

12-22-2000

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U.S. DEPARTMENT OF COMMERCE  
Patent and Trademark Office

Tab settings → → → ▼



101559361

To the Honorable Commissioner of Patents

the attached original documents or copy thereof.

1. Name of conveying party(ies):

GA-TEK Inc.

2. Name and address of receiving party(ies):

Name: AMI Spingo, Inc.

Internal Address:

Additional name(s) of conveying party(ies) attached?

☐ Yes ☒ No

3. Nature of conveyance:

☒ Assignment

☐ Merger

☐ Security Agreement

☐ Change of Name

☐ Other

Street Address: 2300 Buckskin Road

City: Pocatello State: ID ZIP: 83201

Execution Date: July 29, 2000

Additional name(s) & address(es) attached? ☐ Yes ☒ No

4. Application number(s) or patent number(s):

If this document is being filed together with a new application, the execution date of the application is:

A. Patent Application No.(s)

B. Patent No.(s)

SEE SCHEDULE 1 ATTACHED

Additional numbers attached?

☒ Yes ☐ No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Mark Kusner

Internal Address: Mark Kusner Co., LPA

Street Address: Highland Place - Suite 310

6151 Wilson Mills Road

City: Highland Heights State: OH ZIP: 44143

6. Total number of applications and patents involved: 86

7. Total fee (37 CFR 3.41) ..... \$ 3,440.00

☒ Enclosed

☐ Authorized to be charged to deposit account

8. Deposit account number:

50-0537

(Attach duplicate copy of this page if paying by deposit account)

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9. Statement and signature.

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document.

Mark Kusner, Reg. No. 31,115

Name of Person Signing

Signature

November 30, 2000

Date

Total number of pages including cover sheet, attachments, and document: 61

Mail documents to be recorded with required cover sheet information to:  
Commissioner of Patents & Trademarks, Box Assignments  
Washington, D.C. 20231

(Form PTO-1595-Recordation Form Cover Sheet - page 1 )

PATENT  
REEL: 011369 FRAME: 0264

# SCHEDULE 1

## U.S. PATENTS

Country: United States of America

Patent No.	Title	Issue Date
4320347	SWITCHED CAPACITOR COMPARATOR	16-Mar-1982
4344050	DUAL CHANNEL DIGITALLY SWITCHED CAPACITOR FILTER	10-Aug-1982
4365204	OFFSET COMPENSATION FOR SWITCHED CAPACITOR INTEGRATORS	21-Dec-1982
4370192	APPARATUS FOR CHEMICAL ETCHING OF SILICON	25-Jan-1983
4377860	BANDWIDTH REDUCTION METHOD AND STRUCTURE FOR COMBINING VOICE AND DATA IN A PCM CHANNEL	22-Mar-1983
4393351	OFFSET COMPENSATION FOR SWITCHED CAPACITOR INTEGRATORS	12-Jul-1983
4404525	SWITCHED CAPACITOR GAIN STAGE WITH OFFSET SWITCH FEEDTHROUGH CANCELLATION SCHEME	13-Sep-1983
4409726	METHOD OF MAKING WELL REGIONS FOR CMOS DEVICES	18-Oct-1983
4410904	NOTCHED CELL ROM	18-Oct-1983
4410964	TWO-PORT RANDOM ACCESS MEMORY	18-Oct-1983
4422155	MULTIPLIER/ADDER CIRCUIT	20-Dec-1983
4431971	DYNAMIC OPERATIONAL AMPLIFIER	14-Feb-1984
4431986	DIGITAL TO ANALOG AND ANALOG TO DIGITAL CONVERTERS WITH BIPOLAR OUTPUT SIGNALS	14-Feb-1984
4438354	MONOLITHIC PROGRAMMABLE GAIN INTEGRATOR STAGE	20-Mar-1984
4441082	SWITCHED CAPACITOR AUTOMATIC GAIN CONTROL LOOP	03-Apr-1984
4443717	HIGH RESOLUTION FAST DIODE CLAMPED COMPARATOR	17-Apr-1984
4450021	MASK DIFFUSION PROCESS FOR FORMING ZENER DIODE OR COMPLEMENTARY FIELD EFFECT TRANSISTORS	22-May-1984
4460874	REFERENCE VOLTAGE CIRCUIT INCLUDING A THREE-TERMINAL OPERATIONAL AMPLIFIER WITH OFFSET COMPENSATION	17-Jul-1984

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4466172	METHOD FOR FABRICATING MOS DEVICE WITH SELF-ALIGNED CONTACTS	21-Aug-1984
4468798	DUAL CHARGE PUMP ENVELOPE GENERATOR	28-Aug-1984
4470126	PROGRAMMABLE TRANSVERSAL FILTER	04-Sep-1984
4475170	PROGRAMMABLE TRANSVERSAL FILTER	02-Oct-1984
4490629	HIGH VOLTAGE CIRCUITS IN LOW VOLTAGE CMOS PROCESS	25-Dec-1984
4513494	LATE MASK PROCESS FOR PROGRAMMING READ ONLY MEMORIES	30-Apr-1985
4521907	MULTIPLIER/ADDER CIRCUIT	04-Jun-1985
4526665	METHOD OF DEPOSITING FULLY REACTED TITANIUM DISILICIDE THIN FILMS	02-Jul-1985
4533876	DIFFERENTIAL OPERATIONAL AMPLIFIER WITH COMMON MODE FEEDBACK	06-Aug-1985
4534544	LIFT	13-Aug-1985
4540607	SELECTIVE LPCVD TUNGSTEN DEPOSITION BY THE SILICON REDUCTION METHOD	10-Sep-1985
4540949	REFERENCE VOLTAGE CIRCUIT INCLUDING A THREE-TERMINAL OPERATIONAL AMPLIFIER WITH OFFSET COMPENSATION	10-Sep-1985
4541067	COMBINATIONAL LOGIC STRUCTURE USING PASS TRANSISTORS	10-Sep-1985
4541103	DIGITALLY CONTROLLED SYLLABIC FILTER FOR A DELTA MODULATOR	10-Sep-1985
4554508	CARRIER DETECTION CIRCUIT	19-Nov-1985
4555668	GAIN AMPLIFIER	26-Nov-1985
4566064	COMBINATIONAL LOGIC STRUCTURE USING PASS TRANSISTORS	21-Jan-1986
4580065	SINGLE-SHOT CIRCUIT HAVING PROCESS INDEPENDENT DUTY CYCLE	01-Apr-1986
4582559	METHOD OF MAKING THIN FREE STANDING SINGLE CRYSTAL FILMS	15-Apr-1986
4590440	PHASE LOCKED LOOP WITH HIGH AND/OR LOW FREQUENCY LIMIT DETECTORS FOR PREVENTING FALSE LOCK ON HARMONICS	20-May-1986
4590457	DIGITAL TO ANALOG CONVERTER UTILIZING PULSE WIDTH MODULATION	20-May-1986
4594577	CURRENT MIRROR DIGITAL TO ANALOG CONVERTER	10-Jun-1986

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4596954	FREQUENCY DOUBLER WITH 50% DUTY CYCLE OUTPUT SIGNAL	24-Jun-1986
4622648	COMBINATIONAL LOGIC STRUCTURE USING PASS TRANSISTORS	11-Nov-1986
4629909	FLIP-FLOP FOR STORING DATA ON BOTH LEADING AND TRAILING EDGES OF CLOCK SIGNAL	16-Dec-1986
4631429	HIGH VOLTAGE COMPRESSING INPUT BUFFER	23-Dec-1986
4633220	DECODER USING PASS-TRANSISTOR NETWORKS	30-Dec-1986
4635002	METAL OXIDE SEMICONDUCTOR LOGARITHIC VOLTAGE CONTROLLED OSCILLATOR	06-Jan-1987
4636654	GAAS DIFFERENTIAL LINE RECEIVER WITH POSITIVE FEEDBACK	13-Jan-1987
4636721	METHOD AND STRUCTURE FOR TESTING HIGH VOLTAGE CIRCUITS	13-Jan-1987
4644504	PROGRAMMABLE CMOS CIRCUIT FOR USER DEFINED CHIP ENABLE AND OUTPUT ENABLE	17-Feb-1987
4657172	APPARATUS AND METHOD OF SOLDER COATING INTEGRATED CIRCUIT LEADS	14-Apr-1987
4673933	SWITCH MATRIX ENCODING INTERFACE USING COMMON INPUT/OUTPUT PARTS	16-Jun-1987
4680485	QUAD-STATE CONTROL SIGNAL INPUT CIRCUIT	14-Jul-1987
4697332	METHOD OF MAKING TRI-WELL CMOS BY SELF-ALIGNED PROCESS	06-Oct-1987
4698617	ROM PROTECTION SCHEME	06-Oct-1987
4698662	NEW MULTICHIP THIN FILM MODULE	06-Oct-1987
4705606	THIN-FILM ELECTRICAL CONNECTIONS FOR INTEGRATED CIRCUITS	10-Nov-1987
4712061	SMALL PROPAGATION DELAY MEASUREMENT FOR DIGITAL LOGIC	08-Dec-1987
4714901	TEMPERATURE COMPENSATED COMPLEMENTARY METAL-INSULATOR-SEMICONDUCTOR OSCILLATOR	22-Dec-1987
4716586	STATE SEQUENCE DEPENDENT READ ONLY MEMORY	29-Dec-1987
4717868	UNIFORM INTENSITY MULTIPLE L.E.D. DRIVER CIRCUIT	05-Jan-1988
4720034	APPARATUS AND METHOD OF SOLDER COATING INTEGRATED CIRCUIT LEADS	19-Jan-1988
4754167	PROGRAMMABLE REFERENCE VOLTAGE GENERATOR FOR A READ ONLY MEMORY	28-Jun-1988

Patent No.	Title	Issue Date
4756080	METAL FOIL SEMICONDUCTOR INTERCONNECTION METHOD	12-Jul-1988
4757359	THIN OXIDE FUSE	12-Jul-1988
4764691	CMOS PROGRAMMABLE LOGIC ARRAY USING NOR GATES FOR CLOCKING	16-Aug-1988
4789798	ECL TO GAAS LOGIC CONVERSION CIRCUIT WITH POSITIVE FEEDBACK	06-Dec-1988
4807972	TEMPERATURE COMPENSATING DRIVER FOR A LIQUID CRYSTAL DISPLAY	28-Feb-1989
4853759	INTEGRATED CIRCUIT FILTER WITH REDUCED DIE AREA	01-Aug-1989
4877976	CASCADE FET LOGIC CIRCUITS	31-Oct-1989
4894565	ASYNCHRONOUS DIGITAL ARBITER	16-Jan-1990
4996584	THIN-FILM ELECTRICAL CONNECTIONS FOR INTEGRATED CIRCUITS	26-Feb-1991
5170078	HIGHLY STABLE HIGH-VOLTAGE OUTPUT BUFFER USING CMOS TECHNOLOGY	08-Dec-1992
5179297	CMOS SELF-ADJUSTING BIAS GENERATOR FOR HIGH VOLTAGE DRIVERS	12-Jan-1993
5521556	FREQUENCY CONVERTER UTILIZING A FEEDBACK CONTROL LOOP	28-May-1996
5552748	DIGITALLY-TUNED OSCILLATOR INCLUDING A SELF-CALIBRATING RC OSCILLATOR CIRCUIT	03-Sep-1996
5585765	LOW POWER RC OSCILLATOR USING A LOW VOLTAGE BIAS CIRCUIT	17-Dec-1996
5589802	CIRCUIT FOR DETECTING THE ABSENCE OF AN EXTERNAL COMPONENT	31-Dec-1996
5594388	SELF-CALIBRATING RC OSCILLATOR	14-Jan-1997
5617062	TIMING CIRCUIT WITH RAPID INITIALIZATION ON POWER-UP	01-Apr-1997
5638029	CIRCUIT FOR EXTERNALLY OVERDRIVING AN INTERNAL CLOCK	10-Jun-1997
5663675	MULTIPLE STAGE TRACKING FILTER USING A SELF-CALIBRATING RC OSCILLATOR CIRCUIT	02-Sep-1997
5682353	SELF ADJUSTING SENSE AMPLIFIER CLOCK DELAY CIRCUIT	28-Oct-1997
5683925	MANUFACTURING METHOD FOR ROM ARRAY WITH MINIMAL BAND-TO-BAND TUNNELING	04-Nov-1997

<u>Patent No.</u>	<u>Title</u>	<u>Issue Date</u>
5838046	OPERATING METHOD FOR ROM ARRAY WHICH MINIMIZES BAND-TO-BAND TUNNELING	17-Nov-1998
5838168	3V/5V INPUT BUFFER	17-Nov-1998
5923609	STROBED WORDLINE DRIVER FOR FAST MEMORIES	13-Jul-1999

# ASSIGNMENT OF INTELLECTUAL PROPERTY

**"ASSIGNOR"**: GA-TEK Inc., an Ohio corporation

**"ASSIGNEE"**: AMI Spinco, Inc., a Delaware corporation

This ASSIGNMENT OF INTELLECTUAL PROPERTY is executed and delivered as of July 29, 2000, by ASSIGNOR, in favor of ASSIGNEE.

## RECITALS

ASSIGNOR and ASSIGNEE have entered into a Separation Agreement dated July 29, 2000 (the "*Separation Agreement*") pursuant to which, among other things, ASSIGNOR has agreed to transfer and assign the "*AMI Assets*" (as such term is defined in the Separation Agreement) to AMI subject to the terms and conditions set forth in the Separation Agreement.

## CERTAIN DEFINED TERMS

1. "*ASSIGNED SUBJECT MATTER*" is defined to include all intellectual property related to the "*AMI Business*" (as such term is defined in the Separation Agreement) in which ASSIGNOR has any right, title, or interest, including but not limited to all "*Patents*" (as hereinafter defined), all "*Marks*" (as hereinafter defined), all "*Copyrights*" (as hereinafter defined), all "*Mask Word Rights*" (as hereinafter defined), all "*Confidential Information*" (as hereinafter defined), and all "*Related Rights*" (as hereinafter defined).

2. "*Patents*" is defined to include all concepts, ideas, designs, inventions (whether patentable or not), techniques, all U.S. and foreign patent applications, and all U.S. and foreign patents, including but not limited to the items listed on **Schedule 1** attached hereto.

3. "*Marks*" is defined to include all words, names, logos, symbols, trade names, source indicating indicia, trade dress, trademarks, marks, U.S. and foreign applications to register marks, and U.S. and foreign registrations, including but not limited to the items listed on **Schedule 2** attached hereto, but shall not include the name "Gould" or variations thereof.

