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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:)
) Chapter 11
)
EASTMAN KODAK COMPANY, *et al.*,¹) Case No. 12-_____()
)
Debtors.) (Joint Administration Requested)
_____)

**DEBTORS’ MOTION FOR ENTRY OF INTERIM AND FINAL ORDERS
(A) AUTHORIZING, BUT NOT DIRECTING, THE DEBTORS TO PAY CERTAIN
PREPETITION CLAIMS OF CRITICAL VENDORS, (B) APPROVING RELATED
PROCEDURES AND (C) AUTHORIZING, BUT NOT DIRECTING, ALL FINANCIAL
INSTITUTIONS TO HONOR ALL RELATED PAYMENT REQUESTS**

Eastman Kodak Company (“**Kodak**”), on behalf of itself and its affiliated debtors and debtors in possession in these chapter 11 cases (collectively, the “**Debtors**”), hereby submits this motion (the “**Motion**”) for entry of interim and final orders, substantially in the forms attached hereto as Exhibit A (the “**Proposed Interim Order**”) and Exhibit B (the “**Proposed Final Order**”, together with the Proposed Interim Order, the “**Proposed Orders**”), respectively,

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Eastman Kodak Company (7150); Creo Manufacturing America LLC (4412); Eastman Kodak International Capital Company, Inc. (2341); Far East Development Ltd. (2300); FPC Inc. (9183); Kodak (Near East), Inc. (7936); Kodak Americas, Ltd. (6256); Kodak Aviation Leasing LLC (5224); Kodak Imaging Network, Inc. (4107); Kodak Philippines, Ltd. (7862); Kodak Portuguesa Limited (9171); Kodak Realty, Inc. (2045); Laser-Pacific Media Corporation (4617); NPEC Inc. (5677); Pakon, Inc. (3462); and Qualex Inc. (6019). The location of the Debtors’ corporate headquarters is: 343 State Street, Rochester, NY 14650.



(a) authorizing, but not directing, the Debtors to pay certain prepetition claims of certain critical trade creditors (the “**Critical Vendor Claims**”) in accordance with the Debtors’ Procurement Policy (as defined below) and (b) authorizing, but not directing, financial institutions to receive, process, honor and pay all related checks and electronic payment requests, solely to the extent the Debtors have sufficient funds standing to their credit with such financial institutions. In support of this Motion, the Debtors respectfully represent and set forth as follows:

Background

1. On the date hereof (the “**Petition Date**”), each of the Debtors filed a voluntary petition in this Court for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.* (the “**Bankruptcy Code**”). The Debtors continue to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No request for the appointment of a trustee or examiner has been made in these chapter 11 cases. No committees have been appointed or designated.

2. Founded in 1880 and long one of the world’s leading material science companies, the Debtors and their non-Debtor affiliates operate an integrated global business involving a diverse collection of mature and growth businesses and an array of valuable intellectual property. In order to address a shortfall in liquidity in the United States, monetize non-strategic intellectual property, fairly resolve legacy liabilities and focus on their most valuable business lines, the Debtors commenced these chapter 11 cases.

3. Additional factual background relating to the Debtors’ businesses and the commencement of these chapter 11 cases is set forth in detail in the Declaration of Antoinette P. McCorvey Pursuant to Rule 1007-2 of the Local Bankruptcy Rules for the Southern District of New York in Support of First Day Pleadings dated January 18, 2012 (the “**First Day Declaration**”), filed contemporaneously with this Motion and incorporated herein by reference.

Facts Specific to the Relief Requested

A. The DIP Financing and Stabilization of the Debtors' Business Operations

4. The Debtors have experienced extraordinary liquidity constraints during the pre-filing period. In order to stabilize the Debtors' operations, and to smoothly transition into chapter 11, it is imperative that the Debtors normalize their global supply relationships. Failure to do so would result in extremely adverse business effects given the current pressure on the Debtors' already strained supply chain. The Debtors anticipate that their proposed debtor-in-possession financing (the "**DIP Financing**"), along with the relief sought herein and in their other first day pleadings, will be instrumental in helping to stabilize the Debtors' business operations by restoring much-needed liquidity.

5. The Debtors believe that the majority of their vendors will be comforted by the increased liquidity made available to them under the DIP Financing; and therefore, the Debtors are optimistic that their trade terms ultimately will stabilize over the course of these chapter 11 cases. In some limited instances, however, the Debtors anticipate that certain vendors—in some cases, Critical Vendors (as defined below)—may refuse to do business with the Debtors unless those vendors are paid their prepetition claims in full.

6. Given the specialized type of goods and the complexity of services required to maintain the Debtors' operations, the Debtors firmly believe that certain Critical Vendors could not be replaced within a reasonable time or on terms as beneficial to the Debtors as those already in place. Moreover, if a Critical Vendor were to refuse to do business with the Debtors, the resulting disruption in supply of raw materials, components and finished goods would ripple through the Debtors' businesses, idling production of certain product lines and the ability to service existing products or, in some cases, entire production facilities, and damaging the Debtors' ability to create final products or to deliver goods to customers (and, therefore,

maintain customer relationships and generate revenue), all to the detriment of the Debtors' estates and their creditors. Further, given that many product lines are managed globally with common vendors serving multiple regions, a disruption to the Debtors' operation could have a ripple effect on the Debtors' foreign affiliates.

7. For all of these reasons, maintaining an unbroken supply chain is critical to the preservation of value for all stakeholders in these chapter 11 cases. To the extent that the Debtors and their foreign non-debtor affiliates can maintain their current supply of goods and services at existing costs during the postpetition period and avoid the severe disruptions to their businesses that likely would arise from the cessation of the delivery of such goods or the performance of such services, it is prudent for the Debtors to pay selected Critical Vendors some or all of their prepetition claims for the overall benefit of the Debtors' estates and their reorganizations.

