

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW HAMPSHIRE

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**In re:** : **Chapter 11**  
: :  
: : **Case No. 14-11916 (HJB)**  
**GT ADVANCED TECHNOLOGIES INC., et al.,:**  
: : **Jointly Administered**  
**Debtors.<sup>1</sup>** : :  
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**ORDER APPROVING PROCEDURES FOR AUCTION OF ASF FURNACES**

Upon the motion (the “Motion”)<sup>2</sup> of GT Advanced Technologies Inc. (“GT”) and its affiliated debtors as debtors in possession (collectively, “GTAT” or the “Debtors”), pursuant to section 105(a), 363, and 554 of title 11 of the United States Code (the “Bankruptcy Code”), Rules 2002, 6004, 9007, and 9019 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Rule 6004-1 of the Local Bankruptcy Rules for the United States Bankruptcy Court for the District of New Hampshire (the “Local Rules”), for entry of an order (the “Order”) approving, among other things, procedures for auction of ASF Furnaces, all as more fully set forth in the Motion; and this Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157; and venue being proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion being adequate and appropriate under the particular circumstances;

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<sup>1</sup> The Debtors, along with the last four digits of each debtor’s tax identification number, as applicable, are: GT Advanced Technologies Inc. (6749), GTAT Corporation (1760), GT Advanced Equipment Holding LLC (8329), GT Equipment Holdings, Inc. (0040), Lindbergh Acquisition Corp. (5073), GT Sapphire Systems Holding LLC (4417), GT Advanced Cz LLC (9815), GT Sapphire Systems Group LLC (5126), and GT Advanced Technologies Limited (1721). The Debtors’ corporate headquarters are located at 243 Daniel Webster Highway, Merrimack, NH 03054.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings set forth in the Motion.

and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and upon all of the proceedings had before the Court; after due deliberation and sufficient cause appearing therefor, it is hereby

ORDERED, ADJUDGED, AND DECREED that:

1. The procedures attached hereto as Exhibit 1 (the “Auction Procedures”) for the sale of the ASF Furnaces through an auction (the “Sale Auction”) are hereby approved. The Debtors shall have no obligation to sell any ASF Furnaces at the Sale Auction.

2. GTAT is authorized to take all actions necessary to effectuate the relief granted pursuant to this Order.

3. The stay provided for in Bankruptcy Rules 6004(h) is hereby waived, and this Order shall be effective immediately upon its entry.

4. The requirements set forth in Bankruptcy Rule 6004(a) are satisfied by the contents of the Motion or otherwise deemed waived.

5. The requirement set forth in Local Rule 7102(b)(2) that any motion filed shall have an accompanying memorandum of law is waived.

6. The Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation of this Order.

Dated: November 20 \_\_\_\_\_, 2015  
Manchester, NH

\_\_\_\_\_  
/s/ Henry J. Boroff  
HONORABLE HENRY J. BOROFF  
UNITED STATES BANKRUPTCY JUDGE

**Exhibit 1**

## AUCTION PROCEDURES FOR ASF FURNACES

Pursuant to the following procedures (the “Auction Procedures”), GT Advanced Technologies Inc. (“GT”) and its affiliated debtors as debtors in possession in the above-captioned cases (collectively, “GTAT” or the “Debtors”) intend to sell advanced sapphire furnaces (“ASF Furnaces”) through an auction (the “ASF Auction”) commencing on **Wednesday, December 2, 2015, at 9:00 p.m. (prevailing Eastern Time)**.

The ASF Auction will be conducted by GTAT and Cunningham & Associates, Inc.<sup>1</sup> (“C&A”) **live** at Paul Hastings’ offices in New York, New York. To facilitate the bidding at the ASF Auction, Qualified Bidders (as defined below) may also participate through video conference at Paul Hastings’ offices in Shanghai, China, through a telephonic conference, and through simulcast on C&A’s website, [www.BidIndustrial.com](http://www.BidIndustrial.com) (the “Online Auction Site”).

The ASF Furnaces to be sold at the ASF Auction are:

- new ASF Furnaces located in Hong Kong, China, which have been crated (such ASF Furnaces, the “Tier 1 HK Furnaces”);
- new ASF Furnaces located in Hong Kong, China, which have been crated, but which are missing Hex Manifolds kits that the buyer will need to acquire separately (such ASF Furnaces, the “Tier 2 HK Furnaces” and, together with the Tier 1 HK Furnaces, the “HK Furnaces”);
- new ASF Furnaces located in the facility in Mesa, Arizona (the “Mesa Facility”), which have been crated (such ASF Furnaces, the “Tier 1 Mesa Furnaces”);
- used ASF Furnaces located in the Mesa Facility, which have been de-installed and crated (such ASF Furnaces, the “Tier 2 Mesa Furnaces”); and
- used ASF Furnaces located in the Mesa Facility, which are currently installed and not crated (such ASF Furnaces, the “Tier 3 Mesa Furnaces” and, together with the Tier 1 Mesa Furnaces and the Tier 2 Mesa Furnaces, the “Mesa Furnaces”).