4. "*Copyrights*" is defined to include all copyrights, U.S. and foreign, whether registered or not, including but not limited to the copyrights in ASSIGNOR'S business documents and files, customer documents and files, product designs and packaging, advertising, promotional material, and products (whether developed or in development).

5. "*Mask Word Rights*" is defined as set forth in the Semiconductor Chip Protection Act of 1984 and the regulations promulgated thereunder, as each may be amended from time to time.

6. "*Confidential Information*" is defined to include, but not limited to, confidential information, financial information, member lists and information, marketing information, financial and technical trade secrets, techniques, processes, and know-how.

7. "*Related Rights*" is defined to include:

A. All goodwill of the business symbolized by the Marks:

B. All rights and causes of action to enforce the rights associated with each item of ASSIGNED SUBJECT MATTER in all countries, including all rights to claim and recover damages and compensation for past or continuing infringements of or violation of rights to any item of ASSIGNED SUBJECT MATTER in all relevant jurisdictions.

#### AGREEMENT

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, and as part of the transfer of certain business and assets to which the ASSIGNED SUBJECT MATTER is related, and for good and valuable consideration, the receipt of which from ASSIGNEE is hereby acknowledged, ASSIGNOR does hereby sell, assign, transfer and set over to the ASSIGNEE, its successors and assigns, the entire right, title and interest in and to each and every item of said ASSIGNED SUBJECT MATTER.

ASSIGNOR hereby covenants that ASSIGNOR has full right to convey the entire interest herein assigned and that ASSIGNOR has not executed and will not execute any agreement in conflict herewith.

ASSIGNOR hereby authorizes and requests the Commissioner of Patents and Trademarks of the United States to issue the ASSIGNED SUBJECT MATTER to the ASSIGNEE, its successors and assigns, in accordance with the terms of this instrument.

ASSIGNOR further agrees that it will communicate to ASSIGNEE any facts known to ASSIGNOR respecting the ASSIGNED SUBJECT MATTERS, and testify in any legal proceeding, sign all lawful papers, make all rightful oaths and declarations, and generally do everything reasonably possible to aid ASSIGNEE to perfect title to, and obtain and enforce in all countries the properties and rights which comprise the ASSIGNED SUBJECT MATTER.

IN WITNESS WHEREOF, ASSIGNOR has made this ASSIGNMENT OF INTELLECTUAL PROPERTY effective as of July 29, 2000.

**"ASSIGNOR"**

**GA-TEK INC.**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Accepted as of July 29, 2000.

**"ASSIGNEE"**

**AMI SPINCO, INC.**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_



B. All rights and causes of action to enforce the rights associated with each item of ASSIGNED SUBJECT MATTER in all countries, including all rights to claim and recover damages and compensation for past or continuing infringements of or violation of rights to any item of ASSIGNED SUBJECT MATTER in all relevant jurisdictions.

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IN WITNESS WHEREOF, ASSIGNOR has made this ASSIGNMENT OF INTELLECTUAL PROPERTY effective as of July 29, 2000.

"ASSIGNOR"

GA-TEK INC.

By: Michael C. Vexey  
 Name: Michael C. VEXEY  
 Title: General Manager

Accepted as of July 29, 2000.

"ASSIGNEE"

AMI SPINCO, INC.

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_

B. All rights and causes of action to enforce the rights associated with each item of ASSIGNED SUBJECT MATTER in all countries, including all rights to claim and recover damages and compensation for past or continuing infringements of or violation of rights to any item of ASSIGNED SUBJECT MATTER in all relevant jurisdictions.

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**"ASSIGNOR"**

**GA-TEK INC.**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Accepted as of July 29, 2000.

**"ASSIGNEE"**

**AMI SPINCO, INC.**

By:  \_\_\_\_\_

Name: Alfred B. Castleman

Title: Chief Financial Officer

# SCHEDULE 1

## U.S. PATENTS

Country: United States of America

Patent No.	Title	Issue Date
4320347	SWITCHED CAPACITOR COMPARATOR	16-Mar-1982
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5682353	SELF ADJUSTING SENSE AMPLIFIER CLOCK DELAY CIRCUIT	28-Oct-1997
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5838168	3V/5V INPUT BUFFER	17-Nov-1998
5923609	STROBED WORDLINE DRIVER FOR FAST MEMORIES	13-Jul-1999

#### FOREIGN PATENTS

**Country:** Austria

<b>Patent No.</b>	<b>Title</b>	<b>Issue Date</b>
0055902	BANDWIDTH REDUCTION METHOD AND STRUCTURE FOR COMBINING VOICE AND DATA IN A PCM CHANNEL	13-Mar-1985
0119716	DIGITALLY CONTROLLED SYLLABIC FILTER FOR A DELTA MODULATOR	18-Mar-1992
0190490	THIN-FILM ELECTRICAL CONNECTIONS FOR INTEGRATED CIRCUITS	14-Mar-1990

**Country:** Canada

<b>Patent No.</b>	<b>Title</b>	<b>Issue Date</b>
1150709	INTEGRATED CIRCUIT FILTER WITH REDUCED DIE AREA	07-Aug-1985
1157574	CMOS P WELL SELECTIVE IMPLANT METHOD	22-Nov-1983
1157922	SWITCHED CAPACITOR ELLIPTIC FILTER	29-Nov-1983
1159909	SWITCHED CAPACITOR INTERPOLATION FILTER	03-Jan-1984
1159910	SWITCHED CAPACITOR COSINE FILTER	03-Jan-1984
1160349	HIGH RESOLUTION FAST DIODE CLAMPED COMPARATOR	10-Jan-1984
1162667	BANDWIDTH REDUCTION METHOD AND STRUCTURE FOR COMBINING VOICE AND DATA IN A PCM CHANNEL	21-Feb-1984
1163311	SWITCHED CAPACITOR COMPARATOR	06-Mar-1984
1165887	USE OF SINGLE REFERENCE VOLTAGE FOR ANALOG TO DIGITAL OR DIGITAL TO ANALOG CONVERSION OF BIPOLAR SIGNALS	17-Apr-1984
1175908	OFFSET COMPENSATION FOR SWITCHED CAPACITOR INTEGRATORS	09-Oct-1984
1180398	SWITCHED CAPACITOR GAIN STAGE WITH OFFSET SWITCH FEED THROUGH CANCELLATION SCHEME	02-Jan-1985

Patent No.	Title	Issue Date
1180448	DUAL BANDWIDTH AUTOZERO LOOP FOR A VOICE FREQUENCY CODEC	02-Jan-1985
1184619	OFFSET COMPENSATION FOR SWITCHED CAPACITOR INTEGRATORS	26-Mar-1985
1186805	INSULATION PROCESS FOR INTEGRATED CIRCUITS	07-May-1985
1187950	MONOLITHIC PROGRAMMABLE GAIN INTEGRATOR STAGE	28-Feb-1985
1188424	MULTIPLIER/ADDER CIRCUIT	04-Jun-1985
1191972	HIGH VOLTAGE CIRCUITS IN LOW VOLTAGE CMOS PROCESS	13-Aug-1985
1192631	PROGRAMMABLE TRANSVERSAL FILTER	27-Aug-1985
1198227	MASK DIFFUSION PROCESS FOR FORMING ZENER DIODE OR COMPLEMENTARY FIELD EFFECT TRANSISTORS	17-Dec-1985
1203292	SWITCHED CAPACITOR AUTOMATIC GAIN CONTROL LOOP	15-Apr-1986
1204863	LATE MASK PROCESS FOR PROGRAMMING READ ONLY MEMORIES	20-May-1986
1206217	DIFFERENTIAL OPERATIONAL AMPLIFIER WITH COMMON MODE FEEDBACK	17-Jun-1986
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1218425	CARRIER DETECTION CIRCUIT	24-Feb-1987
1230425	DIGITALLY CONTROLLED SYLLABIC FILTER FOR A DELTA MODULATOR	15-Dec-1987
1234881	CARRIER DETECTION CIRCUIT	05-Apr-1988
1234920	ROM PROTECTION SCHEME	05-Apr-1988
1236220	MULTIPLEXER CIRCUITRY USING PASS TRANSISTOR	03-May-1988
1239707	METHOD OF MAKING TRI WELL CMOS BY SELF ALIGNED PROCESS	26-Jul-1988
1242771	COMBINATIONAL LOGIC STRUCTURE USING PASS TRANSISTORS	04-Oct-1988



Patent No.	Title	Issue Date
1250954	PROGRAMMABLE REFERENCE VOLTAGE GENERATOR FOR A READ ONLY MEMORY	07-Mar-1989
1278273	METHOD OF ELIMINATING TITANIUM SILICIDE PENETRATION INTO POLYSILICON DURING OXIDATION OF A POLYCIDAL STRUCTURE	27-Dec-1990

Country: France

Patent No.	Title	Issue Date
0031367	METHOD FOR FORMING VOLTAGE-INVARIANT CAPACITORS FOR MOS TYPE INTEGRATED CIRCUIT DEVICE UTILIZING OXIDATION AND REFLOW TECHNIQUES	27-Aug-1986
0037406	CMOS OPERATIONAL AMPLIFIER WITH REDUCED POWER DISSIPATION	23-May-1984
0047409	OFFSET COMPENSATION FOR SWITCHED CAPACITOR INTEGRATORS	12-Mar-1986
0054561	SWITCHED-CAPACITOR INTERPOLATION FILTER	16-Apr-1986
0055260	SWITCHED-CAPACITOR COSINE FILTER	25-Sep-1985
0055902	BANDWIDTH REDUCTION METHOD AND STRUCTURE FOR COMBINING VOICE AND DATA IN A PCM CHANNEL	13-Mar-1985
0060026	SWITCHED CAPACITOR GAIN STAGE WITH OFFSET SWITCH FEEDTHROUGH CANCELLATION SCHEME	03-Jul-1985
0072741	MONOLITHIC PROGRAMMABLE GAIN INTEGRATOR STAGE	10-Dec-1986
0077266	SWITCHED CAPACITOR AUTOMATIC GAIN CONTROL LOOP	08-Jan-1986
0078674	PROGRAMMABLE TRANSVERSAL FILTER	30-Mar-1988
0094234	COMBINATIONAL LOGIC STRUCTURE USING PASS TRANSISTORS	08-Mar-1989
0145101	CARRIER DETECTION CIRCUIT	11-Oct-1989
0165766	INTEGRATED CIRCUIT FILTER WITH REDUCED DIE AREA	30-Aug-1989
0182876	METHOD OF MAKING TRI-WELL CMOS BY SELF-ALIGNED PROCESS	24-Oct-1990
0190490	THIN-FILM ELECTRICAL CONNECTIONS FOR INTEGRATED CIRCUITS	14-Mar-1990
8020593	CMOS OPERATIONAL AMPLIFIER WITH IMPROVED FREQUENCY COMPENSATION	23-Mar-1990
8026565	SWITCHED-CAPACITOR ELLIPTIC FILTER	19-Sep-1988

**Country:** Germany

<b>Patent No.</b>	<b>Title</b>	<b>Issue Date</b>
0094234	COMBINATIONAL LOGIC STRUCTURE USING PASS TRANSISTORS	08-Mar-1989
0165766	INTEGRATED CIRCUIT FILTER WITH REDUCED DIE AREA	30-Aug-1989
0190490	THIN-FILM ELECTRICAL CONNECTIONS FOR INTEGRATED CIRCUITS	14-Mar-1990
3038773	METHOD FOR FORMING VOLTAGE-INVARIANT CAPACITORS FOR MOS TYPE INTEGRATED CIRCUIT DEVICE UTILIZING OXIDATION AND REFLOW TECHNIQUES	02-May-1985
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P3174055.3	OFFSET COMPENSATION FOR SWITCHED CAPACITOR INTEGRATORS	12-Mar-1986
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P3278302.7	PROGRAMMABLE TRANSVERSAL FILTER	30-Mar-1988
P3480153.7	CARRIER DETECTION CIRCUIT	11-Oct-1989
P3485583.1	DIGITALLY CONTROLLED SYLLABIC FILTER FOR A DELTA MODULATOR	18-Mar-1992
P3580247.2	METHOD OF MAKING TRI-WELL CMOS BY SELF-ALIGNED PROCESS	24-Oct-1990

**Country:** Italy

<b>Patent No.</b>	<b>Title</b>	<b>Issue Date</b>
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**Country:** Japan

<b>Patent No.</b>	<b>Title</b>	<b>Issue Date</b>
1543327	SWITCHED-CAPACITOR ELLIPTIC FILTER	15-Feb-1990
1593066	DUAL CHANNEL DIGITALLY SWITCHED CAPACITOR FILTER	14-Dec-1990
1662335	CMOS OPERATIONAL AMPLIFIER WITH REDUCED POWER DISSIPATION	19-May-1992
1677259	SWITCHED-CAPACITOR COSINE FILTER	13-Jul-1992
1754583	DIGITALLY CONTROLLED SYLLABIC FILTER FOR A DELTA MODULATOR	23-Apr-1993
1848503	METHOD OF MAKING TRI-WELL CMOS BY SELF-ALIGNED PROCESS	07-Jun-1994
1858587	GAIN AMPLIFIER	27-Jul-1994
1862666	TEMPERATURE COMPENSATING DRIVER FOR A LIQUID CRYSTAL DISPLAY	08-Aug-1994
1916710	PROGRAMMABLE REFERENCE VOLTAGE GENERATOR FOR A READ ONLY MEMORY	23-Mar-1995
1956027	INTEGRATED CIRCUIT FILTER WITH REDUCED DIE AREA	28-Jul-1995
1979718	CMOS PROGRAMMABLE LOGIC ARRAY USING NOR GATES FOR CLOCKING	17-Oct-1995
1980044	HIGH VOLTAGE CIRCUITS IN LOW VOLTAGE CMOS PROCESS	17-Oct-1995
2023754	TEMPERATURE COMPENSATED COMPLEMENTARY METAL-INSULATOR-SEMICONDUCTOR OSCILLATOR	26-Feb-1996
2124814	DIFFERENTIAL OPERATIONAL AMPLIFIER WITH COMMON MODE FEEDBACK	13-Jan-1997
2608062	THIN OXIDE FUSE	13-Feb-1997
2771272	ASYNCHRONOUS DIGITAL ARBITER	17-Apr-1998
2843320	FREQUENCY DOUBLER WITH 50% DUTY CYCLE OUTPUT SIGNAL	23-Oct-1998