B. Identification of the Debtors' Critical Vendors

8. Kodak, together with its Debtor and non-debtor affiliates, comprise a multinational imaging and photographic equipment, materials and services company that creates and produces a wide range of photographic film products and digital photographic and printing products. The Debtors' products are sold by 30 strategic business units through extensive distribution channels to a highly-diversified global customer base in more than 30 countries around the world. The Debtors' ability to retain and grow that customer base depends on their ability to procure goods and services at competitive prices and fulfill, produce and distribute their products timely and accurately. This, in turn, necessitates carefully-choreographed, highly-integrated stages of development, production and delivery realized through a synchronization of the numerous third-party suppliers, vendors and service providers within the Debtors' global supply chain network.

9. Given the logistical challenges associated with creation, distribution and customer service related to the Debtors' products, especially in light of the increasingly global nature of the Debtors' businesses, the Debtors also outsource to unaffiliated third parties certain key business processes, including facilities management and information technology. Outsourcing enables the Debtors to capitalize on the relationships, resources and technological strengths of high-volume vendors to achieve cost structure efficiencies without capital investment or budget increases, enabling the Debtors to create, produce and deliver higher-service products at lower cost points relative to the marketplace, which, in turn, facilitates competitive operations that better position the Debtors to take advantage of top-line growth potential.

10. Notwithstanding the benefits of their outsourcing arrangements, outsourcing also inevitably limits the Debtors' ability to exercise direct control over outsourced operations, including their finished products, which increases the Debtors' exposure to supply chain interruptions and other external factors. This requires the Debtors to achieve the cooperation of their key vendors, service providers and outsourcing partners to ensure a dependable, accountable yet flexible supply chain.

11. Additionally, the Debtors domestically manufacture and produce certain products that rely on sole-source specialty chemicals or products. Certain of these unique goods are provided by smaller businesses that may be financially unable to continue operations if the Debtors did not pay for goods received prepetition pursuant to Customary Trade Terms (as defined below). Also, certain of these sole source suppliers sell goods and services to the Debtors pursuant to a course of dealing, but without a formal contract.

12. Based on their books and records as of the Petition Date, the Debtors estimate that they have approximately 2,000 vendors with outstanding prepetition claims in the aggregate amount of approximately \$332 million.² In connection with commencing these chapter 11 cases, the Debtors are making every effort to ensure continued deliveries of essential goods and services on favorable terms to avoid the adverse effects of supply chain interruptions. Nevertheless, the Debtors are mindful of the requirements of the Bankruptcy Code and their fiduciary obligations to preserve and maximize the value of their estates. This is evidenced by the fact that despite the critical need for the receipt of essential goods and services, the Debtors historically have sought to negotiate with their vendors to achieve the lowest price, the best service and quality and the most favorable payment terms possible for each necessary product or service. The Debtors recognize that efficiency in procurement is critical to maximizing profitability, and have developed valued relationships with many suppliers, who have met the Debtors' standards for price, service, quality and payment terms. The Debtors hope to maintain and improve upon those vendor relationships on a postpetition basis, when the claims of vendors which provide goods and services that benefit the Debtors' estates will be entitled to administrative priority status.

13. With the assistance of their professional advisors, the Debtors have spent significant time reviewing and analyzing their books and records and consulting operations management and purchasing personnel to identify certain critical business relationships and/or suppliers of goods and services, the loss of which could immediately and irreparably harm the Debtors' businesses, shrink their market share, reduce their enterprise value and/or impair going

² Although there are approximately 6,000 vendors in the Debtors' accounts payable system (all of which were evaluated for purposes of this Motion), only about 2,000 have open balances as of January 9, 2012.

concern viability (the “**Critical Vendors**”).³ In determining whether a vendor is a Critical Vendor that justifies Preplan Payment, the Debtors first considered whether a supplier was essential, considering a variety of factors, including, without limitation, whether:

- a vendor is a sole- or limited-source supplier;
- alternative vendors are available that can provide requisite volumes of goods with acceptable quality and delivery specifications or services on equal (or better) terms and, if so, whether the Debtors would be able to continue operating while transitioning business thereto;
- the degree to which, if at all, aggregate vendor replacement costs (including pricing, transition expenses, professional fees and lost sales or future revenue) exceed the amount of a vendor’s prepetition claim; and
- certain manufacturing, quality or product specifications or other customer requirements prevent the Debtors from obtaining goods or services from alternative sources.

14. To the extent the Debtors concluded that a vendor is essential, the Debtors considered whether an agreement exists by which the Debtors could compel a vendor to continue to perform on prepetition terms and,⁴ if so, whether the enforcement thereof could be accomplished in a timely, cost-efficient manner without unduly burdening or disrupting the Debtors’ businesses and operations.

C. Description of the Debtors’ Critical Vendors

15. The Debtors’ Critical Vendors constitute a small portion of the Debtors’ trade vendors by both number and dollar amount. The Debtors’ Critical Vendors generally, but

³ Contemporaneously with this Motion, the Debtors are also filing a motion to pay certain prepetition obligations due to certain of the Debtors’ essential foreign vendors who are critical to the Debtors’ business operations, as well as a motion to pay certain prepetition obligations due to certain parties entitled to assert mechanics’ or other possessory liens or other similar liens under applicable state law. The Debtors have analyzed various vendors in an attempt to categorize them most logically among these motions, but submit that the claims proposed to be paid pursuant to this Motion might also be entitled to payments pursuant to other of the first day motions based on the rationales set forth therein.