The ASF Furnaces in each of these five categories will be auctioned in lots of 20 units or more. The number of ASF Furnaces to be sold at the ASF Auction (and hence the number of lots) will be determined by GTAT, after consultation with its debtor in possession lenders (the “DIP Lenders”) and the Official Committee of Unsecured Creditors (the “Committee”),<sup>2</sup> during the ASF Auction.

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<sup>1</sup> The Bankruptcy Court previously approved the retention of C&A as auctioneer. *See Order Pursuant to Sections 105 and 363 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, and 9007, and Local Rule 6004-1, (I) Authorizing Debtors to Sell Certain Excess Assets Via Online Auction Free and Clear of all Liens, Claims, Encumbrances, and Interests; and (II) Granting Related Relief*, dated April 16, 2015 [Docket No. 1671] (the “Online Auction Order”)

<sup>2</sup> For purposes of these Auction Procedures, consultation with the DIP Lenders and the Committee means

At the ASF Auction, GTAT will initially auction one (1) lot in each of the five categories of ASF Furnaces (*i.e.*, Tier 1 HK Furnaces, Tier 2 HK Furnaces, Tier 1 Mesa Furnaces, Tier 2 Mesa Furnaces, and Tier 3 Mesa Furnaces). Live bidding at the ASF Auction will commence **on December 2, 2015 at 9:00 p.m. (prevailing Eastern Time)**. After the conclusion of bidding on the first round of lots, GTAT will determine, after consultation with the DIP Lenders and the Committee, whether to open up bidding on additional ASF Furnaces. Live bidding on any subsequent lots of ASF Furnaces will occur promptly after the conclusion of bidding on the immediately preceding lot.

All ASF Furnaces to be sold at the ASF Auction, whether the Tier 1 HK Furnaces, the Tier 2 HK Furnaces, the Tier 1 Mesa Furnaces, the Tier 2 Mesa Furnaces, or the Tier 3 Mesa Furnaces, will be sold “as is, where is” (including with respect to any crating that has been performed to date), with no representations or warranties of any kind, pursuant to a form of bill of sale substantially in the form annexed hereto as Exhibit A (a “Bill of Sale”), which, for the avoidance of doubt, shall be in conformity with these Auction Procedures, shall not be subject to negotiation between GTAT and any Successful Bidder (as defined below) and shall be completed to fill in (a) the name of the GTAT entity selling the ASF Furnaces, (b) the name of the Successful Bidder, (c) the category and number of ASF Furnaces to be purchased by the Successful Bidder, and (d) the aggregate purchase price payable by the Successful Bidder for such ASF Furnaces.

For the avoidance of doubt, all ASF Furnaces to be sold at the Auction will be sold without warranty, installation, and other post-sale support services. For an additional fee, GTAT may be willing to provide installation and other post-sale support services to the buyer pursuant to a separately negotiated agreement.

**Important: Pursuant to that certain settlement agreement, dated as of November 2, 2015 (the “Mesa Settlement Agreement”), by and among GTAT (other than GT Advanced Technologies Limited), Apple Inc. (“Apple”), and Apple’s affiliate Platypus Development LLC, any Mesa Furnaces that remain in the Mesa Facility after December 31, 2015 will automatically transfer to Apple. Accordingly, all Successful Bidders (as defined below) must remove all Mesa Furnaces they acquire at the ASF Auction from the Mesa Facility as soon as possible so as to ensure removal on or before December 31, 2015, otherwise such Mesa Furnaces will be forfeited to Apple, and the Good Faith Deposit and any portion of the Net Purchase Price (each as defined below) paid to GTAT will be forfeited to GTAT.**

Separately, GTAT intends to conduct an online auction (the “Non-ASF Auction”) for the sale of certain materials and equipment located in the Mesa Facility, other than ASF Furnaces (the “Non-ASF Equipment”), in accordance with the procedures set forth in the Online Auction Order. The Non-ASF Auction will commence on November 24, 2015 and will conclude on **November 30, 2015**. For the avoidance of doubt, the sale of Non-ASF Equipment through the Non-ASF Auction is not the subject of these Auction Procedures. **The successful bidders for Non-ASF Equipment at the Non-ASF Auction must remove such Non-ASF Equipment**

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consultation with the DIP Lenders or the Committee, as is reasonably practicable under the circumstances.

from the Mesa Facility by December 31, 2015, or else such Non-ASF Equipment will be forfeited to Apple.

**ALL FORMS OF COLLUSIVE BIDDING, I.E., ANY FORMAL OR INFORMAL AGREEMENT AMONG BIDDERS REGARDING THE BIDDING IN CONNECTION WITH THE ASF AUCTION, WHETHER PRIOR TO, DURING, OR AFTER THE ASF AUCTION, ARE STRICTLY FORBIDDEN UNDER THE UNITED STATES BANKRUPTCY CODE. BIDDERS ENGAGING IN COLLUSIVE BIDDING WILL BE EXCLUDED FROM THE ASF AUCTION. MOREOVER, BIDDERS FOUND TO HAVE ENGAGED IN COLLUSIVE BIDDING UNDER THE UNITED STATES BANKRUPTCY CODE WILL BE LIABLE TO GTAT FOR DAMAGES, INCLUDING PUNITIVE DAMAGES. THE BILL OF SALE ENTERED INTO BETWEEN GTAT AND THE SUCCESSFUL BIDDER (AS DEFINED BELOW) SHALL INCLUDE AN ACKNOWLEDGMENT BY THE SUCCESSFUL BIDDER THAT IT HAS NOT ENGAGED IN ANY COLLUSIVE BIDDING.**

### **Marketing Process**

GTAT, after consultation with its advisors, the DIP Lenders, and the Committee, have developed a list of parties who GTAT believes may potentially be interested in purchasing ASF Furnaces, including potential strategic investors and potential financial investors (each, individually, a “Contact Party” and, collectively, the “Contact Parties”).