**Country:** Korea

<b>Patent No.</b>	<b>Title</b>	<b>Issue Date</b>
050340	THIN OXIDE FUSE	30-Mar-1992
061044	APPARATUS AND METHOD OF SOLDER COATING INTEGRATED CIRCUIT LEADS	20-Nov-1992

Patent No.	Title	Issue Date
56837	CMOS PROGRAMMABLE LOGIC ARRAY USING NOR GATES FOR CLOCKING	27-Nov-1992
56838	TEMPERATURE COMPENSATED COMPLEMENTARY METAL-INSULATOR-SEMICONDUCTOR OSCILLATOR	27-Nov-1992

Country: Netherlands

Patent No.	Title	Issue Date
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0047409	OFFSET COMPENSATION FOR SWITCHED CAPACITOR INTEGRATORS	12-Mar-1986
0054561	SWITCHED-CAPACITOR INTERPOLATION FILTER	16-Apr-1986
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0078674	PROGRAMMABLE TRANSVERSAL FILTER	30-Mar-1988
0119716	DIGITALLY CONTROLLED SYLLABIC FILTER FOR A DELTA MODULATOR	18-Mar-1992
0165766	INTEGRATED CIRCUIT FILTER WITH REDUCED DIE AREA	30-Aug-1989
0182876	METHOD OF MAKING TRI-WELL CMOS BY SELF-ALIGNED PROCESS	24-Oct-1990
0190490	THIN-FILM ELECTRICAL CONNECTIONS FOR INTEGRATED CIRCUITS	14-Mar-1990
192,859	CMOS OPERATIONAL AMPLIFIER WITH IMPROVED FREQUENCY COMPENSATION	04-Mar-1998

Country: Philippines

Patent No.	Title	Issue Date
22688	APPARATUS AND METHOD OF SOLDER COATING INTEGRATED CIRCUIT LEADS	14-Nov-1988

**Country:** Sweden

<b>Patent No.</b>	<b>Title</b>	<b>Issue Date</b>
0037406	CMOS OPERATIONAL AMPLIFIER WITH REDUCED POWER DISSIPATION	23-May-1984
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0054561	SWITCHED-CAPACITOR INTERPOLATION FILTER	16-Apr-1986
0055260	SWITCHED-CAPACITOR COSINE FILTER	25-Sep-1985
0055902	BANDWIDTH REDUCTION METHOD AND STRUCTURE FOR COMBINING VOICE AND DATA IN A PCM CHANNEL	13-Mar-1985
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430287	CMOS OPERATIONAL AMPLIFIER WITH IMPROVED FREQUENCY COMPENSATION	09-Feb-1984
8104868-8	SWITCHED-CAPACITOR ELLIPTIC FILTER	01-Sep-1988

**Country:** United Kingdom

<b>Patent No.</b>	<b>Title</b>	<b>Issue Date</b>
0037406	CMOS OPERATIONAL AMPLIFIER WITH REDUCED POWER DISSIPATION	23-May-1984
0047409	OFFSET COMPENSATION FOR SWITCHED CAPACITOR INTEGRATORS	12-Mar-1986
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0055260	SWITCHED-CAPACITOR COSINE FILTER	25-Sep-1985
0055902	BANDWIDTH REDUCTION METHOD AND STRUCTURE FOR COMBINING VOICE AND DATA IN A PCM CHANNEL	13-Mar-1985
0060026	SWITCHED CAPACITOR GAIN STAGE WITH OFFSET SWITCH FEEDTHROUGH CANCELLATION SCHEME	03-Jul-1985
0072741	MONOLITHIC PROGRAMMABLE GAIN INTEGRATOR STAGE	10-Dec-1986
0077266	SWITCHED CAPACITOR AUTOMATIC GAIN CONTROL LOOP	08-Jan-1986
0078674	PROGRAMMABLE TRANSVERSAL FILTER	30-Mar-1988

<b>Patent No.</b>	<b>Title</b>	<b>Issue Date</b>
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0119716	DIGITALLY CONTROLLED SYLLABIC FILTER FOR A DELTA MODULATOR	18-Mar-1992
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0182876	METHOD OF MAKING TRI-WELL CMOS BY SELF-ALIGNED PROCESS	24-Oct-1990
0190490	THIN-FILM ELECTRICAL CONNECTIONS FOR INTEGRATED CIRCUITS	14-Mar-1990
2067014A	METHOD FOR FORMING VOLTAGE-INVARIANT CAPACITORS FOR MOS TYPE INTEGRATED CIRCUIT DEVICE UTILIZING OXIDATION AND REFLOW TECHNIQUES	15-Jun-1983
2071447	CMOS OPERATIONAL AMPLIFIER WITH IMPROVED FREQUENCY COMPENSATION	16-Jan-1985
2077071	SWITCHED-CAPACITOR ELLIPTIC FILTER	14-Dec-1983

**PENDING FOREIGN PATENT APPLICATIONS**

**Country:** Canada

<b>Appln. No.</b>	<b>Title</b>	<b>Filing Date</b>
490916	PROGRAMMABLE CMOS CIRCUIT FOR USER DEFINED CHIP ENABLE AND OUTPUT ENABLE	17-Sep-1985

**Country:** European Patent Office

<b>Appln. No.</b>	<b>Title</b>	<b>Filing Date</b>
85303591.3	ROM PROTECTION SCHEME	21-May-1985
99307348.5	ONE BIT DIGITAL PHASE SHIFT KEYED CARRIER RECOVERY AND DEMODULATOR CIRCUIT	16-Sep-1999

**Country:** Japan

<b>Appln. No.</b>	<b>Title</b>	<b>Filing Date</b>
128/82	BANDWIDTH REDUCTION METHOD AND STRUCTURE FOR COMBINING VOICE AND DATA IN A PCM CHANNEL	05-Jan-1982
129718/82	OFFSET COMPENSATION FOR SWITCHED CAPACITOR INTEGRATORS	27-Jul-1982
136427/82	MONOLITHIC PROGRAMMABLE GAIN INTEGRATOR STAGE	06-Aug-1982
140442/81	OFFSET COMPENSATION FOR SWITCHED CAPACITOR INTEGRATORS	08-Sep-1981
154011/81	SWITCHED CAPACITOR COMPARATOR	30-Sep-1981
176429/82	SWITCHED CAPACITOR AUTOMATIC GAIN CONTROL LOOP	08-Oct-1982
190690/82	PROGRAMMABLE TRANSVERSAL FILTER	29-Oct-1982
3-142145	CMOS SHUNT VOLTAGE REGULATOR	13-Jun-1991
32520/82	SWITCHED CAPACITOR GAIN STAGE WITH OFFSET SWITCH FEEDTHROUGH CANCELLATION SCHEME	03-Mar-1982
502130/81	SWITCHED-CAPACITOR INTERPOLATION FILTER	21-May-1981
52392/82	MULTIPLIER/ADDER CIRCUIT	01-Apr-1982
80255/83	COMBINATIONAL LOGIC STRUCTURE USING PASS TRANSISTORS	10-May-1983
90876/83	MULTIPLIER/ADDER CIRCUIT	25-May-1983

# SEPARATION AGREEMENT

BY AND BETWEEN

GA-TEK INC.

AND

AMI SPINCO, INC.

DATED AS OF

JULY 29, 2000



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<b>Exhibit F</b>	<b>Promissory Note (\$25 Million)</b>
<b>Exhibit G</b>	<b>Promissory Note (\$33 Million)</b>
<b>Exhibit H</b>	<b>Promissory Note (Revolving)</b>

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# SEPARATION AGREEMENT

THIS SEPARATION AGREEMENT (including all Exhibits and Schedules hereto, the "*Agreement*"), dated as of July 29, 2000, is by and between GA-TEK INC., an Ohio corporation ("*GTP*"), and AMI SPINCO, INC., a Delaware corporation ("*AMP*"). Capitalized terms used herein and not otherwise defined shall have the respective meanings assigned to them in Article 1 hereof.

WHEREAS, the Board of Directors of GTI has determined that it is in the best interests of GTI and its stockholders to (i) transfer certain assets to AMI that are related to the "American Microsystems" division of GTI and (ii) to cause AMI to assume certain liabilities that are related to such division, all as more fully described in this Agreement and the Ancillary Agreements (the "*Separation*");

WHEREAS, the Board of Directors of GTI has caused AMI to be formed as a Delaware corporation in anticipation of the Separation;

WHEREAS, the Board of Directors of GTI has further determined that it is in the best interests of GTI and its stockholders for GTI to receive shares of AMI Series A Preferred Stock as consideration for the transfer of assets to AMI, on the terms and conditions contemplated hereby;

WHEREAS, it is appropriate and desirable to set forth the principal corporate transactions required to effect the Separation and implement certain other agreements that will govern matters relating to the Separation and the relationship of GTI and AMI following the Separation.

NOW, THEREFORE, the parties, intending to be legally bound, agree as follows:

## ARTICLE 1

### DEFINITIONS

For the purpose of this Agreement the following terms shall have the following meanings:

1.1 "Action" means any demand, action, suit, countersuit, arbitration, inquiry, proceeding or investigation by or before any federal, state, local, foreign or international Governmental Authority or any arbitration or mediation tribunal.

1.2 "Affiliate" of any Person means a Person that controls, is controlled by, or is under common control with such Person. As used herein, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such entity, whether through ownership of voting securities or other interests, by contract or otherwise.

1.3 "AMI Assets" has the definition set forth in Section 2.2.

1.4 "AMI Business" means the business of operating the AMI Assets including, without limitation, the design, manufacture, marketing and/or sale of semiconductors and digital and mixed-signal application specific integrated circuits and the other business endeavors engaged in immediately prior to the Separation by GTI's "American Microsystems" division.

1.5 "AMI Charter" means the Certificate of Incorporation of AMI, as the same may be amended from time to time.

• **1.6** "AMI Common Stock" means the Common Stock, par value \$0.001 per share, of AMI, having the rights and privileges set forth in the AMI Charter.

**1.7** "AMI Group" means AMI and each Person (other than any member of the GTI Group) that is an Affiliate of AMI immediately after the Separation Date.

**1.8** "AMI Liabilities" has the definition set forth in Section 2.3.

**1.9** "AMI Policies" means all Policies, current or past, which are owned or maintained by or on behalf of GTI or any of its Affiliates or predecessors, which relate to the AMI Business but do not relate to the GTI Business and which Policies are either maintained by the GTI Group or assignable to the AMI Group.

**1.10** "AMI Series A Preferred Stock" means the Series A Preferred Stock, par value \$0.001 per share, of AMI, having the rights and privileges set forth in the AMI Charter.

**1.11** "Ancillary Agreements" means the Bill of Sale, Assumption Agreement, Intellectual Property Assignment, Transitional Services Agreement, Tax Sharing Agreement and Promissory Notes.

**1.12** "Assumption Agreement" means the Assumption Agreement of even date herewith by and between AMI and GTI in the form attached hereto as **Exhibit B**.

**1.13** "Bill of Sale" means the Bill of Sale of even date herewith by GTI in favor of AMI in the form attached hereto as **Exhibit A**.

**1.14** "Consents" means any consents, waivers or approvals from, or notification requirements to, any third parties.

**1.15** "Contingent Gain" means any claim or other right of GTI or AMI or any of their respective Affiliates, whenever arising, against any Person other than GTI, AMI or any of their respective Affiliates, if and to the extent that (i) such claim or right has accrued as of the Separation Date (based on then existing law) and (ii) the existence or scope of the obligation of such other Person as of the Separation Date was not acknowledged, fixed or determined in any material respect, due to a dispute or other uncertainty as of the Separation Date or as a result of the failure of such claim or other right to have been discovered or asserted as of the Separation Date. A claim or right meeting the foregoing definition shall be considered a "Contingent Gain" regardless of whether there was any Action pending, threatened or contemplated as of the Separation Date with respect thereto.

**1.16** "Contingent Liability" means any Liability, other than Liabilities for Taxes (which are governed by the Tax Agreement), of GTI, AMI or any of their respective Affiliates, whenever arising, to any Person other than GTI, AMI or any of their respective Affiliates, if and to the extent that (i) such Liability has accrued as of the Separation Date (based on then existing law) and (ii) the existence or scope of the obligation of GTI, AMI or any of their respective Affiliates as of the Separation Date with respect to such Liability was not acknowledged, fixed or determined in any material respect, due to a dispute or other uncertainty as of the Separation Date or as a result of the failure of such Liability to have been discovered or asserted as of the Separation Date (it being understood that the existence of a litigation or other reserve with respect to any Liability shall not be sufficient for such Liability to be considered acknowledged, fixed or determined).

• **1.17 "Governmental Approvals"** means any notices, reports or other filings to be made, or any consents, registrations, approvals, permits or authorizations to be obtained from, any Governmental Authority.

**1.18 "Governmental Authority"** shall mean any federal, state, local, foreign or international court, government, department, commission, board, bureau, agency, official or other regulatory, administrative or governmental authority.

**1.19 "GTI Business"** means the collective business of GTI, including the business of Gould Electronics, Inc., but excluding the AMI Business.

**1.20 "GTI Group"** means GTI and each Person (other than any member of the AMI Group) that is an Affiliate of GTI immediately after the Separation Date.

**1.21 "GTI Policies"** means all Policies, current or past, which are owned or maintained by or on behalf of GTI (or any of its affiliates or predecessors) which relate to the GTI Business but do not relate to the AMI Business.

**1.22 "Information"** means information, whether or not patentable or copyrightable, in written, oral, electronic or other tangible or intangible forms, stored in any medium, including studies, reports, records, books, contracts, instruments, surveys, discoveries, ideas, concepts, know-how, techniques, designs, specifications, drawings, blueprints, diagrams, models, prototypes, samples, flow charts, data, computer data, disks, diskettes, tapes, computer programs or other software, marketing plans, customer names, communications by or to attorneys (including attorney-client privileged communications), memos and other materials prepared by attorneys or under their direction (including attorney work product), and other technical, financial, employee or business information or data.

**1.23 "Insurance Proceeds"** means those monies:

- (a) received by an insured from an insurance carrier; or
- (b) paid by an insurance carrier on behalf of the insured; and

in either case net of any applicable premium adjustments (including reserves and retrospectively rated premium adjustments) and net of any costs or expenses (including allocated costs of in-house counsel and other personnel) incurred in the collection thereof.

**1.24 "Intellectual Property Assignment"** means the Assignment of Intellectual Property of even date herewith by GTI in favor of AMI in the form attached hereto as **Exhibit C**.