⁴ The Debtors, in consultation with their professional advisors, reviewed and analyzed substantially all of the Debtors’ contractual arrangements with key vendors that, collectively, represent over 80% of the Debtors’ annual expenditures.

not exclusively, fall into the following categories: (a) product vendors; and (b) corporate operations vendors.⁵

i. Product Vendors

16. In the ordinary course of business, the Debtors obtain the various raw materials, components, and merchandise goods that they require to bring their products to market from various third party suppliers and vendors, which, for purposes of this Motion, are organized into the following categories: (a) raw materials suppliers; (b) custom chemicals suppliers; (c) merchandise vendors; and (d) component vendors (the “**Product Vendors**”).

(a) Raw Materials Suppliers

17. Raw materials are the lifeblood of several of the Debtors’ businesses. Even a short delay in their delivery could damage the health of the Debtors’ operations. The raw materials used by the Debtors are many and varied. Lithographic aluminum, for example, is the primary material used in the manufacture of offset printing plates. The Debtors also require a significant amount of paper base, which is an essential material in the manufacture of photographic papers. Much of the raw material required to produce highly profitable ink is sole-source and would be extremely difficult for the Debtors to replace. Other raw materials that are essential to the Debtors’ businesses and difficult to source include PET, silicone and specialized sheet metal. The Debtors estimate that they spent approximately \$460 million on raw materials during fiscal year 2011.

⁵ These vendor categories are not intended to be, and shall not be deemed or construed as, exclusive. First, due to the extensive nature of the Debtors’ operations, it is possible that a vendor that provides goods and/or services not explicitly described herein nevertheless satisfies the criteria set forth herein for “Critical Vendor” status. Second, certain vendors provide the Debtors with goods and services that fall into more than one vendor category (e.g., corporate operations vendors and customer-related vendors) and/or sub-categories (e.g., customer services and marketing services). As a result, despite their best efforts, it is difficult to state with certainty the aggregate claim amounts attributable to each of the Critical Vendor categories described herein.

18. As mentioned above, these raw materials are essential to several of the Debtors' key businesses. The Debtors do not have large inventories of many key raw materials used in their industrial processes; rather, the Debtors depend on regular deliveries of raw materials to replenish the supplies necessary to produce their goods. Interruption of supply would cause delays in the Debtors' ability to fulfill existing orders. There is global competition for products that the Debtors produce with the raw materials, and the Debtors' inability to meet their supply obligations would likely cause customers to seek order fulfillments elsewhere, reducing the Debtors' revenue and going concern value. Therefore, any disruption to this supply chain by a raw materials supplier could be disastrous for the Debtors' businesses.

(b) Custom Chemical Vendors

19. The Debtors also have commissioned and continue to use many custom-made chemicals that are essential to the manufacture of film, photographic paper and other products. Because of the custom nature of these chemicals, many, if not most, of these chemicals are received by the Debtors from sole-source providers. Even if the Debtors were able to find another supplier for these chemicals, that supplier's chemicals would have to be put through a lengthy accreditation process that would necessarily bring the Debtors' manufacturing processes largely to a halt. Furthermore, some of these suppliers and small specialty chemical producers rely heavily on the liquidity provided by the Debtors' regular payments and may have to cease operations if the Debtors are unable to honor their prepetition obligations. It is therefore essential that the Debtors be able to satisfy the prepetition claims of certain of these custom chemical vendors. The Debtors estimate that they spent approximately \$115 million on chemical suppliers during fiscal year 2011.

(c) Merchandise Vendors

20. Certain of the Debtors' consumer electronics, such as digital still and video cameras, digital picture frames, desktop inkjet printers, ink cartridges, and batteries are purchased "retail-ready" on open credit from manufacturers and re-sold to customers, while other products are purchased in a substantially finished form but require final assembly. In some circumstances, the Debtors may order branded merchandise on a non-cancelable basis, which, if unpaid, could leave the Debtors with liabilities that preclude them from placing future orders. The Debtors also, on occasion, agree to share the ongoing costs for developing, prototyping, tooling and engineering new products in an effort to bring innovative products to market. The Debtors expect that they will have to make approximately \$2 million in payments postpetition to finish prepetition projects. In fiscal 2011, the Debtors estimate that they have spent approximately \$640 million on merchandise vendors.

21. In most cases, because of the highly customized nature of the Debtors' consumer goods purchased from merchandise vendors, these goods are available only from a single supplier. Generally, the Debtors do not have any viable alternatives to obtain substitute goods from other suppliers. Moreover, seeking to re-source necessary goods from a different supplier is impractical for various reasons (*e.g.*, the unique and expensive equipment required to produce specially-engineered parts). For these reasons, the Debtors have determined that, if they are going to effect a seamless continuation of their manufacturing and assembly operations postpetition and preserve the going concern value of their businesses, they must be able to satisfy the prepetition claims of the merchandise vendors to ensure that these essential single or limited source goods will continue to be available as necessary.

(d) Component Vendors

22. The Debtors use components in the manufacture of digital cameras and devices, consumer and commercial printers, and other devices. Although most components are generally available from multiple sources, certain key components included in the finished goods manufactured by, and purchased from, the Debtors' third-party suppliers are obtained from single or limited sources, which may subject the Debtors to supply risks. In fiscal 2011, the Debtors estimate that they have spent approximately \$110 million on component vendors.

23. The components supplied by the component vendors are integral to the manufacture and assembly of the Debtors' products as well as the service of the Debtors' installed products. Their availability is essential to the continued operations, and going concern value, of the Debtors' operations. It is extremely difficult for the Debtors to re-source a component supplier. Detailed and rigorous internal inspection, testing and approval processes; intellectual property concerns; the need to rebuild necessary production tooling; and the potential enforcement of asserted lien rights against existing tooling all function to prolong the period between the Debtors' decision to re-source and the alternative supplier being ready to produce a production part. Even if an effort were made immediately, it is unlikely that the Debtors would be able to re-source any but the simplest parts postpetition.

ii. Corporate Operations Vendors

24. In the ordinary course of business, to facilitate efficient, reliable and uninterrupted operations, the Debtors outsource the operations of certain of their operating facilities, and the development and management of their branded websites and e-commerce engines, to various third-party vendors. For purposes of this Motion, these vendors are organized into two categories: (a) website management vendors and (b) information technology vendors (the "**Corporate Operations Vendors**").

