connection with this
13 Bankruptcy Case as necessary to protect the Debtor and the administration of the Estate, including
14 the following: (i) the commencement and administration of this Chapter 11 Case; (ii) the operation
15 of the Debtor during the pendency of the Chapter 11 Case; (iii) formulating, preparing,
16 disseminating, implementing, confirming, consummating or administrating the Plan (including
17 soliciting acceptances or rejections thereof; (iv) the Disclosure Statement or any contract,
18 instrument, release or other agreement or document entered into or any action taken or omitted to be
19 taken in connection with the Plan; or (v) any Distributions made pursuant to the Plan, except only for
20 actions or omissions to act to the extent determined by a court of competent jurisdiction (in a Final
21 Order) to be by reason of such party's gross negligence, willful misconduct, or fraud, and in all
22 respects, such party shall be entitled to rely upon the advice of counsel with respect to its duties and
23 responsibilities in connection with the foregoing. It being expressly understood that any act or
24 omission with the approval of the Bankruptcy Court will be conclusively deemed not to constitute
25 gross negligence, willful misconduct, or fraud unless the approval of the Bankruptcy Court was
26 obtained by fraud or misrepresentation.

27 **8.2.6 Direct Claims.**

28 Notwithstanding anything herein or otherwise to the contrary, the Plan shall in no manner act

1 or be construed to waive, release or enjoin any direct, non-derivative claims or actions held by a
2 non-Debtor against any third party including, without limitation, any Released Party based upon any
3 act or occurrence, or failure to act, taking place prior to the Petition Date.

4 **ARTICLE 9--CONDITIONS TO CONFIRMATION AND CONSUMMATION**

5 **9.1 Conditions to Consummation**

6
7 The Plan may not be consummated, and the Effective Date shall not occur, unless and until
8 each of the conditions set forth below is satisfied. Except as provided in Section 9.2, any one or
9 more of the following conditions may be waived:

- 10 1. The Lenders have reviewed and approved of the proposed Confirmation Order;
- 11 2. The Confirmation Order shall have become a Final Order;
- 12 3. The Wind-down Budget is completed; and
- 13 4. The Debtor and/or Liquidation Trust have sufficient Cash on hand (or investments
14 projected by the Debtor to provide timely Cash) to make timely Distributions sufficient (including
15 allocating Cash to reserves as provided in the Plan) to make payments in respect of all allowed
16 Administrative Claims, and allowed Fee Claims required as of the initial Distribution Date.

17 **9.2 Waiver of Conditions to Consummation**

18 Other than the requirement that the Confirmation Order must have become a Final Order and
19 the Debtor and/or Liquidation Trust must have sufficient Cash on hand, none of which can be
20 waived, the requirement that a particular condition be satisfied may be waived in whole or part by
21 consent of the Debtor, after consulting with KeyBank, without notice or hearing.

22 **9.3 Effect of Nonoccurrence of the Conditions to Consummation**

23 If each of the conditions to consummation and the occurrence of the Effective Date has not
24 been satisfied or duly waived thirty (30) days after the Confirmation Date, or such later date as shall
25 be agreed by the Debtor, after consulting with KeyBank, the Confirmation Order may be vacated by
26 the Court. If the Confirmation Order is vacated, the Plan shall be null and void in all respects, and
27 nothing contained in the Plan shall constitute a waiver or release of any Claims by or against, or
28 Interests in, the Debtor.

1 **ARTICLE 10--RETENTION OF JURISDICTION**

2 Notwithstanding confirmation of the Plan or occurrence of the Effective Date, the Court shall
3 retain such jurisdiction as is legally permissible, including, without limitation, for the following
4 purposes:

5 1. To determine the allowability, classification, or priority of Claims upon objection by
6 the Committee, the Debtor, the Liquidation Trustee or any other party in interest entitled to file an
7 objection, and the validity, extent, priority and nonavoidability of consensual and nonconsensual
8 liens and other encumbrances;