**1.25 "Liabilities"** means any and all losses, claims, charges, debts, demands, actions, causes of action, suits, damages, obligations, payments, costs and expenses, sums of money, accounts, reckonings, bonds, specialties, indemnities and similar obligations, exonerations, covenants, contracts, controversies, agreements, promises, doings, omissions, variances, guarantees, make whole agreements and similar obligations, and other liabilities, including all contractual obligations, whether absolute or contingent, matured or unmatured, liquidated or unliquidated, accrued or unaccrued, known or unknown, whenever arising, and including those arising under any law, rule, regulation, Action, threatened or contemplated Action (including the costs and expenses of demands, assessments, judgments, settlements and compromises relating thereto and attorneys' fees and any and all costs and expenses (including allocated costs of in-house counsel and other personnel), whatsoever reasonably incurred in investigating,



preparing or defending against any such Actions or threatened or contemplated Actions), order or consent decree of any Governmental Authority or any award of any arbitrator or mediator of any kind, and those arising under any contract, commitment or undertaking, including those arising under this Agreement or any Ancillary Agreement, in each case, whether or not recorded or reflected or required to be recorded or reflected on the books and records or financial statements of any Person.

**1.26 "Person"** means an individual, partnership, corporation (including a business trust), joint stock company, trust, unincorporated association, joint venture, limited liability company or other entity, or a government or any political subdivision or agency thereof.

**1.27 "Policies"** means insurance policies and insurance contracts of any kind relating to the AMI Business or the GTI Business as conducted prior to the Separation Date, including without limitation primary and excess policies, comprehensive general liability policies, and automobile and workers' compensation insurance policies, together with the rights, benefits and privileges thereunder, but excluding any self-insurance and captive insurance company arrangements.

**1.28 "Privileged Information"** means all Information as to which GTI, AMI or any of their Affiliates are entitled to assert the protection of a Privilege.

**1.29 "Privileges"** means all privileges that may be asserted under applicable law, including, without limitation, privileges arising under or relating to the attorney-client relationship (including but not limited to the attorney-client and work product privileges), the accountant-client privilege, and privileges relating to internal evaluative processes.

**1.30 "Promissory Notes"** means (i) the Promissory Note of even date herewith in the principal amount of \$25,000,000 payable by AMI to GTI in the form attached hereto as Exhibit F, (ii) the Promissory Note of even date herewith in the principal amount of \$33,000,000 payable by AMI to GTI in the form attached hereto as Exhibit G, and (iii) the Promissory Note of even date herewith in the principal amount of [\$\_,000,000] (subject to increase as provided therein) payable by AMI to GTI in the form attached hereto as Exhibit H.

**1.31 "Security Interest"** means any mortgage, security interest, pledge, lien, charge, claim, option, right to acquire, voting or other restriction, right-of-way, covenant, condition, easement, encroachment, restriction on transfer, or other encumbrance of any nature whatsoever.

**1.32 "Separation Date"** means 12:01 a.m., California time, on July 30, 2000 which shall be deemed the date on which the Separation of AMI from GTI is effective.

**1.33 "Shared Policies"** means all Policies, current or past, which are owned or maintained by or on behalf of GTI or its predecessors which relate to both the GTI Business and the AMI Business, and all other Policies not constituting GTI Policies or AMI Policies.

**1.34 "Subsidiary"** of any Person means any corporation or other organization whether incorporated or unincorporated of which at least a majority of the securities or interests having by the terms thereof ordinary voting power to elect at least a majority of the board of directors or others performing similar functions with respect to such corporation or other organization is directly or indirectly owned or controlled by such Person or by any one or more of its Subsidiaries, or by such Person and one or more of its Subsidiaries; provided, however that no Person that is not directly or indirectly wholly owned by any other Person shall be a Subsidiary of such other Person unless such other Person controls, or has the right, power or ability to control, that Person.

1.35 "Tax" (and, with correlative meanings, "Taxes" and "Taxable") means, without limitation, and as determined on a jurisdiction-by-jurisdiction basis, each foreign or U.S. federal, state, local or municipal income, alternative or add-on minimum, gross receipts, sales, use, ad valorem, transfer, franchise, profits, license, withholding, payroll, employment, excise, severance, stamp, occupation, premium, property or any other tax, custom, tariff, impost, levy, duty, governmental fee or other like assessment or charge of any kind whatsoever, together with any interest or penalty, addition to tax or additional amount related thereto, imposed by any taxing authority.

1.36 "Tax Agreement" means that certain Tax Sharing Agreement of even date herewith by and between GTI and AMI in the form attached hereto as Exhibit D.

1.37 "Services Agreement" means that certain Transitional Services Agreement of even date herewith by and between GTI and AMI in the form attached hereto as Exhibit E.

## ARTICLE 2

### THE SEPARATION

#### 2.1 Transfer of Assets and Assumption of Liabilities.

(a) **Transfer by GTI.** In consideration of the securities to be issued to GTI pursuant to Article 3, GTI hereby assigns, transfers, sells, conveys and delivers to AMI, and agrees to cause its Affiliates to assign, transfer, convey and deliver to AMI, and AMI hereby accepts from GTI and its Affiliates, all of GTI's and its Affiliates' respective right, title and interest in and to the AMI Assets (as defined in Section 2.2 below).

(b) **Assumption by AMI.** GTI hereby transfers, assigns and delegates to AMI, and in consideration of GTI's obligations under this Agreement (other than pursuant to Article 3), AMI hereby assumes and agrees to faithfully perform and fulfill all AMI Liabilities (as defined in Section 2.3 below), in accordance with their respective terms. Notwithstanding the foregoing, AMI shall not assume any Liability attributable to the failure of GTI or its officers, directors, employees, agents, Subsidiaries or other Affiliates to perform GTI's obligations to AMI pursuant to this Agreement or the Ancillary Agreements.

(c) **Transfers Not Effected On or Prior to the Separation Date.** To the extent any transfers contemplated by this Article 2 shall not have been fully effected on or prior to the Separation Date, GTI and AMI shall cooperate to effect such transfers as promptly as possible following the Separation Date. Nothing herein shall be deemed to require the transfer of any assets or the assignment or assumption of any Liabilities that by their terms or by operation of law cannot be so transferred, assigned or assumed; *provided, however*, that any such asset shall be deemed an AMI Asset for purposes of determining whether any Liability is an AMI Liability; and *provided, further*, that GTI and AMI and their respective Affiliates shall cooperate in seeking to obtain any necessary Consents for the transfer of all AMI Assets and the assignment or assumption of all AMI Liabilities as contemplated by this Article 2. In the event that at any time or from time to time (whether prior to or after the Separation Date) any party hereto (or any member of the GTI Group or AMI Group, as applicable), shall receive or otherwise possess an asset that is allocated to any other Person pursuant to this Agreement or any Ancillary Agreement, such party shall promptly transfer or cause to be transferred, such asset to such Person so entitled thereto. Prior to such transfer, the Person receiving or possessing such asset shall hold such asset in trust for such other Person (at the expense of the party entitled thereto). In the event that any assignment or assumption of Liabilities contemplated by this Article 2 has not been consummated effective as of the Separation

Daté, the party retaining such Liabilities shall thereafter hold such Liabilities for the account of the party assuming such Liability or to whom such Liability is to be assigned pursuant hereto, and in each such case shall take such other actions as may be reasonably required in order to place the parties, insofar as reasonably possible, in the same position as would have existed had such asset been transferred, or such Liability been assigned or assumed as contemplated hereby. As and when any such asset or Liability becomes transferable, assignable or assumable, as the case may be, such transfer, assignment or assumption, as the case may be, shall be effected forthwith.

(d) **Execution of Instruments of Conveyance.** In furtherance of the assignment, transfer and conveyance of the AMI Assets and the assumption of the AMI Liabilities set forth in Section 2.1(a) and (b), simultaneously with the execution and delivery hereof or as promptly as practicable thereafter, (i) GTI shall execute and deliver, and shall cause its Affiliates to execute and deliver, such bills of sale, stock powers, certificates of title, assignments of contracts and other instruments of transfer, conveyance and assignment as and to the extent necessary to evidence the transfer, conveyance and assignment of all of GTI's and its Affiliates' right, title and interest in and to the AMI Assets to AMI and (ii) AMI shall execute and deliver, to GTI such assumptions of contracts and other instruments of assumption as and to the extent necessary to evidence the valid and effective assumption of the AMI Liabilities by AMI.

**2.2 AMI Assets.** For the purpose of this Agreement, "**AMI Assets**" shall mean all of the properties, rights, interests and other tangible and intangible assets of GTI and/or its Affiliates, wherever located and whether or not required to be reflected on a balance sheet to be prepared in accordance with generally accepted accounting principles, which are related to the AMI Business, including, but not limited to, the following:

(a) the assets listed on Schedule A hereto;

(b) any and all assets that are expressly stated in this Agreement or any Ancillary Agreement (or the Schedules or Exhibits hereto or thereto) as assets to be assigned to AMI; and

(c) any and all Contingent Gains relating to the AMI Business or expressly assigned to AMI pursuant to this Agreement or any Ancillary Agreement.

Notwithstanding the foregoing, AMI Assets shall not include any of the following assets (the "**Excluded Assets**"):

(i) any and all assets that are expressly contemplated by this Agreement or any Ancillary Agreement (or the Schedules or Exhibits hereto or thereto), as assets to be retained by GTI or any other member of the GTI Group; or

(ii) any and all Contingent Gains relating to the GTI Business or expressly retained by GTI pursuant to this Agreement or any Ancillary Agreement.

**2.3 AMI Liabilities.** For the purposes of this Agreement, "**AMI Liabilities**" shall mean:

(a) the Liabilities listed on Schedule B hereto;

(b) any and all Liabilities that are expressly contemplated by this Agreement or any Ancillary Agreement (or the Schedules or Exhibits hereto or thereto) as Liabilities to be assumed by AMI, and all agreements, obligations and Liabilities of any member of the AMI Group expressly provided for under this Agreement or any of the Ancillary Agreements;

(c) all Liabilities (other than Taxes based on, or measured by reference to, net income, and other than liabilities expressly retained by GTI pursuant to this Agreement and/or the Ancillary Agreements), including any employee-related Liabilities and any Liabilities relating to environmental laws, rules and regulations of any jurisdiction, relating to the conduct of the AMI Business, including, but not limited to, the following:

(i) Liabilities relating to the operation of the AMI Business, as conducted at any time prior to, on or after the Separation (including any Liability relating to, any act or failure to act by any director, officer, employee, agent or representative following the Separation (whether or not such act or failure to act is or was within such Person's authority)); or

(ii) Liabilities relating to any AMI Asset (including, without limitation, any contract set forth on Schedule A-7); and

(d) all other Liabilities of AMI relating to AMI's performance of obligations expressly provided for under any Ancillary Agreement or this Agreement.

Notwithstanding the foregoing, the AMI Liabilities shall not include, and in no event shall AMI assume or be responsible for, the following Liabilities (the "*Excluded Liabilities*"):

(i) any and all Liabilities that are expressly contemplated by this Agreement or any Ancillary Agreement (or the schedules hereto or thereto) as Liabilities to be retained or assumed by GTI or any other member of the GTI Group, and all agreements and obligations of any member of the GTI Group under this Agreement or any of the Ancillary Agreements;

(ii) any and all Liabilities not relating to the AMI Business;

(iii) any and all Liabilities relating to any action taken by GTI or its Affiliates, or any failure on the part of GTI or its Affiliates to take any action, at any time following the Separation;

(iv) any and all Liabilities to any employee or former employee of GTI or its Affiliates under or with respect to any employee benefit plan, profit sharing plan or similar plan, other than as expressly contemplated by the Transitional Services Agreement; and

(v) any and all Liabilities for Taxes, other than as expressly contemplated by the Tax Agreement.

**2.4 Termination of Other Agreements.** Except with respect to this Agreement and the Ancillary Agreements (and agreements expressly contemplated herein or therein to survive by their terms), GTI and AMI (on their own behalf and on behalf of the members of the GTI Group and the AMI Group, respectively) hereby terminate, except to the extent the same are in writing and do not by their written terms terminate as a result of the Separation, any and all written or oral agreements, arrangements, commitments or understandings, between or among them, effective as of the Separation Date; and each party shall, at the reasonable request of any other party, take, or cause to be taken, such other actions as may be necessary to effect the foregoing.

**2.5 Disclaimer of Representations and Warranties.** (a) Each of GTI (on behalf of itself and each member of the GTI Group) and AMI (on behalf of itself and each member of the AMI Group) understands and agrees that, except as expressly set forth herein or in any Ancillary Agreement, no party

to this Agreement, any Ancillary Agreement or any other agreement or document contemplated by this Agreement, any Ancillary Agreement or otherwise, is representing or warranting in any way as to the assets, businesses or Liabilities transferred or assumed as contemplated hereby or thereby, as to any Consents or approvals required in connection therewith, as to the value or freedom from any Security Interests of, or any other matter concerning, any assets of such party, or as to the absence of any defenses or right of setoff or freedom from counterclaim with respect to any claim or other asset, including any accounts receivable, of any party, or as to the legal sufficiency of any assignment, document or instrument delivered hereunder to convey title to any asset or thing of value upon the execution, delivery and filing hereof or thereof. Except as may expressly be set forth herein or in any Ancillary Agreement, all such assets are being transferred on an "as is," "where is" basis (provided that the absence of the representations and warranties from the parties shall not negate the allocation of Liabilities under this Agreement and shall have no effect on any manufacturer's, seller's or other third party warranty that is intended to be transferred with such assets) and the respective transferees shall bear the economic and legal risks that any conveyance shall prove to be insufficient to vest in the transferee good and marketable title, free and clear of any Security Interest.

## **2.6 Governmental Approvals and Consents; Deferred Transfers**

(a) To the extent that the Separation requires any Governmental Approvals or Consents, the parties will use commercially reasonable efforts to obtain any such Governmental Approvals and Consents.

(b) If and to the extent that the valid, complete and perfected transfer or assignment (or novation of any government contract) to AMI of any AMI Assets would be a violation of applicable laws or require any Consent or Governmental Approval in connection with the Separation, then, unless GTI shall otherwise determine, the transfer or assignment to or from the AMI Group, as the case may be, of such AMI Assets or non-AMI Assets, respectively, shall be automatically deemed deferred and any such purported transfer or assignment shall be null and void until such time as all legal impediments are removed and/or each of such Consents or Governmental Approvals have been obtained.

(c) If the transfer or assignment of any assets intended to be transferred or assigned hereunder is not consummated prior to or at the Separation Date, whether as a result of the provisions of Section 2.6(b) or for any other reason, then the Person retaining such asset shall thereafter hold such asset for the use and benefit, insofar as reasonably possible, of the Person entitled thereto (at the expense of the Person entitled thereto).