(e) Website Management Vendors

25. To web-enable their businesses, the Debtors rely extensively on certain third-party vendors to enable them to deliver the products and services marketed under the “Kodak” brand in a medium that reaches a broad and diverse customer base. In fact, Kodak’s online store is the only direct business-to-consumer activity that the company undertakes. These website vendors provide a portfolio of services, including maintenance of customer information, integral to the success of the Debtors’ interactive websites, digital software applications, e-commerce engines and other systems and applications, including, among other things: (a) website design, development and management; (b) digital content delivery; (c) customer digital image storage (d) remote hosting and engineering; and (e) ongoing support and maintenance.

(f) Information Technology vendors

26. In addition to the website vendors, the Debtors outsource their critical business processes to key suppliers that manage and deploy the Debtors’ entire information technology infrastructure. The Debtors’ IT vendors provide the processes, services, software and applications (*e.g.*, information management, maintenance and development, desktop support, and communications technology) on which the Debtors depend to conduct their day-to-day operations and run their businesses. The Debtors have expended significant time and resources to develop working relationships with their IT vendors, and in order to maintain competitive operations, the Debtors must be able to preserve these relationships, especially at this critical time.

27. Because of their expertise and familiarity with the Debtors’ businesses, operations and vision for future growth, it would be extremely difficult to locate vendors able to provide comparable services in the time required to avoid online downtime or infrastructure

impairment in the event the Website and IT Vendors became unwilling or unable to continue to perform their respective outsourced functions or end their business relationship with the Debtors. Even if alternative vendors were available (replacement costs aside), the time required to locate, engage and train new vendors would translate into lost revenues. Importantly, to achieve the bottom-line value and increased return on investment expected from these critical outsourcing partnerships, the Debtors need to preserve their collaborative Website Management and IT Vendor relationships—both during and beyond these chapter 11 cases.

Jurisdiction

28. The Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b). The statutory predicates for the relief requested herein are sections 105(a), 363, 1107(a) and 1108 of the Bankruptcy Code, rule 6003 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”) and rule 9013-1 of the Local Bankruptcy Rules for the Southern District of New York (the “**Local Rules**”).

Relief Requested

29. By this Motion, the Debtors request entry of the Proposed Order, authorizing, but not directing, the Debtors to pay some or all of the Critical Vendor Claims up to an aggregate cap of \$40 million (the “**Critical Vendor Cap**”), in accordance with the proposed procurement policy (the “**Procurement Policy**”) set forth below, to the extent that the Debtors determine, in the exercise of their business judgment, that such payment is critical to ensure that a Critical Vendor will provide essential goods and services to the Debtors on a postpetition basis; *provided, however*, that within 21 days after the Petition Date, the Debtors only will make payments to a Critical Vendor to the extent that the Debtors determine, in the exercise of their business judgment, that such payment is necessary to avoid immediate and irreparable harm to

the Debtors; *provided further*, that in no event shall the Debtors pay any Critical Vendor Claims before such amounts are due and payable. The Debtors also request that the Court authorize, but not direct, financial institutions to receive, process, honor and pay all related checks and electronic payment requests, solely to the extent the Debtors have sufficient funds standing in their credit with such financial institutions.

30. The estimates set forth herein are based on the Debtors' prepetition accounts payable estimates as of January 9, 2012. As a result, certain adjustments and reconciliations will be necessary to account for those invoices that have been issued by vendors, but not yet received by the Debtors at the time of filing this Motion. Accordingly, the Debtors reserve their right, on appropriate notice, including notice to counsel to the agent for the DIP Financing, to request authority to pay Critical Vendor Claims in excess of the Critical Vendor Cap.

A. The Debtors' Proposed Procurement Policy

31. Although the Debtors believe in their business judgment that almost all of their vendors provide invaluable services, the Debtors are seeking authority pursuant to this Motion to pay or otherwise satisfy all or a portion of amounts owing only to a certain class of third-party trade creditors "critical" to the Debtors' ability to conduct their businesses and operations, as identified by the criteria set forth below. These Critical Vendors include suppliers and service providers that: (a) provide unique goods or services that are otherwise unavailable or (b) provide goods or services that the Debtors are unable to procure without incurring significant migration costs or compromising quality. To the extent that vendors meet the preceding criteria, the Debtors must then determine if the vendor has long-term written supply contracts or other

relationships with the Debtors such that they could be compelled to continue providing goods or services to the Debtors postpetition.⁶

32. To preserve needed liquidity, the Debtors do not seek authorization herein to pay all claims of their Critical Vendors, and the Debtors have not developed any list of such vendors with the understanding that those vendors would have an entitlement to receive immediate payment of their prepetition claims. Nevertheless, the Debtors recognize that a small number of their Critical Vendors may, despite the protections of administrative priority status, refuse to provide goods or services to the Debtors on a postpetition basis if the Debtors do not pay all or part of the vendors' prepetition claims.

33. Therefore, the Debtors propose to pay prepetition claims of certain identified Critical Vendors that are essential to the Debtors' business operations, up to the Critical Vendor Cap and only where such payment is necessary to ensure that the particular vendor will provide necessary goods and services to the Debtors on a postpetition basis. To that end, the Debtors have not identified any pre-authorized list of Critical Vendors whose claims may be paid; rather, consistent with the requirements of the Bankruptcy Code and applicable authority, the Debtors will make payments only upon determining that such a payment is actually necessary to preserve value of the Debtors' estates.