9 2. To issue injunctions or take such other actions or make such other orders as may be
10 necessary or appropriate to restrain interference with the Plan or its execution or implementation by
11 any Person, to construe and to take any other action to enforce and execute the Plan, the
12 Confirmation Order, or any other order of the Court, to issue such orders as may be necessary for the
13 implementation, execution, performance and consummation of the Plan and all matters referred to
14 herein, and to determine all matters that may be pending before the Court in the Chapter 11 Case on
15 or before the Effective Date with respect to any Person;

16 3. To protect the property of the Estate, including Litigation Causes of Action, from
17 claims against, or interference with, such property, including actions to quiet or otherwise clear title
18 to such property or to resolve any dispute concerning liens, security interest or encumbrances on any
19 property of the Estate;

20 4. To determine any and all applications for allowance of Fee Claims and any disputes
21 concerning post-Effective Date professional or other services to the extent not otherwise resolved;

22 5. To determine any Priority Claims, Administrative Claims or any other request for
23 payment of claims or expenses entitled to priority under section 507(a) of the Bankruptcy Code;

24 6. To resolve any dispute arising under or related to the implementation, execution,
25 consummation or interpretation of the Plan and the making of Distributions hereunder;

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27 ///

28 ///

1 7. To determine any and all motions related to the rejection, assumption or assignment
2 of executory contracts or unexpired leases, or to determine any motion to reject an executory
3 contract or unexpired lease pursuant to Section 7.1;

4 8. To determine all applications, motions, adversary proceedings, contested matters,
5 actions, and any other litigated matters instituted in the Chapter 11 Case, including any remands;

6 9. To modify the Plan under section 1127 of the Bankruptcy Code, remedy any defect,
7 cure any omission, or reconcile any inconsistency in the Plan or the Confirmation Order so as to
8 carry out their intent and purpose;

9 10. To issue orders in aid of consummation of the Plan and the Confirmation Order
10 notwithstanding any otherwise applicable non-bankruptcy law, with respect to any Person, to the full
11 extent authorized by the Bankruptcy Code;

12 11. To enable the Liquidation Trustee to prosecute any and all proceedings to set aside
13 liens or encumbrances and to recover any transfers, assets, properties or damages to which the
14 Debtor may be entitled under applicable provisions of the Bankruptcy Code or any other federal,
15 state or local laws except as may be waived pursuant to the Plan;

16 12. To determine any tax liability pursuant to section 505 of the Bankruptcy Code;

17 13. To enter and implement such orders as may be appropriate in the event the
18 Confirmation Order is for any reason stayed, revoked, modified or vacated;

19 14. To resolve any disputes concerning whether a Person had sufficient notice of the
20 Chapter 11 Case, the applicable Claims Bar Date, the hearing to consider approval of the Disclosure
21 Statement or the Confirmation Hearing or for any other purpose;

22 15. To resolve any dispute or matter arising under or in connection with any order of the
23 Court entered in the Chapter 11 Case;

24 16. To authorize sales of assets as necessary or desirable and resolve objections, if any, to
25 such sales;

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1 be a modification of the Plan.

2 **11.1.3 Post-confirmation/Pre-consummation Amendment Requiring Resolicitation.**

3 After the Confirmation Date and before substantial consummation of the Plan, the Debtor
4 (with the written consent of KeyBank) or the Liquidation Trustee may modify the Plan in a way that
5 materially or adversely affects the interests, rights, treatment, or Distributions of a Class of Claims or
6 Interests, provided that: (i) the Plan, as modified, meets applicable Bankruptcy Code requirements;
7 (ii) the Debtor (with the written consent of KeyBank) or the Liquidation Trustee obtains Court
8 approval for such modification, after notice and a hearing; (iii) such modification is accepted by at
9 least two-thirds in amount, and more than one-half in number, of allowed Claims or Interests voting
10 in each Class affected by such modification; and (iv) the Debtor or Liquidation Trustee comply with
11 the provisions of the Bankruptcy Code, including section 1125 of the Bankruptcy Code, with respect
12 to the Plan as modified.