(d) If and when such Consents and/or Governmental Approvals, or any other impediments to transfer, the absence of which caused the deferral of transfer of any asset pursuant to Section 2.6(b) or otherwise, are obtained or removed (as appropriate), the transfer of the applicable asset shall be effected in accordance with the terms of this Agreement and/or the applicable Ancillary Agreement.

(e) The Person retaining an asset due to the deferral of the transfer of such asset shall take such actions with respect to such asset as may be reasonably requested by the Person entitled to the asset, provided that such person retaining an asset shall not be obligated, in connection with the foregoing, to expend any money unless the necessary funds are advanced by the Person entitled to the asset, other than reasonable out-of-pocket expenses, attorneys' fees and recording or similar fees, all of which shall be promptly reimbursed by the Person entitled to such asset.

**2.7 Consents to Assumption of AMI Liabilities.** Each of GTI and AMI, at the request of the other, shall use its commercially reasonable efforts to obtain, or to cause to be obtained, any Consent,

substitution, approval or amendment required to assign all obligations under agreements, leases, licenses and other obligations or Liabilities of any nature whatsoever that constitute AMI Liabilities.

### ARTICLE 3

#### SALE OF SECURITIES

**3.1 Sale of Preferred Stock and Common Stock.** Concurrently with the execution and delivery of this Agreement, AMI shall sell to GTI, and GTI shall purchase from AMI, (i) 29,050,000 shares of AMI Series A Preferred Stock at a purchase price of \$13.0525 per share for an aggregate purchase price of \$379,175,000 and (ii) 100 shares of AMI Common Stock at a purchase price of \$3.50 per share for an aggregate purchase price of \$350 (collectively, (the "Purchase Price"). The Purchase Price shall be deemed paid by GTI in full in consideration of the receipt by AMI of the AMI Assets pursuant to Section 2.1 of this Agreement.

**3.2 Representations and Warranties of AMI.** AMI hereby represents and warrants as follows:

(a) AMI is a corporation duly organized, validly existing and in good standing under the laws of the State of Delaware and has all necessary power and authority to own and operate its properties and assets, and to carry on its business as presently conducted and as now proposed to be conducted. AMI has full power and authority to execute this Agreement and the Ancillary Agreements to which it is a party, and to consummate the Separation and the other transactions contemplated hereby and thereby. The execution and delivery by AMI of this Agreement and the Ancillary Agreements to which it is a party and the consummation of the Separation and the other transactions contemplated hereby and thereby have been duly authorized by all necessary corporate action of AMI. AMI has duly executed and delivered this Agreement and each Ancillary Agreement to which it is a party, and this Agreement and each Ancillary Agreement to which it is a party constitutes its legal, valid and binding obligation, enforceable against it in accordance with its terms except as enforcement may be limited by bankruptcy, insolvency or similar laws affecting creditors' rights generally or equitable principles relating to, or limiting, creditors' rights generally.

(b) The authorized capital stock of AMI consists of: (i) 75,000,000 shares of Common Stock, of which 100 shares have been issued and are outstanding as of the date of this Agreement (giving effect to the transactions contemplated hereby); (ii) 50,000,000 shares of Preferred Stock, of which (A) 29,050,000 have been designated "Series A Preferred Stock," of which 29,050,000 shares have been issued and are outstanding as of the date of this Agreement (giving effect to the transactions contemplated hereby); (B) 500 have been designated "Series B Preferred Stock," of which 500 shares have been issued and are outstanding as of the date of this Agreement (giving effect to the transactions contemplated hereby and (C) 5,000 have been designated "Series C Preferred Stock," of which 500 shares have been issued and are outstanding as of the date of this Agreement (giving effect to the transactions contemplated hereby). AMI has reserved 4,287,500 shares of AMI Common Stock for issuance under its 2000 Equity Incentive Plan.

(c) The AMI Series A Preferred Stock and AMI Common Stock to be purchased by GTI hereunder, when issued, sold and delivered in accordance with the terms of this Agreement for the consideration expressed herein, will be duly and validly issued, fully paid, and nonassessable. The AMI Common Stock issuable upon conversion of the AMI Series A Preferred Stock to be purchased by GTI under this Agreement has been duly and validly reserved for issuance and, upon issuance in accordance with the terms of the AMI Charter, will be duly and validly issued, fully paid, and nonassessable.

(d) The execution and delivery by AMI of this Agreement and of each Ancillary Agreement to which it is a party and the consummation of the other transactions contemplated hereby and thereby and compliance by AMI with the terms hereof and thereof do not conflict with, or result in any violation of or default (with or without notice or lapse of time, or both) under, or give rise to a right of termination, cancellation or acceleration of any obligation or to loss of a material benefit under or result in the creation of any Lien upon any of the properties or assets owned, held or used by AMI and related to the conduct of the AMI Business under, any provision of (i) the certificate of incorporation or bylaws of AMI or (ii) any judgment, order or decree of any Governmental Authority applicable to AMI or the properties or assets owned, held or used by AMI and related to the conduct of the AMI Business.

**3.3 Representations and Warranties of GTI.** GTI understands that the shares of AMI Series A Preferred Stock and AMI Common Stock to be issued under this Agreement have not been registered under the Securities Act of 1933, as amended (the "*Securities Act*"). GTI also understands that such shares are being offered and sold pursuant to an exemption from registration contained in the Securities Act based in part upon GTI's representations contained in the Agreement. GTI hereby represents and warrants as follows:

(a) GTI is an "accredited investor" within the meaning of Regulation D under the Securities Act.

(b) The shares to be acquired under this Agreement by GTI are being acquired by GTI for its own account, not as a nominee or agent, and not with a view to the sale or other disposition of any part thereof. GTI does not have any contract, undertaking, agreement or arrangement with any person to sell, transfer or grant participation to such person (or to any other person) with respect to any of the shares to be acquired under this Agreement.

(c) GTI acknowledges and agrees that the shares to be acquired under this Agreement must be held indefinitely unless they are subsequently registered under the Securities Act or an exemption from such registration is available.

(d) No consent, approval or authorization of or designation, declaration or filing with any Governmental Authority on the part of GTI is required in connection with the purchase of the shares hereunder.

**3.4 Market Stand-Off Agreement.** GTI hereby agrees that it shall not sell, transfer, make any short sale of, grant any option for the purchase of, or enter into any hedging or similar transaction with the same economic effect as a sale, any shares of AMI Series A Preferred Stock or AMI Common Stock (or other securities of AMI) held by GTI (other than those included in the registration) for a period specified by the managing underwriter of the AMI Common Stock (or other securities of AMI) following the effective date of a registration statement of AMI filed under the Securities Act; *provided that* (a) such period shall not exceed one hundred eighty (180) days and (b) all executive officers and directors of AMI enter into similar agreements. GTI agrees to execute and deliver such other agreements as may be reasonably requested by AMI or the underwriter which are consistent with the foregoing or which are necessary to give further effect thereto. In addition, if requested by AMI or the managing underwriter of the AMI Common Stock (or other securities of AMI), GTI shall provide, within ten (10) days of such request, such information as may be required by AMI or such representative in connection with the completion of any public offering of AMI's securities pursuant to a registration statement filed under the Securities Act. The obligations described in this Section 3.4 shall not apply to a registration relating solely to employee benefit plans on Form S-1 or Form S-8 or similar forms that may be promulgated in the future, or a registration relating solely to a Securities Act Rule 145 transaction on Form S-4 or similar forms that may be promulgated in the future. AMI may impose stop-transfer instructions with respect to

the shares of AMI Common Stock (or other securities of AMI) subject to the foregoing restriction until the end of said one hundred eighty (180) day period. GTI agrees that any transferee of any shares of AMI Series A Preferred Stock or AMI Common Stock (or other securities of AMI) held by GTI shall be bound by this Section 3.4.

## ARTICLE 4

### CONDITIONS PRECEDENT TO THE SEPARATION

**4.1 Conditions.** The following are conditions that must be satisfied prior to consummation of the Separation. The conditions are for the sole benefit of GTI and shall not give rise to or create any duty on the part of GTI or its Board of Directors to waive or not waive any such conditions.

(a) GTI and its Affiliates shall have executed and delivered to AMI such bills of sale, stock powers, certificates of title, assignments of contracts and other instruments of transfer, conveyance and assignment necessary to convey all right, title and interest in and to the AMI Assets to AMI.

(b) AMI and its Affiliates shall have executed and delivered to GTI such assumptions of contracts and other instruments of assumption as and to the extent necessary to evidence the valid and effective assumption of the AMI Liabilities by AMI.

(c) All Ancillary Agreements shall have been entered into by the respective parties thereto.

(d) AMI shall have issued the AMI Series A Preferred Stock and the AMI Common Stock pursuant to Section 3.1.

(e) AMI shall take all reasonable steps necessary and appropriate to cause the issuance or reservation for issuance of shares of AMI Common Stock as set forth in Section 3.2.

(f) GTI and AMI shall have take all such action as may be necessary or appropriate under the securities or blue sky laws of the United States (and any comparable laws under any foreign jurisdiction) in connection with the Separation and the issuance of the securities pursuant to Article 3.

(g) Any material Governmental Approvals and Consents necessary to consummate the Separation shall have been obtained and be in full force and effect.

## ARTICLE 5

### MUTUAL RELEASE AND INDEMNIFICATION

#### 5.1 Release of Claims.

(a) Except as provided in Section 5.1(c), to the extent permitted by law, effective as of the Separation Date, AMI does hereby, for itself and its Affiliates (other than any member of the GTI Group), their successors and assigns, and all Persons who at any time prior to the Separation Date have been directors, officers, agents or employees of AMI and its Affiliates (other than any member of the GTI Group) (in each case, in their respective capacities as such), remise, release and forever discharge GTI and each member of the GTI Group, their respective successors and assigns, and all Persons who at any



time prior to the Separation Date have been shareholders, directors, officers, agents or employees of GTI or any member of the GTI Group (in each case, in their respective capacities as such), and their respective heirs, executors, administrators, successors and assigns, from any and all Liabilities whatsoever, whether at law or in equity (including any right of contribution), whether arising under any contract or agreement, by operation of law or otherwise, existing or arising from any facts or events occurring or failing to occur or alleged to have occurred or to have failed to occur or any conditions existing or alleged to have existed on or before the Separation Date, including in connection with the transactions and all other activities to implement the Separation.

(b) Except as provided in Section 5.1(c), to the extent permitted by law, effective as of the Separation Date, GTI does hereby, for itself and its Affiliates (other than any member of the AMI Group), their successors and assigns, and all Persons who at any time prior to the Separation Date have been directors, officers, agents or employees of GTI and its Affiliates (other than any member of the AMI Group) (in each case, in their respective capacities as such), remise, release and forever discharge AMI and each member of the AMI Group, their respective successors and assigns, and all Persons who at any time prior to the Separation Date have been directors, officers, agents or employees of AMI or the division of GTI which operated the AMI Business (in each case, in their respective capacities as such), and their respective heirs, executors, administrators, successors and assigns, from any and all Liabilities whatsoever, whether at law or in equity (including any right of contribution), whether arising under any contract or agreement, by operation of law or otherwise, existing or arising from any facts or events occurring or failing to occur or alleged to have occurred or to have failed to occur or any conditions existing or alleged to have existed on or before the Separation Date, including in connection with the transactions and all other activities to implement the Separation.

(c) Nothing contained in Sections 5.1(a) or (b) shall negate the allocation of assets or Liabilities under this Agreement or otherwise impair any right of GTI (including, without limitation, on behalf of GTI's Affiliates), or AMI (including, without limitation, on behalf of any AMI's Affiliates) to enforce this Agreement, any Ancillary Agreement or any agreements, arrangements, commitments or understandings that are specified in Section 2.4 not to terminate as of the Separation Date, in each case in accordance with its terms. Without limiting the generality of the preceding sentence, nothing contained in Sections 5.1(a) and (b) shall release GTI or AMI, as applicable, from:

(i) any Liability provided in or resulting from this Agreement, any Ancillary Agreement and any other agreement between AMI or any member of the AMI Group, on the one hand, and GTI or any member of the GTI Group, on the other hand, that is specified in Section 2.4 as not to terminate as of the Separation Date, or any other Liability specified in Section 2.4 as not to terminate as of the Separation Date;

(ii) any Liability, contingent or otherwise, assumed, transferred or assigned to such Person in accordance with, or any other Liability of any Person under, this Agreement or any Ancillary Agreement;

(iii) any Liability that the parties may have with respect to indemnification or contribution pursuant to this Agreement or any Ancillary Agreement for claims brought against the parties by third Persons, which Liability shall be governed by the provisions of this Article 5 and, if applicable, the appropriate provisions of the Ancillary Agreements; or

(iv) any Liability for release of which would result in the release of any Person other than a Person expressly released pursuant to this Section 5.1; *provided* that the parties agree not to bring suit or permit any of their Subsidiaries to bring suit against any Person with respect to any

Liability to the extent that such Person would be released with respect to such Liability by this Section 5.1 but for the provision of this Subsection 5.1(c)(iv).

(d) AMI shall not make, and shall use its reasonable efforts to not permit any of member of the AMI Group, excepting natural Persons, to make, any claim or demand or commence any Action asserting any claim or demand, including any claim of contribution or indemnification, against GTI or any member of the GTI Group or any other Person released pursuant to Section 5.1(a), with respect to any Liabilities released pursuant to Section 5.1(a), except as permitted by Section 5.1 (c). GTI shall not make, and shall use its reasonable efforts to not permit any of member of the GTI Group, to make, any claim or demand or commence any Action asserting any claim or demand, including any claim of contribution or indemnification, against AMI or any member of the AMI Group or any other Person released pursuant to Section 5.1(b), with respect to any Liabilities released pursuant to Section 5.1(b), except as permitted by Section 5.1 (c).

**5.2 Indemnification by AMI.** Except as provided in Section 5.4, AMI shall indemnify, defend and hold harmless GTI, each member of the GTI Group and each of their respective directors and officers, and each of the heirs, executors, successors and assigns of any of the foregoing (collectively, the "*GTI Indemnitees*"), from and against any and all Liabilities of the GTI Indemnitees relating to, arising out of or resulting from any of the following items:

(a) the failure of AMI or any other member of the AMI Group to pay, perform or otherwise promptly discharge any AMI Liabilities in accordance with their respective terms after the Separation Date;

(b) any AMI Liability; and

(c) any breach of this Agreement or any of the Ancillary Agreements by AMI or any member of the AMI Group.