GTAT and its advisors are contacting the Contact Parties to explore their interest in purchasing ASF Furnaces. The Contact Parties may include parties whom GTAT or its advisors have previously contacted regarding a transaction, regardless of whether such parties expressed any interest, at such time, in pursuing a transaction. GTAT will continue to discuss the list of Contact Parties with the DIP Lenders and the Committee and may supplement such list throughout the marketing process, as appropriate.

For additional information regarding the ASF Furnaces, parties in interest should contact GTAT’s financial advisor and investment banker, Rothschild Inc. (“Rothschild”), Attention: Joseph Denham, Telephone: (212) 403-5529, Email: [joseph.denham@rothschild.com](mailto:joseph.denham@rothschild.com).

### **Auction Qualification Process**

To be eligible to participate in the ASF Auction, each offer or proposal (each, a “Bid”), and each party submitting such a Bid (each, a “Bidder”), must be determined by GTAT, after consultation with the DIP Lenders and the Committee, to satisfy each of the requirements set forth below. A Bidder that satisfies these requirements is a “Qualified Bidder.”

- (a) Bidder: The Bid must identify the name and address of the Bidder, as well as the telephone number and email address of the appropriate contact person with the Bidder.
- (b) Bid: The Bid must be in writing and identify (i) the number of ASF Furnaces (in multiples of 20 units) the Bidder seeks to purchase, (ii) the type of ASF Furnace

the Bidder seeks to purchase (*i.e.*, Tier 1 HK Furnaces, Tier 2 HK Furnaces, Tier 1 Mesa Furnaces, Tier 2 Mesa Furnaces, or Tier 3 Mesa Furnaces), and (iii) the cash purchase price for each such ASF Furnace. The Bid must be all cash and denominated in United States dollars.

(c) **Bid Deadline:** The Bid must be received no later than **November 20, 2015 at 4:00 p.m. (prevailing Eastern Time)** (the “Bid Deadline”) by the following parties:

- GTAT, Attn: Hoil Kim, Email: [hoil.kim@gtat.com](mailto:hoil.kim@gtat.com), and Raja Bal, Email: [raja.bal@gtat.com](mailto:raja.bal@gtat.com);
- C&A, Attn: George Cunningham, Email: [george@bidindustrial.com](mailto:george@bidindustrial.com);
- Paul Hastings LLP, Attn: G. Alexander Bongartz, Esq., Email: [alexbongartz@paulhastings.com](mailto:alexbongartz@paulhastings.com), and James T. Grogan, Esq., Email: [jamesgrogan@paulhastings.com](mailto:jamesgrogan@paulhastings.com);
- Rothschild Inc., Attn: Joseph Denham, Email: [joseph.denham@rothschild.com](mailto:joseph.denham@rothschild.com);
- Akin Gump Strauss Hauer & Feld LLP, Attn: Brad M. Kahn, Esq., Email: [bkahn@akingump.com](mailto:bkahn@akingump.com);
- PJT Partners, Attn: Michael Schlappig, Email: [schlappig@pjtpartners.com](mailto:schlappig@pjtpartners.com); and
- Kelley Drye & Warren LLP, Attn: Jason Adams, Esq., Email: [jadams@kelleydrye.com](mailto:jadams@kelleydrye.com).

(d) **Good Faith Deposit:** Each Bid must be accompanied by a deposit (the “Good Faith Deposit”) in the amount of 10% of the aggregate purchase price of all ASF Furnaces that Bidder intends to purchase at the ASF Auction, but no less than US\$250,000, to the following bank account established by C&A:

Bank Name:	Wells Fargo Bank, NA
Bank Address:	420 Montgomery St., San Francisco, CA 94104
Wire Routing #:	121000248
Beneficiary Acct. #:	8955723609
Beneficiary Name:	BidIndustrial.com, LLC
Beneficiary Address:	P.O. Box 67087, Phoenix, AZ 85087
CHIPS Participant:	0407
SWIFT Code: <sup>3</sup>	WFBIUS6S

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<sup>3</sup> For international wire transfers only.