13 **11.2 The Dissolution of the Committee**

14 On the Effective Date the Committee will be dissolved, and the members thereof and the
15 professionals retained by the Committee in accordance with section 1103 of the Bankruptcy Code
16 (including, without limitation, attorneys, investment advisors, accountants, and other professionals)
17 will be released and discharged from their respective fiduciary obligations, duties, and
18 responsibilities, except that the Committee shall continue to exist for purposes of: (i) prosecuting or
19 participating in any appeal of the Confirmation Order or any request for reconsideration thereof, and
20 (ii) enforcing compliance with this Plan and Confirmation Order by the Liquidation Trustee.

21 **11.3 Post-Effective Date Expenses**

22 The Liquidation Trustee is empowered to pay all professional fees and other allowable
23 expenses incurred from and after the Effective Date, and otherwise deal with the property of the
24 Estate and the Liquidation Trust, without the necessity of application to, or further order of, the
25 Court. However, the Court shall retain jurisdiction as provided in this Plan to resolve any relevant
26 disputes.

27 **11.4 Successors and Assigns**

28 The rights, benefits and obligations of any Person named or referred to in the Plan shall be

1 binding on, and shall inure to the benefit of, the heirs, executors, administrators, successors and/or
2 assigns of such Person.

3 **11.5 Governing Law**

4 Except to the extent that the Bankruptcy Code, Bankruptcy Rules or other federal laws apply,
5 the rights and obligations arising under this Plan shall be governed by and construed and enforced in
6 accordance with the laws of the State of California, without giving effect to principles of conflict of
7 laws.

8 **11.6 Courts of Competent Jurisdiction**

9 If the Court abstains from exercising, or declines to exercise, jurisdiction or is otherwise
10 without jurisdiction over any matter arising out of or related to this Plan, such abstention, refusal or
11 failure of jurisdiction shall have no effect upon and shall not control prohibit or limit the exercise of
12 jurisdiction by any other court having competent jurisdiction with respect to such matter.

13 **11.7 Corporate Action**

14 The dissolution of the Debtor and any other matters provided for under the Plan involving the
15 corporate or entity structure of the Debtor or corporate action, as the case may be, to be taken by or
16 required of the Debtor shall be deemed to have occurred and be effective upon the Effective Date as
17 provided herein and shall be authorized and approved in all respects, without any requirement of
18 further action by stockholders or directors of the Debtor or the Liquidation Trustee, as the case may
19 be.

20 **11.8 Effectuating Documents and Further Transactions**

21 The Debtor and the Liquidation Trustee shall be authorized to execute, deliver, file, or record
22 such documents, contracts, instruments, releases, and other agreements and take such other actions
23 as may be necessary or desirable to effectuate and further evidence the terms and conditions of the
24 Plan.

25 **11.9 Cram Down**

26 The Debtor requests confirmation of the Plan under section 1129(b) of the Bankruptcy Code
27 with respect to any Class that is deemed not to have accepted this Plan pursuant to section 1126(g) of
28 the Bankruptcy Code. The Debtor reserves the right to (i) request confirmation of this Plan under

1 section 1129(b) of the Bankruptcy Code with respect to any Class that does not accept this Plan
2 pursuant to section 1126 of the Bankruptcy Code and (ii) to modify this Plan to the extent, if any,
3 that confirmation of this Plan under section 1129(b) of the Bankruptcy Code requires modification.

4 **11.10 Confirmation Order and Plan Control**

5 To the extent the Confirmation Order and/or this Plan is inconsistent with the Disclosure
6 Statement, the Liquidation Trust Agreement, any other agreement entered into by or between the
7 Debtor and any third party, the Plan controls the Disclosure Statement and any such agreements, and
8 the Confirmation Order (and any later order of the Court) controls the Plan.