**5.3 Indemnification by GTI.** GTI shall indemnify, defend and hold harmless AMI, each member of the AMI Group and each of their respective directors and officers, and each of the heirs, executors, successors and assigns of any of the foregoing (collectively, the "*AMI Indemnitees*"), from and against any and all Liabilities of the AMI Indemnitees relating to, arising out of or resulting from any of the following items:

(a) the failure of GTI or any other member of the GTI Group to pay, perform or otherwise promptly discharge any Liabilities of the GTI Group other than the AMI Liabilities after the Separation Date;

(b) any Liability of the GTI Group; and

(c) any breach of this Agreement or any of the Ancillary Agreements by GTI or any member of the GTI Group.

#### **5.4 Indemnification Obligations Net of Insurance Proceeds and Other Amounts.**

(a) The parties intend that any Liability subject to indemnification or reimbursement pursuant to this Article 5 or Section 6.8 will be net of Insurance Proceeds that actually reduce the amount of the Liability. Accordingly, the amount which any party (an "*Indemnifying Party*") is required to pay to any Person entitled to indemnification hereunder (an "*Indemnitee*") will be reduced by any Insurance

Proceeds theretofore actually recovered by or on behalf of the Indemnatee in reduction of the related Liability. If an Indemnatee receives a payment (an "*Indemnity Payment*") required by this Agreement from an Indemnifying Party in respect of any Liability and subsequently receives Insurance Proceeds then the Indemnatee will pay to the Indemnifying Party an amount equal to the excess of the Indemnity Payment received over the amount of the Indemnity Payment that would have been due if the Insurance Proceeds recovery had been received, realized or recovered before the Indemnity Payment was made.

(b) In the case of any Contingent Liability, any Insurance Proceeds recovered by either party in respect of the Contingent Liability will be used to satisfy the Contingent Liability before the parties shall seek relief under this Article 5.

(c) An insurer who would otherwise be obligated to pay any claim shall not be relieved of the responsibility with respect thereto or, solely by virtue of the indemnification provisions hereof, have any subrogation rights with respect thereto, it being expressly understood and agreed that no insurer or any other third party shall be entitled to a "windfall" (i.e., a benefit they would not be entitled to receive in the absence of the indemnification provisions) by virtue of the indemnification provisions hereof. Notwithstanding the foregoing, each member of the GTI Group and AMI Group shall be required to use commercially reasonable efforts to collect or recover any available Insurance Proceeds.

## **5.5 Procedures For Indemnification Of Third Party Claims.**

(a) If an Indemnatee shall receive notice or otherwise learn of the assertion by a Person (including any Governmental Authority) who is not a member of the GTI Group or the AMI Group of any claim or of the commencement by any such Person of any Action (collectively, a "*Third Party Claim*") with respect to which an Indemnifying Party may be obligated to provide indemnification to such Indemnatee pursuant to Section 5.2 or 5.3, or any other Section of this Agreement or any Ancillary Agreement, such Indemnatee shall give such Indemnifying Party and each party to this Agreement written notice thereof within twenty (20) days after becoming aware of such Third Party Claim. Any such notice shall describe the Third Party Claim in reasonable detail. If any Person shall receive notice or otherwise learn of the assertion of a Third Party Claim which may reasonably be determined to be a shared Contingent Liability, such Person shall give each other party to this Agreement written notice thereof within 20 days after becoming aware of such Third Party Claim. Any such notice shall describe the Third Party Claim in reasonable detail. Notwithstanding the foregoing, the failure of any Indemnatee or other Person to give notice as provided in this Section 5.5(a) shall not relieve the related Indemnifying Party of its obligations under this Article 5, except to the extent that such Indemnifying Party is actually prejudiced by such failure to give notice.

(b) An Indemnifying Party may elect to defend, at such Indemnifying Party's own expense and by such Indemnifying Party's own counsel, any Third Party Claim; *provided that* if the defendants in any such claim include both the Indemnifying Party and one or more Indemnitees and in such Indemnitees' reasonable judgment a conflict of interest between such Indemnitees and such Indemnifying Party exists in respect of such claim, such Indemnitees shall have the right to employ separate counsel and in that event the reasonable fees and expenses of such separate counsel (but not more than one separate counsel reasonably satisfactory to the Indemnifying Party) shall be paid by such Indemnifying Party. Within 30 days after the receipt of notice from an Indemnatee in accordance with Section 5.5(a) (or sooner, if the nature of such Third Party Claim so requires), the Indemnifying Party shall notify the Indemnatee of its election whether the Indemnifying Party will assume responsibility for defending such Third Party Claim, which election shall specify any reservations or exceptions. After notice from an Indemnifying Party to an Indemnatee of its election to assume the defense of a Third Party Claim, such Indemnatee shall have the right to employ separate counsel and to participate in (but not control) the defense, compromise, or settlement thereof, but the fees and expenses of such counsel shall

be the expense of such Indemnitee except as set forth in the next sentence. In the event that the Indemnifying Party has elected to assume the defense of the Third Party Claim but has specified, and continues to assert, any reservations or exceptions in such notice, then, in any such case, the reasonable fees and expenses of one separate counsel for all Indemnitees shall be borne by the Indemnifying Party. If the Indemnifying Party assumes the defense of a Third-Party Claim, the Indemnifying Party may settle or compromise the claim without the prior written consent of the Indemnified Party; *provided* that without the prior written consent of GTI in the case of GTI Indemnitees, and AMI in the case of AMI Indemnitees, the Indemnifying Party may not agree to any such settlement unless a condition to such settlement the Indemnified Party receives a written full release from any and all Liability relating to such Third Party Claim and such settlement or compromise does not include any remedy or relief to be applied to or against the Indemnified Party, other than monetary damages for which the Indemnifying Party shall be responsible hereunder.

(c) If an Indemnifying Party elects not to assume responsibility for defending a Third Party Claim, or fails to notify an Indemnitee of its election as provided in Section 5.5(b), such Indemnitee may defend such Third Party Claim at the cost and expense of the Indemnifying Party.

(d) Unless the Indemnifying Party has failed to assume the defense of the Third Party Claim in accordance with the terms of this Agreement, no Indemnitee may settle or compromise any Third Party Claim without the consent of the Indemnifying Party.

(e) No Indemnifying Party shall consent to entry of any judgment or enter into any settlement of the Third Party Claim without the consent of the Indemnitee if the effect thereof is to permit any injunction, declaratory judgment, other similar order or other similar nonmonetary relief to be entered, directly or indirectly, against any Indemnitee.

(f) The provisions of Section 5.5 and Section 5.6 shall not apply to Taxes (which are covered by the Tax Agreement).

## **5.6 Additional Matters.**

(a) Any claim on account of a Liability which does not result from a Third Party Claim shall be asserted by written notice given by the Indemnitee to the related Indemnifying Party. Such Indemnifying Party shall have a period of 30 days after the receipt of such notice within which to respond thereto. If such Indemnifying Party does not respond within such 30-day period, such Indemnifying Party shall be deemed to have refused to accept responsibility to make payment. If such Indemnifying Party does not respond within such 30-day period or rejects such claim in whole or in part, such Indemnitee shall be free to pursue such remedies as may be available to such party as contemplated by this Agreement and the Ancillary Agreements.

(b) In the event of payment by or on behalf of any Indemnifying Party to any Indemnitee in connection with any Third Party Claim, such Indemnifying Party shall be subrogated to and shall stand in the place of such Indemnitee as to any events or circumstances in respect of which such Indemnitee may have any right, defense or claim relating to such Third Party Claim against any claimant or plaintiff asserting such Third Party Claim or against any other person. Such Indemnitee shall cooperate with such Indemnifying Party in a reasonable manner, and at the cost and expense of such Indemnifying Party, in prosecuting any subrogated right, defense or claim.

(c) In the event of an Action in which the Indemnifying Party is not a named defendant, if the Indemnifying Party shall so request, the parties shall endeavor to substitute the Indemnifying Party for the named defendant, or add the Indemnifying Party as a named defendant if at all

practicable. If such substitution or addition cannot be achieved for any reason or is not requested, the named defendant shall allow the Indemnifying Party to manage the Action as set forth in this section and subject to Section 5.5 with respect to Contingent Liabilities, the Indemnifying Party shall fully indemnify the named defendant against all costs of defending the Action (including court costs, sanctions imposed by a court, attorneys' fees and experts' fees), the costs of any judgment or settlement and the cost of any interest or penalties relating to any judgment or settlement.

**5.7 Survival Of Indemnities.** The rights and obligations of each of GTI and AMI and their respective Indemnitees under this Article 5 shall survive the sale or other transfer by any party of any Assets or businesses or the assignment by it of any Liabilities.

## **ARTICLE 6**

### **CERTAIN COVENANTS AND OTHER AGREEMENTS OF THE PARTIES**

**6.1 Competition.** No member of either the GTI Group or the AMI Group shall have any duty to refrain from (i) engaging in the same or similar activities or lines of business as any member of the other Group, (ii) doing business with any potential or actual supplier or customer of any member of the other Group, (iii) engaging in, or refraining from, any other activities whatsoever relating to any of the potential or actual suppliers or customers of any member of the other Group.

#### **6.2 Confidentiality.**

(a) Subject to Section 6.4, each of GTI and AMI agree to hold, and to cause its respective directors, officers, employees, agents, accountants, counsel and other advisors and representatives to hold, in strict confidence all Information concerning the other that is either in its possession as of the Separation Date or furnished by the other or its respective directors, officers, employees, agents, accountants, counsel and other advisors and representatives at any time pursuant to this Agreement, any Ancillary Agreement or otherwise, and shall not use any such Information other than for such purposes as shall be expressly permitted hereunder or thereunder, except, in each case, to the extent that such Information has been (i) in the public domain through no fault of such party or any member of the GTI Group or the AMI Group, as applicable, or any of their respective directors, officers, employees, agents, accountants, counsel and other advisors and representatives, (ii) later lawfully acquired from other sources by such party (or any member of the GTI Group or the AMI Group, as applicable) which sources are not themselves bound by a confidentiality obligation, or (iii) independently generated without reference to any proprietary or confidential Information of the other party.

(b) Each party agrees not to release or disclose, or permit to be released or disclosed, any such Information to any other Person, except its directors, officers, employees, agents, accountants, counsel and other advisors and representatives who need to know such Information (who shall be advised of their obligations hereunder with respect to such Information), except in compliance with Section 6.4. Without limiting the foregoing, when any Information is no longer needed for the purposes contemplated by this Agreement or any Ancillary Agreement, each party will promptly after request of the other party either return to the other party all Information in a tangible form (including all copies thereof and all notes, extracts or summaries based thereon) or certify to the other party that it has destroyed such Information (and such copies thereof and such notes, extracts or summaries based thereon).

(c) Notwithstanding any provision of this Article 6, nothing in this Article 6 shall prevent any party from disclosing any Information in connection with any filings made by the disclosing party with any Governmental Authority, including but not limited to the U.S. Securities and Exchange Commission.

6.3 **Protective Arrangements.** In the event that either party or any other respective member of the GTI Group or the AMI Group, as applicable, either (i) determines on the advice of its counsel that it is required to disclose any Information pursuant to applicable law or (ii) receives any demand under lawful process or from any Governmental Authority to disclose or provide Information of the other party (or any other member of the GTI Group or the AMI Group, as applicable) that is subject to the confidentiality provisions hereof, such party shall notify the other party prior to disclosing or providing such Information and shall cooperate at the expense of the requesting party in seeking any reasonable protective arrangements requested by such other party. Subject to the foregoing, the Person that received such request may thereafter disclose or provide Information to the extent required by such law (as so advised by counsel) or by lawful process or such Governmental Authority.

6.4 **Provision of Corporate Records.** Except as may otherwise be provided in any Ancillary Agreement, GTI shall arrange as soon as practicable following the Separation Date for the transportation to AMI of the books, records, contracts, instruments, computer data and other data and information relating to the AMI Business, in its possession, except to the extent such items are already in the possession of AMI.

6.5 **Access to Information.** Without limiting the obligation to provide material set forth in Section 6.4 above, from and after the Separation Date, GTI shall afford to AMI and its authorized accountants, counsel and other designated representatives reasonable access (including using reasonable efforts to give access to persons or firms possessing information) and duplicating rights during normal business hours to all records, books, contracts, instruments, computer data and other data and information relating to pre-Separation operations of the AMI Business (collectively, "*Operations Data*") within GTI's possession insofar as such access is reasonably required by AMI for the conduct of the AMI Business, subject to appropriate restrictions for classified or Privileged Information. Similarly, AMI shall afford to GTI and its authorized accountants, counsel and other designated representatives reasonable access (including using reasonable efforts to give access to persons or firms possessing information) and duplicating rights during normal business hours to Operations Data within AMI's possession, insofar as such access is reasonably required by GTI for the conduct of the GTI Business, subject to appropriate restrictions for classified or Privileged Information. Operations Data may be requested under this Section 6.5 for the legitimate business purposes of either party, including, without limitation, audit, accounting, claims (including claims for indemnification hereunder), litigation and tax purposes, as well as for purposes of fulfilling disclosure and reporting obligations and for performing under this Agreement and the transactions contemplated hereby.

6.6 **Production of Witnesses.** At all times from and after the Separation Date, each of GTI and AMI shall use reasonable efforts to make available to the other, upon written request, its and its Subsidiaries' officers, directors, employees and agents as witnesses to the extent that such persons may reasonably be required in connection with any Action.

6.7 **Reimbursement.** Except to the extent otherwise contemplated in any Ancillary Agreement, a party providing Operations Data or witness services to the other party under this Article 6 shall be entitled to receive from the recipient, upon the presentation of invoices therefor, payments of such amounts, relating to supplies, disbursements and other out-of-pocket expenses (at cost) and direct and indirect expenses of employees who are witnesses or otherwise furnish assistance (at cost), as may be reasonably incurred in providing such Operations Data or witness services.

6.8 **Retention of Records.** Except as otherwise required by law or agreed to in an Ancillary Agreement or otherwise in writing, each of GTI and AMI may destroy or otherwise dispose of any of the Operations Data, which is material Operations Data and is not contained in other Operations Data retained by GTI or AMI, as the case may be, at any time after the seventh (7<sup>th</sup>) anniversary of this Agreement,

provided that, prior to such destruction or disposal, (a) it shall provide no less than 90 or more than 120 days prior written notice to the other, specifying in reasonable detail the Operations Data proposed to be destroyed or disposed of and (b) if a recipient of such notice shall request in writing prior to the scheduled date for such destruction or disposal that any of the Operations Data proposed to be destroyed or disposed of be delivered to such requesting party, the party proposing the destruction or disposal shall promptly arrange for the delivery of such of the Operations Data as was requested at the expense of the party requesting such Operations Data.