34. To further ensure that the Debtors' business operations will be minimally impacted during these chapter 11 cases, the Debtors seek to condition payments to Critical Vendors upon an agreement by such Critical Vendor to provide normal, reasonable and

⁶ Importantly, in some cases, the Debtors' contracts (in the form of a Master Agreement) with certain of these vendors provide only a framework for the issuance of purchase orders. Thus, to the extent there is a contract, that contract may be limited in scope to particular projects or orders. Therefore, the Debtors' postpetition ability to use the contracts to compel certain vendors and suppliers to continue to provide new goods and services may be limited.

customary price, service, quality and payment terms (“**Customary Trade Terms**”) to the Debtors on a postpetition basis.

35. To the extent applicable, the Debtors intend to condition the receipt of payment by a Critical Vendor on an agreement that the Critical Vendor also continue to extend Customary Trade Terms to the Debtors’ non-debtor foreign subsidiaries (the “**Debtors’ Foreign Affiliates**”)—and that the Critical Vendor will not attempt to recover from the Debtors’ Foreign Affiliates any prepetition amounts due to such vendor from the Debtors.

36. The following paragraphs summarize the Debtors’ Procurement Policy:

- a. Critical Vendor Agreements: To ensure that the Critical Vendors deal with the Debtors and the Debtor’s Foreign Affiliates on Customary Trade Terms, prior to paying a Critical Vendor Claim, the Debtors propose that they send a letter, substantially in the form annexed as Exhibit 1 to the Proposed Order (the “**Critical Vendor Agreement**”), to Critical Vendors, along with a copy of any order granting this motion (the “**Critical Vendor Order**”). The Critical Vendor Agreement requires that the Critical Vendor enter into an agreement with the Debtors in the form thereof, including, without limitation, the following information and terms:
 - i. The amount (the “**Prepetition Claim Payment**”) of such Critical Vendor’s estimated Critical Vendor Claim, accounting for any setoffs, other credits and discounts thereto, which shall be mutually determined in good faith by the Critical Vendor and the Debtors (but such Prepetition Claim Payment shall be used only for the purposes of determining such Critical Vendor Claim under the Critical Vendor Order and shall not be deemed a claim filed with or allowed by the Court, and the rights of all interested persons to object to such claim shall be fully preserved until further order of the Court), *provided, however,* that such Critical Vendor shall agree not to assert a claim in excess of the agreed upon Prepetition Claim Payment;
 - ii. The Customary Trade Terms between such Critical Vendor and the Debtors, or such other terms as the Critical Vendors and the Debtors may agree, and the Critical Vendor’s agreement to provide goods and services to the Debtors based upon Customary Trade Terms or upon such other

favorable terms as the Debtors and the Critical Vendor may agree;

- iii. The Critical Vendor's acknowledgement that it has reviewed the terms and provisions of the Critical Vendor Order and consents to be bound thereby;
- iv. The Critical Vendor's agreement that, to the extent applicable, it will continue to extend Customary Trade Terms to the Debtors' Foreign Affiliates; and
- v. The Critical Vendor's agreement that it will not separately seek payment for any reclamation or similar claims outside the terms of the Critical Vendor Order.

To the extent that the Debtors and the Critical Vendor in question have not, despite diligent efforts, entered into a Critical Vendor Agreement, the Debtors shall have the right to pay such Critical Vendor if they determine, in the exercise of their business judgment, that payment of the Critical Vendor Claim is necessary to the Debtors' reorganization. The Debtors shall have the right, but shall not be required, on a case-by-case basis, to obtain other written acknowledgements from Critical Vendors of the Customary Trade Terms to which the parties have agreed.

- b. Designation of Critical Vendor Payments: Any checks used to pay Critical Vendor Claims (to the extent checks are issued) or the Critical Vendor Agreement (to the extent that payments are made by electronic transfer) shall contain a legend substantially in the following form:

"By accepting this payment, the payee agrees to the terms of that certain Order of the United States Bankruptcy Court of the Southern District of New York (the "**Bankruptcy Court**"), dated January __, 2012, in the payor's chapter 11 case (Jointly Administered under Case No. 12-[_____] (____)), entitled "[_____] Order (A) Authorizing, But Not Directing, the Debtors to Pay Certain Prepetition Obligations to Critical Vendors, (B) Authorizing, But Not Directing Financial Institutions to Honor All Related Payment Requests" and submits to the jurisdiction of the Bankruptcy Court for enforcement thereof."

- c. Breach of Critical Vendor Agreement: If a Critical Vendor refuses to supply goods and/or services to the Debtors on Customary Trade Terms following receipt of payment on its Critical Vendor Claim, or fails to comply with any Critical Vendor Agreement entered into between such Critical Vendor and the Debtors, the Debtors may, in

their sole discretion and without further order of the Court, declare that such Critical Vendor is in breach of its Critical Vendor Agreement with the Debtors. To the extent that such Critical Vendor fails to cure such default or reach a more favorable alternative agreement with the Debtors, the Debtors may (a) seek appropriate relief from the Court, including, without limitation, injunctive relief to compel performance pursuant to the existing Critical Vendor Agreement; (b) declare the payment of the applicable Critical Vendor Claim a voidable postpetition transfer pursuant to section 549(a) of the Bankruptcy Code that the Debtors may recover from such Critical Vendor in cash or in goods; and (c) demand that the creditor immediately return such payments in respect of the Critical Vendor Claim to the extent that the aggregate amount of such payments exceeds the postpetition obligations then outstanding without giving effect to alleged setoff rights, recoupment rights, adjustments, or setoffs of any type whatsoever, and the Critical Vendor Claim shall be reinstated in such an amount as to restore the Debtors and the Critical Vendor to their original positions, as if the Critical Vendor Agreement had never been entered into and the payment of the Critical Vendor Claim had not been made, with the intent being that the Debtors will return the parties to their respective positions immediately prior to the entry of the Critical Vendor Order.