**Important: A Qualified Bidder may only purchase ASF Furnaces at the ASF Auction up to an aggregate purchase price of ten (10) times the Bidder's Good Faith Deposit. Thus, a Good Faith Deposit in the amount of US\$250,000 will limit a Qualified Bidder at the ASF Auction to purchasing ASF Furnaces with an aggregate purchase price of no more than US\$2,500,000. A Qualified Bidder who desires to purchase ASF Furnaces at the ASF Auction with an aggregate purchase price of more than US\$2,500,000, must have made a Good Faith Deposit in an amount of at least 10% of such aggregate purchase price prior to the Bid Deadline.**

As an alternative to the foregoing cash deposit, GTAT will also consider bid bonds, letters of credit, or similar forms of security issued by an internationally recognized bank in favor of GTAT. Obtaining any such alternative form of security is the sole responsibility of the Bidder. GTAT reserves the right to reject any such alternative form of security on any grounds, after consultation with the DIP Lenders and the Committee. If accepted by GTAT, such alternative form of security shall be considered a Good Faith Deposit for all purposes under these Auction Procedures.

- (e) Disclosures: The Bid must fully disclose the legal identity of each entity that will be bidding for ASF Furnaces or otherwise participating in connection with such Bid, and the complete terms of any such participation.
- (f) Proof of Financial Ability to Perform: The Bid must be accompanied by sufficient and adequate information to demonstrate, to GTAT's satisfaction, after consultation with the DIP Lenders and the Committee, that the Bidder has the financial wherewithal and ability to consummate the transactions contemplated in such Bid. Such evidence shall include proof that Bidder has sufficient immediately available funds to pay the proposed purchase price and close the transaction proposed in the Bid.
- (g) Buyer Acknowledgment and Certification: The Bid must be accompanied by a signed copy of the Buyer Acknowledgment and Certification attached hereto as Exhibit B, pursuant to which, among other things, the Bidder (i) agrees not to reverse engineer ASF Furnace technology and (ii) certifies that it is acting as principal for its own account and not as agent for a third party.

GTAT will provide notice to all Bidders whether they are Qualified Bidders by **November 21, 2015 at 4:00 p.m. (prevailing Eastern Time).**

GTAT, in its business judgment and after consultation with the DIP Lenders and the Committee, may reject any Bid not in conformity with the requirements of the United States Bankruptcy Code, the Federal Rules of Bankruptcy Procedures, the Local Rules for the United States Bankruptcy Court for the District of New Hampshire, the Auction Procedures or that is contrary to the best interests of GTAT or GTAT's estates or creditors; provided, however, that, notwithstanding anything to the contrary herein, GTAT shall have the right to entertain non-

conforming offers for the ASF Furnaces, in whole or in part, in its business judgment and after consultation with the DIP Lenders and the Committee.

### Costs and Expenses

Each person submitting a Bid shall bear its own costs and expenses in connection with the proposed transaction, whether or not such transaction is ultimately consummated.

The Successful Bidders (as defined below) are responsible for (a) all costs and expenses associated with crating, removing, storing, and shipping the ASF Furnaces they purchase at the ASF Auction, as well as any bank charges, escrow fees, taxes and duties related to such ASF Furnaces, and (b) to the extent that the Mesa Furnaces are to be shipped outside the United States, coordinating with a U.S.-based transfer agent to arrange for the export of such ASF Furnaces. For the avoidance of doubt, GTAT will **not** be the exporter of record of any ASF Furnaces acquired at the ASF Auction.

All work to prepare the Mesa Furnaces for removal from the Mesa Facility must be performed by Omega Morgan, GTAT's approved third party vendor, at the sole expense of the Successful Bidder. The Successful Bidder will need to contract directly with Omega Morgan for such services.

GTAT estimates that the cost of preparing the Mesa Furnaces for removal is as follows:

Type of Mesa Furnace	Preparation for Removal	Cost (per Mesa Furnace) <sup>4</sup>
Tier 1 or Tier 2	<u>Option A</u> : Load furnace into van	approx. \$800.00
	<u>Option B</u> : Prepare crating for overseas shipment and load furnace into sea container or van	approx. \$2,750.00
Tier 3	<u>Option A</u> : Break down furnace, remove furnace (without crating), and load furnace into van	approx. \$2,300.00
	<u>Option B</u> : Break down furnace, remove furnace, clean furnace, <sup>5</sup> prepare standard crating, and load furnace into van	approx. \$6,000.00
	<u>Option C</u> : Break down furnace, remove furnace, clean furnace, prepare crating for overseas shipment, and load furnace into sea container or van	approx. \$8,100.00

<sup>4</sup> Assuming a minimum of 20 Mesa Furnaces to be removed.

<sup>5</sup> Cleaning of the furnace is necessary to obtain the certification from the China Certification & Inspection Group ("CCIC") to export the Mesa Furnaces to China. While GTAT has initiated the process of obtaining CCIC certification for the Tier 1 Mesa Furnaces and Tier 2 Mesa Furnaces, that process can only be completed after the completion of the sale. With respect to the Tier 3 Mesa Furnaces, GTAT has not requested or received any CCIC certification.

Qualified Bidders are strongly encouraged to contact Omega Morgan **prior to the ASF Auction** to discuss the logistics of removing the Mesa Furnaces they are interested in purchasing. Omega Morgan's contact information is as follows:

Morgan Industrial, Inc.  
23810 NW Huffman Street  
Hillsboro, OR 97124  
Attn: Devin Walker  
Tel: (503) 647-7474 / (800) 442-8141

For the avoidance of doubt, GTAT is **not** responsible for making the appropriate arrangements with any third parties to remove, store, and ship the ASF Furnaces acquired by the Successful Bidders at the ASF Auction.