9 **11.11 Severability**

10 In the event that the Court determines, prior to the Confirmation Date, that any provision of this Plan
11 is invalid, void or unenforceable, the Court shall, with the consent of the Debtor, have the power to
12 alter and interpret such term or provision to make it valid or enforceable to the maximum extent
13 practicable, consistently with the original purpose of the term or provision held to be invalid, void or
14 unenforceable, and such term or provision shall then be applicable as altered or interpreted.
15 Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and
16 provisions of this Plan shall remain in full force and effect and shall in no way be affected, impaired
17 or invalidated by such holding, alteration or interpretation. The Confirmation Order shall constitute a
18 judicial determination and shall provide that each term and provision of this Plan, as it may have
19 been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its

20 **11.12 Rules of Construction**

21 **11.12.1 Undefined Terms.**

22 Any term used herein that is not defined herein shall have the meaning ascribed to any such term
23 used in the Bankruptcy Code and/or the Bankruptcy Rules, if used therein.

24 **11.12.2 Miscellaneous Rules.**

25 (a) The words "herein," "hereof," "hereunder," and other words of similar import
26 refer to this Plan as a whole, not to any particular section, subsection, or clause, unless the context
27 requires otherwise;

28

1 (b) the rules of construction set forth in section 102 of the Bankruptcy Code shall
2 apply, unless superseded herein or in the Confirmation Order;

3 (c) any reference in the Plan to an existing document or Exhibit means such
4 document or Exhibit as it may have been amended, restated, modified or supplemented as of the
5 Effective Date;

6 (d) in computing any period of time prescribed or allowed by the Plan, the
7 provisions of Bankruptcy Rule 9006(a) shall apply; and (v) whenever the Plan provides that a
8 payment or Distribution shall occur "on" any date, it shall mean "on, or as soon as reasonably
9 practicable after" such date.

10 **11.13** Notices

11 All notices or requests in connection with the Plan shall be in writing and deemed to have
12 been given five (5) Business Days after first-class mailing, one (1) Business Day after sending by
13 overnight courier, or on the first (1st) Business Day after facsimile or electronic transmission,
14 addressed to:

15 if to the Debtor:

16 Asyst Technologies, Inc.
17 P.O. Box 4118,
18 Santa Clara, CA 95056
19 Attn: Aaron Tachibana
20 Fax: (408) 329-7465
21 attachibana@asystinc.us

22 *with copies to:*

23 Baker & McKenzie, LLP
24 12544 High Bluff Drive, Third Floor
25 San Diego, CA 92130
26 Attn: Ali M.M. Mojdehi
27 Fax: (858) 259-8290
28 Ali.M.M.Mojdehi@bakernet.com

29 *-and-*

30 if to the Liquidation Trustee or the Liquidation Trust:

31 Dan Scouler, Liquidation Trustee
32 Asyst Technologies Liquidation Trust
33 c/o Scouler & Company
34 1800 Century Park East
35 Suite 600

1 Los Angeles, CA 90067
2 Fax: (310) 229-5799
3 dscouler@scouler.com

4 *with copies to:*
5 Kaye Scholer LLC
6 Three First National Plaza
7 70 West Madison Street
8 Suite 4100
9 Chicago, IL 60602
10 Fax: (312) 583-2360
11 Attn: Sheldon Solow
12 SSolow@kayescholer.com
13 Attn: Harold D. Israel
14 HIsrael@kayescholer.com

15 -and-

16 if to the Committee counsel:
17 Mette H. Kurth
18 Arent Fox LLP | Attorneys at Law
19 Gas Company Tower
20 555 West Fifth Street, 48th Floor
21 Los Angeles, CA 90013
22 Fax: 213.629.7401
23 kurth.mette@arentfox.com

24 **11.14 No Admissions**

25 Notwithstanding anything herein to the contrary, nothing contained in the Plan shall be
26 deemed an admission by the Debtor with respect to any matter set forth herein, including, without
27 limitation, liability on any Claim or the propriety of a Claim's classification.

28 Dated: December 23, 2009

BAKER & McKENZIE LLP

B\y: /s/ Ali M.M. Mojdehi

Ali M.M. Mojdehi
Janet D. Gertz
Counsel for Debtor
Asyst Technologies, Inc.