- d. Critical Vendor Matrix: The Debtors shall maintain a matrix (the “**Critical Vendor Matrix**”) summarizing: (a) the name of each Critical Vendor paid on account of a Critical Vendor Claim; (b) the amount paid to each Critical Vendor for its Critical Vendor Claim; and (c) a brief description of the type of goods and services provided by each Critical Vendor. Upon request, the Debtors shall provide the Critical Vendor Matrix to the following parties (the “**Critical Vendor Matrix Parties**”): (a) the Office of the United States Trustee for the Southern District of New York (the “**U.S. Trustee**”); and (b) counsel to any official committee of unsecured creditors appointed in these chapter 11 cases (a “**Committee**”); *provided, however*, that the Critical Vendor Matrix Parties shall keep the Critical Vendor Matrix confidential and shall not disclose the information set forth in the Critical Vendor Matrix to anyone, including, but not limited to, any member of a Committee or individual lender without the prior written consent of the Debtors. Additionally, the Debtors shall provide the Critical Vendor Matrix weekly to the agent for the DIP Financing (the “**DIP Agent**”) and shall provide the DIP Agent and its lending affiliates with timely access to information sufficient to enable the DIP Agent and its lending affiliates to monitor payments made, obligations satisfied and other actions taken pursuant to the Proposed Orders (if entered); *provided, however*, that the DIP Agent shall keep the

Critical Vendor Matrix confidential; *provided, further*, that the DIP Agent may share the Critical Vendor Matrix with individual lenders under the DIP Financing with the written consent of Kodak, which written consent shall not be unreasonably withheld.

B. Overlap Between Critical Vendors and Section 503(b)(9) Claimants

37. Many of the Debtors' Critical Vendors may have delivered goods in the ordinary course of business within the 20-day period before the Petition Date (in such capacity, the "**Section 503(b)(9) Claimants**").⁷ The Debtors estimate that about 40% of the total amount of Critical Vendor Claims is on account of goods that were received during the 20-day period before the Petition Date, and therefore, may be afforded administrative priority under Section 503(b)(9) of the Bankruptcy Code (the "**Section 503(b)(9) Claims**").⁸

38. Because of the administrative priority status afforded to Section 503(b)(9) Claims, even absent payment as Critical Vendors Claims, the Section 503(b)(9) Claims must be paid in full in cash upon confirmation of a chapter 11 plan. As a result, for this subset of the Critical Vendor Claims, the relief sought herein will only affect the timing, but not the amount, of payment. Specifically, although the Debtors do not intend to satisfy all of the Section 503(b)(9) Claims until the end of these chapter 11 cases, they respectfully submit that they should have the authority to do so during the pendency of the chapter 11 cases to the extent necessary to preserve the value of the Debtors' businesses.

⁷ Section 503(b)(9) of the Bankruptcy Code provides in pertinent part: "[a]fter notice and a hearing, there shall be allowed administrative expenses . . . including . . . the value of any goods received by the debtor within 20 days before the date of commencement of a case under this title in which the goods have been sold to the debtor in the ordinary course of such debtor's business."

⁸ There may be other claims entitled to administrative priority under section 503(b)(9) of the Bankruptcy Code held by vendors that are not Critical Vendors. The Debtors do not propose to pay these claims pursuant to this Motion; rather, such claims will separately be treated in accordance with section 503(b)(9) of the Bankruptcy Code, and the Debtors reserve any and all rights with respect to the treatment of such claims. Nothing included in, or omitted from, this Motion shall impair, prejudice, waive or otherwise affect any party's right to assert or contest that any claim is a 503(b)(9) Claim.

Basis for Relief

A. Applicable Authority Supports Preplan Payment of the Critical Vendor Claims.

39. In order to protect against diminution in the value of a debtor's estate and going-concern enterprise, bankruptcy courts in the Southern District of New York (and elsewhere) commonly authorize the payment of prepetition obligations in advance of a confirmed chapter 11 plan ("**Preplan Payments**") in large complex chapter 11 cases. *In re CoServ, L.L.C.*, 273 B.R. 487, 497 (Bankr. N.D. Tex. 2002); *see also In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 175 (Bankr. S.D.N.Y. 1989) (Preplan Payment of prepetition wages authorized); *Armstrong World Indus., Inc. v. James A. Phillips, Inc. (In re James A. Phillips, Inc.)*, 29 B.R. 391, 398 (S.D.N.Y. 1983) (Preplan Payment of suppliers' claims authorized). In reaching a determination that Preplan Payments are both necessary and appropriate, courts traditionally have relied on legal theories premised on sections 105(a), 363(b), 1107(a) and 1108 of the Bankruptcy Code.

40. It is well established that a debtor in possession is a fiduciary for the bankruptcy estate, and as such, is duty-bound to maximize recoveries for its creditors, and if justified by the facts and circumstances of its case, holders of its equity interests. *CoServ, L.L.C.*, 273 B.R. at 497. In light of this duty, in situations where a debtor can demonstrate a sound business justification for Preplan Payments, courts have authorized such payments pursuant to section 363(b) of the Bankruptcy Code. *Ionosphere Clubs*, 98 B.R. at 175 (courts have "broad flexibility" under section 363(b) of the Bankruptcy Code to permit a debtor to expend funds outside the ordinary course so long as the debtor articulates a business justification to do so, including making Preplan Payments).