As noted below, in determining the highest or otherwise best Bid, GTAT, after consultation with the DIP Lenders and the Committee, may take into account the ability of the Bidder to remove the Mesa Furnaces from the Mesa Facility by December 31, 2015.

### **Stalking Horse Bids**

GTAT will entertain, after consultation with the Committee and the DIP Lenders, the possibility of entering into one or more agreements (each a "**Stalking Horse Agreement**") with one or more stalking horse purchasers (each a "**Stalking Horse Purchaser**") for the sale of ASF Furnaces. Any and all Stalking Horse Purchasers must be so designated by GTAT no later than **November 21, 2015 at 4:00 p.m. (prevailing Eastern Time)**. Any and all Stalking Horse Purchasers will be deemed to be Qualified Bidders.

If GTAT enters into a Stalking Horse Agreement with any Stalking Horse Purchaser, GTAT will file a notice of the each such Stalking Horse Agreement (each, a "**Stalking Horse Notice**") with the Bankruptcy Court. Each Stalking Horse Notice will include (i) the identity of the Stalking Horse Purchaser, (ii) a summary of the key terms of the Stalking Horse Agreement, and (iii) a copy of the Stalking Horse Agreement.

In addition, GTAT will announce the terms of the Stalking Horse Agreement, including the identity of the Stalking Horse Purchaser, at the beginning of the ASF Auction.

With the approval of the DIP Lenders and the Committee, GTAT may agree to reimburse the Stalking Horse Purchaser for actual reasonable and documented expenses incurred, including reasonable attorneys' fees.

The Stalking Horse Agreement is subject to being overbid by competing Bids at the ASF Auction.

### **ASF Auction**

If two or more Bidders qualify as Qualified Bidders, GTAT and C&A will conduct the ASF Auction to determine the highest or otherwise best Bid for the ASF Furnaces. In

determining the highest or otherwise best Bid, GTAT shall consult with the DIP Lenders and the Committee and may take into account any factors it reasonably deems relevant to the value of the Bid to its estates, including (a) the consideration to be received by GTAT, (b) the likelihood of the Bidder's ability to close a transaction and the timing thereof, and (c) the ability of the Bidder to remove the Mesa Furnaces from the Mesa Facility promptly after the ASF Auction (collectively, the "Bid Assessment Criteria").

If one or no Bidders qualify as Qualified Bidders, GTAT shall not conduct the ASF Auction. If a Stalking Horse Purchaser is the only Qualified Bidder, GTAT shall proceed with a sale of ASF Furnaces in accordance with the Stalking Horse Agreement. If the only Qualified Bidder is not a Stalking Horse Purchaser, GTAT may, in its business judgment and after consultation with the DIP Lenders and the Committee, proceed with the sale of ASF Furnaces to such bidder on the terms set forth in such bidder's Bid.

Only parties that GTAT, after consultation with the DIP Lenders and the Committee, determines in accordance with these Auction Procedures are Qualified Bidders may participate in the ASF Auction.

#### **Procedures for ASF Auction**

The ASF Auction will commence on **December 2, 2015, at 9:00 p.m. (prevailing Eastern Time)**.

The ASF Auction will be conducted **live** at Paul Hastings' offices in New York, New York. To facilitate the bidding at the ASF Auction, Qualified Bidders may also participate through video conference at Paul Hastings' offices in Shanghai, China, through a telephonic conference, and through simulcast on the Online Auction Site. The location of Paul Hastings' New York and Shanghai offices are as follows:

Paul Hastings LLP  
75 East 55th Street  
New York, NY 10022

Paul Hastings LLP  
43/F, Jing An Kerry Center Tower II  
1539 Nanjing West Road  
Shanghai 200040, PRC

A secure login to participate in the ASF Auction through simulcast on the Online Auction Website as well as the dial-in details for the telephonic conference during the ASF Auction will be provided to Qualified Bidders on or before 4:00 p.m. (prevailing Eastern Time) on November 21, 2015. Prior to submitting a Bid through the Online Auction Site, Qualified Bidders will be required to complete an online registration process. Bidders that have any questions regarding the online bidding process should contact C&A at (602) 469-4635.

**Attendance by Qualified Bidders at one of Paul Hastings' offices is strongly recommended, but not mandatory in order to participate in the ASF Auction. Only Qualified Bidders may attend the ASF Auction in Paul Hastings' New York or Shanghai offices or participate in the ASF Auction through the telephonic conference or the Online Auction Site.**

GTAT, after consultation with the DIP Lenders and the Committee, may conduct the ASF Auction in the manner it determines will result in the highest or otherwise best offer for any of the ASF Furnaces.

***Bidding on a Lot by Lot Basis***

The ASF Furnaces will be auctioned in lots of **20 units or more**. The number of ASF Furnaces to be sold at the ASF Auction (and hence the number of lots) will be determined by GTAT, after consultation with the DIP Lenders and the Committee, during the ASF Auction.