**6.9 Privileged Matters.** To allocate the interests of each party with respect to Privileged Information, the parties agree as follows:

(a) GTI shall be entitled, in perpetuity, to control the assertion or waiver of all Privileges in connection with Privileged Information which relates solely to the GTI Business, whether or not the Privileged Information is in the possession of or under the control of GTI or AMI. GTI shall also be entitled, in perpetuity, to control the assertion or waiver of all Privileges in connection with Privileged Information that relates solely to the subject matter of any claims constituting Liabilities of the GTI Group, now pending or which may be asserted in the future, in any lawsuits or other Actions initiated against or by GTI, whether or not the Privileged Information is in the possession of or under the control of GTI or AMI.

(b) AMI shall be entitled, in perpetuity, to control the assertion or waiver of all Privileges in connection with Privileged Information which relates solely to the AMI Business, whether or not the Privileged Information is in the possession of or under the control of GTI or AMI. AMI shall also be entitled, in perpetuity, to control the assertion or waiver of all Privileges in connection with Privileged Information which relates solely to the subject matter of any claims constituting AMI Liabilities, now pending or which may be asserted in the future, in any lawsuits or other Actions initiated against or by AMI, whether or not the Privileged Information is in the possession of AMI or under the control of GTI or AMI.

(c) GTI and AMI agree that they shall have a shared Privilege, with equal right to assert or waive, subject to the restrictions of this Section 6.10, with respect to all Privileges not allocated pursuant to the terms of Sections 6.10(a) and (b). All Privileges relating to any claims, proceedings, litigation, disputes or other matters which involve both GTI and AMI in respect of which GTI and AMI retain any responsibility or liability under this Agreement shall be subject to a shared Privilege.

(d) No party may waive any Privilege which could be asserted under any applicable law, and in which the other party has a shared Privilege, without the consent of the other party, except to the extent reasonably required in connection with any litigation with third parties or as provided in Section 6.10(e) below. Such consent shall be in writing, or shall be deemed to be granted unless written objection is made within 20 days after notice upon the other party requesting such consent.

(e) In the event of any litigation or dispute between a member of the GTI Group and a member of the AMI Group, either party may waive a Privilege in which the other party has a shared Privilege, without obtaining the consent of the other party, provided that such waiver of a shared Privilege shall be effective only as to the use of information with respect to the litigation or dispute between the GTI Group and the AMI Group, and shall not operate as a waiver of the shared Privilege with respect to third-parties.

(f) If a dispute arises between the parties regarding whether a Privilege should be waived to protect or advance the interest of either party, each party agrees that it shall negotiate in good faith, shall endeavor to minimize any prejudice to the rights of the other party, and shall not unreasonably

withhold consent to any request for waiver by the other party. Each party specifically agrees that it will not withhold consent to waiver for any purpose except to protect its own legitimate interests.

(g) Upon receipt by any party of any subpoena, discovery or other request which arguably calls for the production or disclosure of information subject to a shared Privilege or as to which the other party has the sole right hereunder to assert a Privilege, or if any party obtains knowledge that any of its current or former directors, officers, agents or employees has received any subpoena, discovery or other request which arguably calls for the production or disclosure of such Privileged Information, such party shall promptly notify the other party of the existence of the request and shall provide the other party a reasonable opportunity to review the information and to assert any rights it may have under this Section 6.10 or otherwise to prevent the production or disclosure of such Privileged Information.

(h) The transfer of GTI's Operations Data and AMI's Operations Data and other Information between the GTI Group and the AMI Group is made in reliance on the agreement of GTI and AMI to maintain the confidentiality of Privileged Information and to assert and maintain applicable Privileges. The access to information being granted pursuant to Sections 6.4 and 6.5, the agreement to provide witnesses and individuals pursuant to Section 6.6 and the transfer of Privileged Information between the GTI Group and the AMI Group pursuant to this Agreement shall not be deemed a waiver of any Privilege that has been or may be asserted under this Agreement or otherwise.

## ARTICLE 7

### INSURANCE

**7.1 Policies and Rights Included Within the AMI Assets.** Without limiting the generality of the definition of the AMI Assets, the AMI Assets shall include (a) any and all rights of an insured party under each of the Shared Policies, specifically including rights of indemnity and the right to be defended by or at the expense of the insurer, with respect to all injuries, losses, liabilities, damages and expenses incurred or claimed to have been incurred on or prior to the Separation Date by any party in or in connection with the conduct of the AMI Business (provided GTI shall have equal rights with respect to indemnity and the right to be defended to the extent practical and appropriate) or, to the extent any claim is made against AMI or any of its Subsidiaries, the GTI Business, and which injuries, losses, liabilities, damages and expenses may arise out of insured or insurable occurrences or events under one or more of the Shared Policies; *provided, however*, that nothing in this Section 7.1 shall be deemed to constitute (or to reflect) the assignment of the Shared Policies, or any of them, to AMI; and (b) the AMI Policies.

**7.2 Post-Separation Date Claims.** If, subsequent to the Separation Date, any Person shall assert a claim against AMI or any of its Subsidiaries with respect to any injury, loss, liability, damage or expense incurred or claimed to have been incurred on or prior to the Separation Date in or in connection with the Separation or the conduct of the AMI Business or, to the extent any claim is made against AMI or any of its Subsidiaries, the GTI Business, and which injury, loss, liability, damage or expense may arise out of insured or insurable occurrences or events under one or more of the Shared Policies, GTI shall at the time such claim is asserted (except to the extent inconsistent with Section 7.1) be deemed to assign, without need of further documentation, to AMI any and all rights of an insured party under the applicable Shared Policy with respect to such asserted claim, specifically including rights of indemnity and the right to be defended by or at the expense of the insurer, *provided, however*, that nothing in this Section 7.2 shall be deemed to constitute (or to reflect) the assignment of the Shared Policies, or any of them, to AMI.



### **7.3 Administration and Reserves.**

(a) Notwithstanding the provisions of Article 2, but subject to any contrary provisions of any Ancillary Agreement, from and after the Separation Date:

(i) AMI shall be entitled to any reserves established prior to the Separation Date by GTI, or the benefit of reserves held by any insurance carrier, with respect to the AMI Liabilities; and

(ii) GTI shall be entitled to any reserves established by GTI, or the benefit of reserves held by any insurance carrier, with respect to the Liabilities of the GTI Group.

(b) AMI shall have the right but not the obligation to pay the premiums, to the extent that GTI does not pay premiums with respect to the Liabilities of the GTI Group (retrospectively-rated or otherwise), with respect to Shared Policies and the AMI Policies, as required under the terms and conditions of the respective Policies, whereupon GTI shall forthwith reimburse AMI for that portion of such premiums paid by AMI as are attributable to the Liabilities of the GTI Group.

(c) Insurance Proceeds received with respect to claims, costs and expenses under the Policies shall be paid to AMI with respect to the AMI Liabilities and to GTI with respect to the Liabilities of the GTI Group. Payment of the allocable portions of indemnity costs of Insurance Proceeds resulting from the liability policies will be made to the appropriate party upon receipt from the insurance carrier. In the event that the aggregate limits on any Shared Policies are exceeded, the parties agree to provide an equitable allocation of Insurance Proceeds received after the Separation Date based upon their respective bona fide claims. The parties agree to use their commercially reasonable efforts to cooperate with respect to insurance matters.

**7.4 Agreement for Waiver of Conflict and Shared Defense.** In the event that insured claims of both AMI and GTI exist relating to the same occurrence, AMI and GTI agree to jointly defend and to waive any conflict of interest necessary to the conduct of that joint defense. Nothing in this Section 7.4 shall be construed to limit or otherwise alter in any way the indemnity obligations of the parties to this Agreement, including those created by this Agreement, by operation of law or otherwise.

## **ARTICLE 8**

### **ARBITRATION; DISPUTE RESOLUTION**

**8.1 Disputes.** GTI and AMI recognize that disputes as to certain matters may from time to time arise during the effectiveness of this Agreement and/or the Ancillary Agreements (collectively with this Agreement, the "*AMI Agreements*") which relate to either party's rights and/or obligations hereunder or thereunder. It is the objective of the parties to establish procedures to facilitate the resolution of disputes arising under any of the AMI Agreements in an expedient manner by mutual cooperation and without resort to litigation. To accomplish this objective, the parties agree to follow the procedures set forth in this Article 8 if and when a dispute arises under any of the AMI Agreements. In the event of a dispute between the parties, any party may, by written notice to the other, have such dispute referred to their respective chief executive officers for attempted resolution by good faith negotiations within fourteen (14) days after such notice is received. In the event the chief executive officers are not able to resolve such dispute, either party may at any time after the fourteen (14) day period seek to resolve the dispute through the other means provided in Section 8.2.

8.2 **Alternative Dispute Resolution.** Subject to Section 8.1, any dispute, controversy or claim arising out of or relating to any of the AMI Agreements, including, without limitation, disputes relating to alleged breach or to termination of any of such agreements, shall be settled by binding Alternative Dispute Resolution ("**ADR**") in the manner described below.

If a party intends to begin an ADR to resolve a dispute, such party shall provide written notice (the "**ADR Request**") to the other party informing such other party of such intention and the issues to be resolved. Within fifteen (15) business days after receipt of the ADR Request, the other party may, by written notice to counsel for the party initiating ADR, add additional issues to be resolved.

8.3 **Arbitration Procedure** The ADR shall be conducted pursuant to the Commercial Arbitration Rules of the American Arbitration Association for Large, Complex Cases then in effect. Notwithstanding those rules, the following provisions shall apply to the ADR hereunder.

(a) **Arbitrator.** The arbitration shall be carried out by a single arbitrator, who shall be a retired United States judge or justice or magistrate and shall be selected by the parties within thirty (30) days of receipt of the ADR request in accordance with the procedure described below.

(i) The parties shall select an arbitrator as described in subsection (ii) below, which arbitrator may but need not be selected from a list of arbitrators such as the CPR Panel of Distinguished Neutrals of the Center for Public Resources, subject to: (1) his/her availability and willingness to serve, (2) his/her availability to commence the arbitration within a reasonable period of time, (3) his/her agreement to charge fees and expenses that are reasonable under the circumstances, and (4) his/her commitment to render his/her award within the time periods provided in this Article 8.

(ii) Each party will exchange a list of ten (10) qualified arbitrators and in the event that both parties agree to a single common name that person shall be the arbitrator. In submitting the ten names, each party shall prioritize from one to ten the persons on their respective lists. In the event that there is more than one common name on the parties' lists, the person having the lowest combined priority number shall be the selected arbitrator. The combined priority number shall be the sum of the order numbers assigned to that person by the parties. Thus, if one person was AMI's number two priority and GTI's number three priority, and another person was AMI's number two priority and GTI's number four priority, the former would be appointed. If more than one person has the lowest combined priority number, the person for whom there is less difference between the order numbers assigned by the parties shall be appointed. Thus, if one person was AMI's number one priority and GTI's number four priority, and another person was AMI's number two priority and GTI's number three priority, the latter person would be appointed. If this method does not produce a sole arbitrator or if there are no common names, the parties shall alternatively strike from the combined list until one name remains, which shall be the selected arbitrator. The party to strike first shall be determined by the toss of a coin.

(iii) In the event the arbitrator is unable to meet the requirements set forth in subsection (a) above, then, in the event the first selected arbitrator was common to both lists and there was more than one common name on the parties' lists, the arbitrator having the next lowest combined priority number who is able and willing to serve pursuant to these requirements shall be selected. If there is no such individual, then the parties shall use the alternate strike method set forth above. In the event an arbitrator selected by the alternate strike methodology is unable or unwilling to serve consistent with the requirements set forth above, then the alternate striking procedure shall be retraced in reverse order until an arbitrator is selected.

The arbitrator shall be neutral, disinterested, impartial, and independent of the parties and others having any known interest in the outcome, and shall abide by the AAA/ABA Code of Ethics for

Arbitrators in Commercial Disputes. There shall be no ex parte communications with the arbitrator either before or during the arbitration, relating to the dispute or issues involved in the dispute or the arbitrator's views on any such issue.

(b) **Interim Review.** Either party may apply to any court having jurisdiction hereof and seek preliminary injunctive relief until such time as the arbitration award is rendered or the controversy is otherwise resolved.

(c) **Location.** Any arbitration under Section 8.2 shall be conducted in San Diego, California.

(d) **Discovery Proceedings and Hearings.** The parties shall have the right to undertake such limited discovery as is expressly authorized by the arbitrator upon a determination that such discovery is reasonably necessary to enable the requesting party to prepare and present its claims and/or defenses at the hearing. Discovery shall be conducted pursuant to Rules 26-37 of the Federal Rules of Civil Procedure (with references to "court" in those Rules being considered references to the "arbitrator") except as they may be modified by the arbitrator. In addition:

(i) The arbitrator will determine the specific location within San Diego, California and the date and time of the arbitration hearing, which will commence no later than ninety (90) days after the date of the appointment of the arbitrator. The arbitrator will provide reasonable notice of the hearing date and time.

(ii) The arbitrator will ordinarily conduct the arbitration hearing in the manner set forth in this Section 8.3 except that the Federal Rules of Evidence shall apply. The arbitrator shall render its decision in writing. If the AAA rules and the rules of this subsection (d) conflict in any manner, the rules of this subsection (d) shall prevail. The arbitrator must hold an oral hearing, but may impose reasonable time limits on each phase of the proceeding and may limit testimony to exclude evidence that would be immaterial or unduly repetitive, provided that all parties are afforded the opportunity to present material and relevant evidence and that each party is given at least an approximately equal amount of time for presentation of its case.

(iii) The arbitrator will require witnesses to testify under oath if requested by any party.

(iv) Any party desiring a stenographic record may secure a court reporter to attend the proceedings.

(v) The arbitrator will determine the order of proof, which will generally be similar to that of a court trial, including opening and closing statements.

(vi) When the arbitrator determines that all relevant and material evidence and arguments have been presented, the arbitrator will declare the hearing closed. The arbitrator may defer the closing of the hearing for up to ten (10) days to permit the parties to submit post-hearing briefs and or to make closing arguments, as the arbitrator deems appropriate, before rendering an award.