41. Section 363(b) of the Bankruptcy Code provides that a debtor in possession, “after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b)(1). A court must find that a “good business reason” exists prior to authorizing a debtor’s use of estate property other than in the ordinary course. *See, e.g., Official Comm. of Unsecured Creditors v. Enron Corp. (In re Enron Corp.)*, 335 B.R. 22, 27-28 (S.D.N.Y. 2005) (quoting *In re Lionel Corp.*, 722 F.2d 1063, 1071 (2d Cir. 1983)). In circumstances “where the debtor articulates a reasonable basis for its business decisions (as distinct from a decision made arbitrarily or capriciously), courts will generally not entertain objections to the debtor’s conduct.” *Comm. of Asbestos-Related Litigants v. Johns-Manville Corp. (In re Johns-Manville Corp.)*, 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986). The Debtors respectfully submit that under the circumstances presented herein, there are numerous good business justifications for granting the requested relief.

42. In addition to the authority granted under section 363 of the Bankruptcy Code, bankruptcy courts have granted relief consistent with the Debtors’ request herein under the longstanding “doctrine of necessity” – first articulated in *Miltenberger v. Longansport, C. & S.W.R. Co.*, 106 U.S. 286 (1882). Modern application of the doctrine of necessity is derived from the inherent equitable powers granted to the bankruptcy court under section 105(a) of the Bankruptcy Code, which empowers the court to “issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a). *See Schwartz v. Aquatic Dev. Group, Inc. (In re Aquatic Dev. Group, Inc.)*, 352 F.3d 671, 680 (2d Cir. 2003) (“it is axiomatic that bankruptcy courts are ‘courts of equity, empowered to invoke equitable principles to achieve fairness and justice in the reorganization process’”) (quoting *In re Momentum Mfg. Corp.*, 25 F.3d 1132, 1136 (2d Cir. 1994)).

43. In situations where Preplan Payments are important to a debtor's reorganization efforts, bankruptcy courts in this district have permitted such payments under the doctrine of necessity. *In re Ionosphere Clubs*, 98 B.R. at 175-76 (Bankr. S.D.N.Y. 1989) (stating that the authorization of Preplan Payments is not a novel concept for facilitating a debtor's rehabilitation efforts). Moreover, some courts have recognized that there are situations that *require* "the preplan satisfaction of a prepetition claim" in order for the debtor to satisfy its duty to the estate. *CoServ, L.L.C.*, 273 B.R. at 497 (on such occasions "it is only logical that the bankruptcy court be able to use § 105(a) of the Bankruptcy Code to authorize satisfaction of the prepetition claim in aid of preservation or enhancement of the estate.").

44. It is the Debtors' business judgment that the Debtors' payment or satisfaction of the Critical Vendor Claims will result in enhanced creditor recoveries through the preservation of their going-concern value. Furthermore, permitting the Debtors to make Preplan Payments in the amount and manner described herein satisfies "two recognized policies" of chapter 11, namely, maximizing recoveries for a debtor's creditors and preserving the going-concern value of the debtor's enterprise. *See Bank of Am. Nat'l Trust & Sav. Assoc. v. 203 N. LaSalle St. P'Ship*, 526 U.S. 434, 453 (1999).

45. Courts in this district historically have granted relief consistent with the Debtors' request on the basis that payment of Critical Vendor Claims is essential to maximizing recoveries for creditors and preserving the debtor's estate. *See, e.g., In re Hostess Brands, Inc.*, Case No. 12-22052 (Bankr. S.D.N.Y. Jan 11, 2012); *In re AMR Corporation*, Case No. 11-15463 (Bankr. S.D.N.Y. Nov. 29, 2011); *In re Sbarro*, Case No. 11-11527 (Bankr. S.D.N.Y. Apr. 4, 2011); *In re The Great Atlantic & Pacific Tea Co., Inc.*, Case No. 10-24549 (Bankr. S.D.N.Y. Dec. 12, 2010); *In re The Readers Digest Ass'n, Inc.*, Case No. 09-23529 (Bankr. S.D.N.Y. Sept.

17, 2009); *In re Chemtura Corp.*, Case No. 09-11233 (Bankr. S.D.N.Y. Mar. 18, 2009); *In re Lyondell Chem. Co.*, Case No. 09-10023 (Bankr. S.D.N.Y. Jan. 23, 2009); *In re Frontier Airlines, Inc.*, No. 08-11298 (Bankr. S.D.N.Y. Apr. 10, 2008). The Debtors submit that the present circumstances warrant similar relief in these chapter 11 cases.

B. Paying the Critical Vendor Claims Benefits These Estates.

46. The relief requested herein is appropriate and warranted under each of the above-described standards. This reorganization is predicated on the Debtors' goal of leaving their operational base intact in order to realize the benefits of a capital structure geared appropriately to their current business environment. The authority to satisfy their Critical Vendor Claims in the initial days of these chapter 11 cases without disrupting their operations will send a clear signal to the marketplace, including key suppliers and customers, that the Debtors are willing and, importantly, able to conduct business as usual during their chapter 11 cases and poised to emerge competitively-positioned for future growth, notwithstanding the economic downturn. Given the highly-competitive nature of the industries in which the Debtors operate and the fact that, in many cases, the Debtors' competitors are ready and willing to attempt to fill any voids created by these chapter 11 cases, it is imperative that the Debtors be able to pay or otherwise satisfy the Critical Vendors. Doing so, the Debtors believe, is necessary to ensure that they maintain their reputation and market share notwithstanding the commencement of these chapter 11 cases. Any loss of the Debtors' reputation and market share could have a ripple effect throughout the Debtors' businesses and, in turn, jeopardize their reorganization efforts.

47. Because of the scale of the Debtors' global enterprise, the Debtors' operations require the seamless coordination of a multiplicity of unrelated third parties at every stage in the supply chain—from product development to component sourcing, from inbound

material flow to returns handling. The constant payments streaming through and between these different parties, combined with the inevitable reality that some or all are assured to have possession of inbound goods and/or finished products of varying values, magnifies the effects of any supply chain disruptions. In light of the foregoing, any delay in payments that could cause any of the Critical Vendors to terminate, especially suddenly, their complex relationship with the Debtors would impose significant and unnecessary administrative burdens at a critical stage of these chapter 11 cases.