GTAT will open the bidding at the ASF Auction with **one (1) lot in each of the five categories of ASF Furnaces**. Promptly after the conclusion of bidding on such ASF Furnaces, GTAT will announce whether to open up bidding on additional ASF Furnaces, in which case live bidding on such additional ASF Furnaces will commence immediately. Promptly after the conclusion of bidding on such additional ASF Furnaces (if any) or any other lot of ASF Furnaces, GTAT will announce whether to open up bidding on one or more subsequent lots, in which case live bidding on such subsequent lot(s) will commence immediately.

GTAT may decide, in its business judgment and after consultation with the DIP Lenders and the Committee, whether, and in which sequence, to open up lots for bidding at the ASF Auction.

***Bidding at the ASF Auction.***

The following procedures apply with respect to the bidding at the ASF Auction:

- (a) Qualified Bidders: Only Qualified Bidders may submit a Bid at the ASF Auction.
- (b) Minimum Overbid Increments: All Bids at the ASF Auction shall be made in increments determined by GTAT and its advisors in their reasonable discretion, after consultation with the DIP Lenders and the Committee.
- (c) Bid Is Binding and Irrevocable: All Bids submitted at the ASF Auction are binding and irrevocable through the end of the ASF Auction; provided, that if a Bid is accepted as the Successful Bid or the Back-Up Bid (each as defined herein), such Bid shall continue to remain irrevocable, subject to the terms and conditions of the Auction Procedures.
- (d) Contingencies: The Bid may not (i) contain representations and warranties, covenants, or termination rights or (ii) be conditioned on financing or due diligence contingencies of any kind or any other conditions precedent to such Bidder's obligation to purchase the ASF Furnaces that are the subject of the Bid.
- (e) Proof of Financial Ability to Perform: To the extent not previously provided, a Bidder submitting a Bid at the ASF Auction must submit, as part of its Bid, sufficient and adequate information to demonstrate, to GTAT's satisfaction, after consultation with the DIP Lenders and the Committee, that the Bidder has the

financial wherewithal and ability to consummate the transactions contemplated in such Bid. Such evidence shall include proof that the Bidder has sufficient immediately available funds to pay the purchase price and close the transaction proposed in the Bid.

- (f) **Maximum Aggregate Purchase Price: A Qualified Bidder at the ASF Auction is limited to purchasing ASF Furnaces with an aggregate purchase price of no more than ten (10) times the Good Faith Deposit of such Qualified Bidder. For the avoidance of doubt, a Qualified Bidder's Back-Up Bids (as defined below), if any, are not included in determining the foregoing limitation on the maximum aggregate purchase price.**
- (g) **Forfeiture of Good Faith Deposit: A Qualified Bidder's failure to consummate the purchase of ASF Furnaces in accordance with the Bid(s) it submitted at the ASF Auction will result in the forfeiture of its Good Faith Deposit.**

***Closing the ASF Auction.***

With respect to each lot of ASF Furnaces that is opened up for bidding at the ASF Auction, the ASF Auction shall continue until the highest or otherwise best Bid has been obtained at the ASF Auction for such lot, as determined by GTAT, after consultation with its advisors, the DIP Lenders, and the Committee. Such Bid shall be referred to as the "Successful Bid," and the Qualified Bidder submitting such Successful Bid shall be referred to as the "Successful Bidder." In determining the Successful Bid, GTAT, after consultation with its advisors, the DIP Lenders, and the Committee, shall consider the Bid Assessment Criteria. Promptly following GTAT's selection of each Successful Bid, GTAT shall announce the Successful Bid and Successful Bidder.

The Successful Bid(s) shall remain open, irrevocable, and binding. The bid of the next highest or otherwise best Bid or combination of Bids at the ASF Auction, as determined by GTAT, after consultation with its advisors, the DIP Lenders, and the Committee, will be designated as the "Back-Up Bid," and the Qualified Bidder submitting such Back-Up Bid shall be referred to as the "Back-Up Bidder." The Back-Up Bid shall remain open and irrevocable until the earliest to occur of (i) the closing, or closing(s), as the case may be, of the sale of the ASF Furnaces that are the subject of the Successful Bid(s), (ii) December 31, 2015, or (iii) the release of such bid by GTAT; provided, however, that the Back-Up Bidder shall be automatically released from the Back-Up Bid in the event that, after the submission of the Back-Up Bid, the Back-Up Bidder becomes a Successful Bidder in respect of any ASF Furnaces.

**The ASF Auction with respect to any particular Successful Bid will not be complete until after the Successful Bidder has made full payment on the purchase price and the cost of preparing the ASF Furnaces for removal from GTAT's facilities, as specified below.**

Within 7 days after the conclusion of the ASF Auction, GTAT shall file with the Bankruptcy Court a notice of the Successful Bids and Successful Bidders.