(vii) The arbitrator will render the award and its decisions within thirty (30) days after the date of the closing of the hearing or, if an arbitration hearing has been waived, within thirty (30) days after the date of the arbitrator's receiving all materials specified by the parties. The decision and award of the arbitrator will constitute the arbitration award and will be binding on the parties.

(viii) The arbitrator shall, in rendering its decision and award, apply the substantive law of the State of California, without regard to its conflict of laws provisions, except that the interpretation of and enforcement of this Article shall be governed by the Federal Arbitration Act. The costs of the winning party and its reasonable attorneys fees shall be paid by the losing party which shall be designated by the arbitrator. If the arbitrator is unable to designate a losing party, it shall so state and each party shall bear its own costs and attorneys fees.

(e) **Award.** The arbitrator is empowered to award any remedy allowed by law, including money damages, prejudgment interest and attorneys' fees, and to grant final, complete, interim, or interlocutory relief, including injunctive relief. Notwithstanding the foregoing, punitive or multiple damages may not be awarded. Judgment upon any arbitration award hereunder may be entered and enforced in any court having jurisdiction thereof.

(f) **Arbitration Fees.** The fees of the arbitrator shall be split equally between the parties.

**8.4 Confidentiality.** The ADR proceeding shall be confidential and the arbitrator shall issue appropriate protective orders to safeguard each party's confidential Information. Except as required by law, no party shall make (or instruct the arbitrator to make) any public announcement with respect to the proceedings or decision of the arbitrator without prior written consent of each other party. The existence of any dispute submitted to ADR, and the award, shall be kept in confidence by the parties and the arbitrator, except as required in connection with the enforcement of such award or as otherwise required by applicable law.

## ARTICLE 9

### FURTHER ASSURANCES

#### 9.1 Further Assurances.

(a) In addition to the actions specifically provided for elsewhere in this Agreement, each of the parties hereto shall use its commercially reasonable efforts, prior to, on and after the Separation Date, to take, or cause to be taken, all actions, and to do, or cause to be done, all things, reasonably necessary, proper or advisable under applicable laws, regulations and agreements to consummate and make effective the transactions contemplated by this Agreement and the Ancillary Agreements.

(b) Without limiting the foregoing, prior to, on and after the Separation Date, each party hereto shall cooperate with the other parties, and without any further consideration, but at the expense of the requesting party, to execute and deliver, or use its commercially reasonable efforts to cause to be executed and delivered, all instruments, including instruments of conveyance, assignment and transfer, and to make all filings with, and to obtain all consents, approvals or authorizations of, any Governmental Authority or any other Person under any permit, license, agreement, indenture or other instrument (including any Consents or Governmental Approvals), and to take all such other actions as such party may reasonably be requested to take by any other party hereto from time to time, consistent with the terms of this Agreement and the Ancillary Agreements, in order to effectuate the provisions and purposes of this Agreement and the Ancillary Agreements and the transfers of the AMI Assets and the assignment and assumption of the AMI Liabilities and the other transactions contemplated hereby and thereby.

## ARTICLE 10

### TERMINATION

**10.1 Termination By Mutual Consent.** This Agreement may be terminated at any time prior to the Separation Date by the mutual consent of GTI and AMI and upon such termination neither party shall have any Liability or further obligation to the other party. The provisions hereof shall remain in full force and effect and shall survive the Separation Date, including without limitation the indemnification provisions set forth in Article 5, and the covenants and other agreements of the parties set forth in Article 6, except to the extent otherwise agreed by the parties in writing.

## ARTICLE 11

### MISCELLANEOUS

#### 11.1 Counterparts; Entire Agreement.

(a) This Agreement and each Ancillary Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement, and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other party.

(b) This Agreement, and the Ancillary Agreements and the Exhibits, Schedules and appendices hereto and thereto contain the entire agreement between the parties with respect to the subject matter hereof, supersede all previous agreements, negotiations, discussions, writings, understandings, commitments and conversations with respect to such subject matter and there are no agreements or understandings between the parties other than those set forth or referred to herein or therein.

**11.2 Governing Law.** This Agreement, except as expressly provided herein, and, unless expressly provided therein, each Ancillary Agreement, shall be governed by and construed and interpreted in accordance with the laws of the State of California, irrespective of the choice of laws principles of the State of California as to all matters, including matters of validity, construction, effect, enforceability, performance and remedies.

**11.3 Assignability.** Except as set forth in any Ancillary Agreement, this Agreement and each Ancillary Agreement shall be binding upon and inure to the benefit of the parties hereto and thereto, respectively, and their respective successors and assigns; provided, however, that no party hereto or thereto may assign its respective rights or delegate its respective obligations under this Agreement or any Ancillary Agreement without the express prior written consent of the other parties hereto or thereto.

**11.4 No Third Party Beneficiaries.** Except for the indemnification rights under this Agreement of any GTI Indemnitee or AMI Indemnitee in their respective capacities as such, (a) the provisions of this Agreement and each Ancillary Agreement are solely for the benefit of the parties and are not intended to confer upon any Person except the parties any rights or remedies hereunder, and (b) there are no third party beneficiaries of this Agreement or any Ancillary Agreement and neither this Agreement nor any Ancillary Agreement shall provide any third person with any remedy, claim, liability, reimbursement, claim of action or other right in excess of those existing without reference to this Agreement or any Ancillary Agreement.

• **11.5 Notices.** All notices or other communications under this Agreement or any Ancillary Agreement shall be in writing and shall be deemed to be duly given when (a) delivered in person or (b) deposited in the United States mail or private express mail, postage prepaid, addressed as follows:

If to GTI, to:                   GA-TEK Inc.  
34929 Curtis Blvd.  
Eastlake, OH 44095-4001  
Attn: General Counsel

With a copy to:

Jones, Day, Reavis & Pogue  
North Point  
901 Lakeside Avenue  
Cleveland, OH 44114  
Attn: Lyle G. Ganske, Esq.

If to AMI, to:                   AMI Spingo, Inc.  
16644 W. Bernardo Dr., Suite 301  
San Diego, CA 92127  
Attn: President and Chief Executive Officer

With a copy to:

Cooley Godward LLP  
4365 Executive Drive, Suite 1100  
San Diego, CA 92121-2128  
Attn: Thomas A. Coll, Esq.

Either party may, by notice to the other party, change the address to which such notices are to be given.

**11.6 Severability.** If any provision of this Agreement or any Ancillary Agreement or the application thereof to any Person or circumstance is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions hereof or thereof, or the application of such provision to Persons or circumstances or in jurisdictions other than those as to which it has been held invalid or unenforceable, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby, so long as the economic or legal substance of the transactions contemplated hereby or thereby, as the case may be, is not affected in any manner adverse to any party. Upon such determination, the parties shall negotiate in good faith in an effort to agree upon such a suitable and equitable provision to effect the original intent of the parties.

**11.7 Publicity.** Prior to the Separation, each of AMI and GTI shall consult with each other prior to issuing any press releases or otherwise making public statements with respect to the Separation or any of the other transactions contemplated hereby and prior to making any filings with any Governmental Authority with respect thereto.

**11.8 Expenses.** Except as expressly set forth in this Agreement or in any Ancillary Agreement, whether or not the Separation is consummated, each of GTI and AMI shall pay all costs and expenses that it incurs in connection with the Separation and with respect to the negotiation, execution, delivery and performance of this Agreement and the Ancillary Agreements.

**11.9 Headings.** The article, section and paragraph headings contained in this Agreement and in the Ancillary Agreements are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement or any Ancillary Agreement.

**11.10 Survival of Covenants.** Except as expressly set forth in any Ancillary Agreement, the covenants, representations and warranties contained in this Agreement and each Ancillary Agreement, and liability for the breach of any obligations contained herein, shall survive the Separation.

**11.11 Waivers of Default.** Waiver by any party of any default by the other party of any provision of this Agreement or any Ancillary Agreement shall not be deemed a waiver by the waiving party of any subsequent or other default, nor shall it prejudice the rights of the other party.

**11.12 Specific Performance.** In the event of any actual or threatened default in, or breach of, any of the terms, conditions and provisions of this Agreement or any Ancillary Agreement, the party or parties who are or are to be thereby aggrieved shall have the right to specific performance and injunctive or other equitable relief of its rights under this Agreement or such Ancillary Agreement, in addition to any and all other rights and remedies at law or in equity, and all such rights and remedies shall be cumulative. The parties agree that the remedies at law for any breach or threatened breach, including monetary damages, are inadequate compensation for any loss and that any defense in any action for specific performance that a remedy at law would be adequate is waived. Any requirements for the securing or posting of any bond with such remedy are waived.

**11.13 Amendments.**

(a) This Agreement and all Ancillary Agreements except to the extent as may otherwise be set forth therein, may be amended by the written agreement of GTI and AMI. No provisions of this Agreement or any Ancillary Agreement shall be deemed waived, amended, supplemented or modified by any party, unless such waiver, amendment, supplement or modification is in writing and signed by the authorized representative of the party against whom it is sought to enforce such waiver, amendment, supplement or modification.

(b) Without limiting the foregoing, the parties anticipate that, prior to the Separation Date, some or all of the Schedules to this Agreement may be amended or supplemented and, in such event, such amended or supplemented Schedules shall be attached hereto in lieu of the original Schedules.

(c) Interpretation. Words in the singular shall be held to include the plural and vice versa and words of one gender shall be held to include the other genders as the context requires. The terms "hereof," "herein," and "herewith" and words of similar import shall, unless otherwise stated, be construed to refer to this Agreement (or the applicable Ancillary Agreement) as a whole (including all of the Schedules, Exhibits and appendices hereto and thereto) and not to any particular provision of this Agreement (or such Ancillary Agreement). Article, Section, Exhibit, Schedule and Appendix references are to the Articles, Sections, Exhibits, Schedules and Appendices to this Agreement (or the applicable Ancillary Agreement) unless otherwise specified. The word "including" and words of similar import when used in this Agreement (or the applicable Ancillary Agreement) shall mean "including, without limitation," unless the context otherwise requires or unless otherwise specified. The word "or" shall not be exclusive.

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From-

IN WITNESS WHEREOF, the parties have caused this SEPARATION AGREEMENT to be executed by their duly authorized representatives on the date first written above.

GA-TEK INC.

By: Michael C. Vexey  
Name: MICHAEL C. VEXEY  
Title: General Vice President

AMI SPINCO, INC.

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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IN WITNESS WHEREOF, the parties have caused this SEPARATION AGREEMENT to be executed by their duly authorized representatives on the date first written above.

GA-TEK INC.

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

AMI SPINCO, INC.

By:  \_\_\_\_\_

Name: Alfred B. Castleman

Title: Chief Financial Officer

IN WITNESS WHEREOF, the parties have caused this SEPARATION AGREEMENT to be executed by their duly authorized representatives on the date first written above.

**GA-TEK INC.**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**AMI SPINCO, INC.**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

## SCHEDULE A

### AMI Assets

1. All cash accounts related to the AMI Business, including but not limited to the cash of AMI included in the AMI Balance Sheet as of July 1, 2000 and all receivables of AMI that have arisen subsequent to the date of such balance sheet (including but not limited to those accounts listed on Schedule A-1).
2. All accounts receivable, notes receivable and other receivables which are related to the AMI Business, including but not limited to the receivables of AMI included in the AMI Balance Sheet as of July 1, 2000 and all receivables of AMI that have arisen subsequent to the date of such balance sheet (including but not limited to those receivables listed on Schedule A-2).
3. All rights to collect from customers (and to retain) all fees and other amounts payable, or that may become payable, to GTI or its Affiliates with respect to services performed which are related to the AMI Business.
4. All inventories and work-in-progress which are related the AMI Business, including but not limited to the inventories and work-in-progress included in the AMI Balance Sheet as of July 1, 2000 and all inventories and work-in-progress of AMI that have arisen subsequent to the date of such balance sheet (including but not limited to those inventories and work-in-progress listed on Schedule A-3).
5. All equipment, materials, prototypes, tools, supplies, vehicles, furniture, fixtures, improvements and other tangible assets of GTI and its Affiliates which are related to the AMI Business, including but not limited to such assets included in the AMI Balance Sheet as of July 1, 2000 and all such assets of AMI that have arisen subsequent to the date of such balance sheet (including but not limited to those assets listed on Schedule A-4).
6. All capital stock of or other equity interest in any entity the activities of which are related to the AMI Business, including but not limited to the capital stock listed on Schedule A-5.
7. All advertising and promotional materials possessed by GTI which are related to the AMI Business.
8. All Proprietary Assets (defined below) which are related to the AMI Business, and all goodwill related to the AMI Business (including but not limited to the right to use the name "American Microsystems" and variations thereof, and the Proprietary Assets listed on Schedule A-6).  
  
*"Proprietary Asset"* shall mean any patent, patent application, trademark (whether registered or unregistered and whether or not relating to a published work), trademark application, trade name, fictitious business name, service mark (whether registered or unregistered), service mark application, copyright (whether registered or unregistered), copyright application, maskwork, maskwork application, trade secret, know-how, customer list, franchise, system, computer software, invention, design, blueprint, engineering drawing, proprietary product, technology, proprietary right or other intellectual property right or intangible asset.
9. All rights under Contracts (defined below) which are related to the AMI Business (including but not limited to the Contracts listed on Schedule A-7).

A-1

- **"Contracts"** shall mean any written, oral, implied or other agreement, contract, understanding, arrangement, instrument, note, guaranty, indemnity, representation, warranty, deed, assignment, power of attorney, certificate, purchase order, work order, insurance policy, benefit plan, commitment, covenant, assurance or undertaking of any nature.
- 10. All Governmental Approvals which are related to the AMI Business.
- 11. All claims (including claims for past infringement of Proprietary Assets) and causes of action of against other Persons (regardless of whether or not such claims and causes of action have been asserted), and all rights of indemnity, warranty rights, rights of contribution, rights to refunds, rights of reimbursement and other rights of recovery (regardless of whether such rights are currently exercisable) which are related to the AMI Business.
- 12. All books, records, files and data which are related to the AMI Business.

## **SCHEDULE B**

### **AMI Liabilities**

1. All accounts payable which are related to the AMI Business that arose from bona fide transactions entered into in the ordinary course of business and that remain unpaid as of the Separation Date, but only to the extent and in the amount reflected in the "accounts payable" entry in the "liabilities" column of the AMI Balance Sheet as of July 1, 2000 and such other accounts payable that have arisen subsequent to the date of such balance sheet (including but not limited to those accounts payable listed on Schedule B-1).
2. The obligations of GTI or its Affiliates under any Contracts expressly assigned to AMI hereunder.

B-1