***Consummation of Successful Bid.***

The Successful Bid(s) shall be consummated as follows:

- (a) Immediately after the conclusion of the ASF Auction:
- GTAT shall provide each Successful Bidder with a Bill of Sale for the ASF Furnaces set forth in the Successful Bid, which Bill of Sale will be updated solely to reflect (a) the identity of the GTAT entity that is the seller of such ASF Furnaces, (b) the identity of the Successful Bidder, (c) the category and number of ASF Furnaces purchased by the Successful Bidder, and (d) the aggregate purchase price payable by the Successful Bidder for such ASF Furnaces (the “Customized Bill of Sale”).
  - GTAT shall provide each Successful Bidder with wire instructions for final payment of the purchase price, net of the respective Good Faith Deposits (the “Net Purchase Price”). **The account to which final payment must be wired will be a GTAT account located in the United States.** Successful Bidders should not wire final payment to the bank account established for the Good Faith Deposit.
  - GTAT and the Successful Bidders shall meet and confer regarding the logistics of removing from GTAT’s facilities the ASF Furnaces acquired by the Successful Bidders. The Successful Bidders shall advise GTAT as to how the ASF Furnaces they acquired at the ASF Auction should be prepared for loading and removal from GTAT’s facilities. GTAT shall advise the Successful Bidders of the cost of the requested preparations (the “Preparation Costs”), if any, and provide the Successful Bidders with wiring instructions for payment of such costs.
- (b) Within **seven (7) calendar days** after the conclusion of the ASF Auction, each Successful Bidder must (i) execute and deliver to GTAT its Customized Bill of Sale, (ii) pay GTAT, in cash and in United States dollars, the Net Purchase Price for the ASF Furnaces it undertook to acquire at the ASF Auction, in accordance with the wire instructions provided by GTAT, and (iii) pay the appropriate third party vendor, in cash and in United States dollars, for the Preparation Costs requested by the Successful Bidders, in accordance with the wire instructions provided by GTAT. Immediately upon completion of the foregoing, C&A shall release such Successful Bidder’s Good Faith Deposit to GTAT. For the avoidance of doubt, the Good Faith Deposits may not be applied against the Preparation Costs.
- (c) **The ASF Auction will not be complete with respect to a particular Successful Bid until the Successful Bidder has complied with the requirements in subsection (b) above.**

- (d) As soon as reasonably practicable after (i) a Successful Bidder has complied with the requirements in subsection (b) above and (ii) the ASF Furnaces acquired by such Successful Bidder at the ASF Auction are ready for loading and removal from GTAT's facilities, GTAT will notify such Successful Bidder by email that such ASF Furnaces are ready for loading and removal.
- (e) Within **seven (7) calendar days** after receipt of such email notification, the Successful Bidders must remove from GTAT's facilities the ASF Furnaces they acquired at the ASF Auction.

2. Failure to Consummate Successful Bid

In the event a Successful Bidder fails to consummate the transaction as set forth above for any reason other than a material breach by GTAT (following written notice thereof and a reasonable opportunity to cure such breach), (a) such Successful Bidder's **Good Faith Deposit is forfeited to GTAT**, and GTAT reserves the right to pursue all available remedies, whether legal or equitable, available to it, and (b) GTAT shall be authorized to consummate the proposed transaction with the corresponding Back-Up Bidder(s), who shall then be deemed the Successful Bidder(s) for all purposes under these Auction Procedures.

3. Removal of ASF Furnaces

**The Successful Bidders are responsible for making all appropriate arrangements to have the ASF Furnaces they acquire at the ASF Auction loaded and removed from GTAT's facilities as soon as possible so as to ensure removal on or before December 31, 2015. Any Mesa Furnaces acquired by a Successful Bidder at the ASF Auction that remain in the Mesa Facility after December 31, 2015 will be forfeited to Apple, and the Good Faith Deposit and any portion of the Net Purchase Price paid to GTAT will be forfeited to GTAT.**

With respect to the removal of any Mesa Furnaces acquired at the ASF Auction, the Successful Bidders must also comply with any requirements that Apple may reasonably impose with respect to accessing the Mesa Facility.

The Successful Bidders are responsible for all costs, expenses, and arrangements associated with crating, removing, storing, and shipping the ASF Furnaces they acquire at the ASF Auction, including without limitation, any import/export taxes, any customs duties, and any fees charged by a forwarding agent, as well as making any required filings with governmental agencies, whether in the United States or abroad.

**Additional Procedures**

**GTAT may, in its business judgment and after consultation with the DIP Lenders and the Committee, withdraw any ASF Furnaces from the ASF Auction at any time and for any reason, including, without limitation, if the Bids do not reach a threshold amount warranting continuation of the Auction with respect to a particular ASF Furnace. For the**

**avoidance of doubt, GTAT is under no obligation to sell any ASF Furnaces at the ASF Auction.**

GTAT also reserves the right, in the exercise of its fiduciary obligations and after consultation with the DIP Lenders and the Committee, to modify the Auction Procedures or impose, at or prior to the ASF Auction, different and/or additional terms and conditions on the sale subject to the Auction Procedures.

**Consent to Jurisdiction as Condition to Bidding**

All Qualified Bidders at the ASF Auction shall be deemed to have (a) consented to the core jurisdiction of the Bankruptcy Court to enter an order or orders, which shall be binding in all respects, in any way related to GTAT, its chapter 11 cases, the Auction Procedures, the ASF Auction, or the construction and enforcement of any Qualified Bid or related documents and (b) waived any right to a jury trial in connection with any disputes relating to GTAT, its chapter 11 cases, the Auction Procedures, the ASF Auction, or the construction and enforcement of any Qualified Bid or related documents.

**Return of Good Faith Deposits**

The Good Faith Deposits of all Qualified Bidders shall be held in the bank account specified above. The Good Faith Deposit of any Qualified Bidder that is neither a Successful Bidder nor a Back-Up Bidder shall be returned to such Qualified Bidder not later than five (5) business days after the ASF Auction.

The Good Faith Deposit of each Back-Up Bidder, if any, shall be returned to the respective Back-Up Bidder on the date that is the earlier of 72 hours after (a) the closing of the transaction with the Successful Bidder or Successful Bidders for the ASF Furnaces bid upon by such Back-Up Bidder and (b) December 31, 2015.

If a Successful Bidder or Successful Bidders timely closes their Successful Bid(s), their respective Good Faith Deposits shall be credited towards their respective purchase prices.

**Exhibit A**

**BILL OF SALE OF ASF FURNACES**

IN CONSIDERATION of the sum of US\$ \_\_\_\_\_, inclusive of all sales taxes, paid in cash, the receipt of which consideration is acknowledged,

\_\_\_\_\_ (the “Seller”)

hereby SELLS AND DELIVERS to

\_\_\_\_\_ (the “Buyer”)

the following equipment (together with any crating performed to date, the “Equipment”):

	<b>Units</b>	<b>Unit Price</b>	<b>Amount</b>
Tier 1 HK Furnaces <sup>6</sup>			
Tier 2 HK Furnaces			
Tier 1 Mesa Furnaces			
Tier 2 Mesa Furnaces			
Tier 3 Mesa Furnaces			
		<b>Total Purchase Price:</b>	
		<b>Good Faith Deposit:</b>	
		<b>Net Purchase Price:</b>	

The Equipment is being sold AS IS AND WHERE IS and the Seller expressly disclaims all warranties, whether expressed or implied, including but not limited to, any implied warranty of merchantability or fitness for a particular purpose. Further, the Seller disclaims any warranty as to the condition of the Equipment. The Seller does not assume, or authorize any other person to assume on behalf of the Seller, any liability in connection with the sale of the Equipment.

The Buyer has been given the opportunity to inspect the Equipment or to have it inspected and the Buyer has accepted the Equipment in its existing condition. This Bill of Sale will be construed in accordance with and governed by the laws of the State of New York.

<sup>6</sup> Capitalized terms used but not defined herein have the meanings ascribed to them in the Auction Procedures approved by the United States Bankruptcy Court for the District of New Hampshire on November \_\_, 2015 [Docket No. \_\_\_\_]

**BUYER REPRESENTS AND ACKNOWLEDGES THAT IT HAS NOT ENGAGED IN ANY COLLUSIVE BIDDING IN CONNECTION WITH THE ASF AUCTION.**

*[name of Seller]*

*[name of Buyer]*

BY: \_\_\_\_\_

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

**Exhibit B**



BUYER ACKNOWLEDGEMENT AND  
CERTIFICATION

\_\_\_\_\_ (“Buyer”) has purchased or has expressed an interest in purchasing certain sapphire furnaces (hereafter, “Equipment”) from GTAT Corporation, GT Advanced Equipment Holding LLC, and/or GT Advanced Technologies Limited. On behalf of him/herself, its organization and/or the ultimate user of the Equipment, Buyer certifies and acknowledges that it has read, understands, acknowledges and agrees to the terms of this “*Buyer Acknowledgment and Certification*,” effective as of the purchase date of such Equipment (hereafter, the “Certification”).

In particular, Buyer represents and warrants that:

- Buyer agrees that it will not, nor will it aid, assist or permit any other person to: (i) reproduce or modify the Equipment or any portion thereof or tamper with the Equipment; (ii) utilize any imaging equipment or other modality to reveal the inner structures and/or designs of the Equipment; (iii) disassemble, decompile or reverse engineer the Equipment to determine the structural or physical components thereof; or (iv) otherwise discover (or attempt to discover) and/or utilize any underlying trade secrets and know-how of GTAT relating to the Equipment. Buyer further agrees that it will not disclose, nor will it aid, assist or permit any other person to disclose, any information which it may learn or discover about the materials and methods of construction, design, assembly, functionality, geometries, measurements and tolerances of the Equipment or any parts or components associated therewith.
- Buyer has inspected the Equipment (or will have had the opportunity to inspect the Equipment on or before November 20, 2015, at its own expense) and understands, agrees and accepts receipt and purchase of the Equipment in an “AS IS” condition, without any guarantees, representations, or warranties of any kind, whether express, implied or otherwise.
- Buyer is duly authorized and has the authority to enter into this Certification on behalf of him/herself or its organization.
- Buyer has sufficient immediately available funds to purchase the Equipment.
- In purchasing the Equipment, Buyer is acting as principal for its own account and not as agent for a third party.

Furthermore, Buyers understands, acknowledges and agrees that is has an express right and license to use the Equipment and to make, use and/or sell the materials produced therefrom. Buyer has no right or license to make, have made, assemble, or have assembled the Equipment, whether for use by itself of another party.

This Certification will pass through and be binding on all subsequently purchasers of the Equipment.

This Certification has been executed by its duly authorized representatives, this \_\_\_\_\_ day of November, 2015.

Buyer: \_\_\_\_\_

Signature: \_\_\_\_\_

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

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