48. In addition, absent approval of the relief sought herein, Critical Vendors will have no incentive to continue to provide the Debtors with trade credit. Any contraction in trade credit terms offered to the Debtors would be detrimental to the Debtors, their estates and their creditors. In contrast, the preservation of working capital through the retention or reinstatement of trade credit, in sufficient amounts and on favorable terms, will help the Debtors conserve liquidity, stabilize their business operations and facilitate their return to profitability. Indeed, payment of certain Critical Vendor Claims could help further preserve cash by saving the cost associated with evaluating and litigating potential reclamation claims, suits and other distracting motions, which could prolong these chapter 11 cases and increase administrative expenses to the detriment of maximizing recovery value.

C. Paying Certain Critical Vendors Now Does Not Negatively Affect Creditor Recovery.

49. Preplan Payment of Critical Vendors merely accelerates what such vendors would be entitled to receive under a chapter 11 plan on the basis that they hold valid 503(b)(9) Claims. Other Critical Vendors may hold claims arising under agreements that, if executory, the Debtors intend to assume during these cases. Given that both must be paid in full under the respective provisions of the Bankruptcy Code—the former to confirm a chapter 11

plan and the latter in connection with assumption—payment of such claims now is a matter of timing only, not whether or what to pay on account of such claims.

50. Stated differently, for some of the Critical Vendors, this Motion merely expedites the treatment and distribution to Critical Vendors that would otherwise be made at a later date under the Debtors' chapter 11 plan (whether as holders of valid Section 503(b)(9) Claims or paid as a cure claim in connection with contract assumption). Thus, other unsecured creditors should not be prejudiced by approval of this Motion.

51. The relief requested herein is based upon the recognition that uncertainty on the part of Critical Vendors with respect to payment of their prepetition claims could incite them to terminate their relationship with the Debtors, or condition postpetition transactions on contracted credit terms or otherwise less favorable trade terms, which could significantly disrupt the Debtors' operations and impair their liquidity. In contrast, by paying priority trade and cure claims now, at the beginning of these cases, the Debtors would get the benefit of the goods and services provided by such Critical Vendors without jeopardizing a favorable commercial relationship and risking operational disruption.

D. Cause Exists to Authorize the Debtors' Financial Institutions to Honor Checks and Electronic Fund Transfers.

52. The Debtors represent that they have sufficient availability of funds to pay the amounts described herein in the ordinary course of business by virtue of cash reserves, expected cash flows from ongoing business operations and anticipated access to the DIP Financing. The Debtors have experienced extraordinary liquidity constraints during the pre-filing period. In order to stabilize the Debtors' operations, and to smoothly transition into chapter 11, it is imperative that the Debtors normalize their global supply relationships. Failure to do so would result in extremely adverse business effects given the current pressure on the

Debtors' already strained supply chain. The Debtors anticipate that the DIP Financing, along with the relief sought herein and in their other first day pleadings, will be instrumental in helping to stabilize the Debtors' business operations by restoring much-needed liquidity. The Debtors expect that cash flows from operations and borrowings under the proposed DIP Financing will be sufficient to pay postpetition obligations related to the Critical Vendor Claims. Also, under the Debtors' existing cash management system, the Debtors represent that checks or wire transfer requests can be readily identified as relating to an authorized payment made on account of the Critical Vendor Claims. Accordingly, the Debtors believe that checks or wire transfer requests, other than those relating to authorized payments, will not be honored inadvertently and that all applicable financial institutions should be authorized, but not directed, when requested by the Debtors, to receive, process, honor and pay any and all checks or wire transfer requests in respect of the Critical Vendor Claims, solely to the extent the Debtors have sufficient funds standing to their credit with such financial institution. Any such financial institution may rely on the representations of such Debtors as to which checks are issued or wire transfers are made and authorized to be paid in accordance with this Motion without any duty of further inquiry and without liability for following the Debtors' instructions.

Bankruptcy Rule 6003 Is Satisfied

53. In order for a debtor to obtain relief to make Preplan Payments within 21 days of the Petition Date, it must establish that making such payments satisfies the requirements mandated by Bankruptcy Rule 6003—namely, the relief requested is necessary to avoid “immediate and irreparable harm”. If a debtor’s prospect of reorganizing is threatened, or swift diminution in value of the debtor’s estate is likely absent the granting of the requested relief, immediate and irreparable harm likely exists. *See In re Ames Dep’t Stores, Inc.*, 115 B.R. 34, 36

n.2 (Bankr. S.D.N.Y. 1990) (finding that “immediate and irreparable harm” exists where loss of the business threatens ability to reorganize).

54. Immediate and irreparable harm would result if the relief requested herein is not granted. As described above, and in the First Day Declaration, the Debtors are unequivocally reliant on their Critical Vendors to provide raw materials, goods and services that are essential to the ongoing operations and viability of the Debtors’ businesses. Absent payment of the Critical Vendor Claims in the ordinary course, the Debtors would have no direct ability to prevent the Critical Vendors from ceasing to provide such goods and services.

55. Satisfaction of the Critical Vendor Claims is essential to ensure that the Debtors can continue to meet customer demands. Failure to satisfy the Critical Vendor Claims in the ordinary course of business during the first 21 days of these Chapter 11 cases will jeopardize the Debtors’ business operations at this critical time, thereby reducing cash flow in an already challenging market. Given that the Debtors’ business operations are largely dependent on their relationships with their suppliers and customers, the loss of these relationships would immediately harm the Debtors’ business, thus irreparably jeopardizing the value of the estates. Accordingly, satisfaction of the Critical Vendor Claims in the ordinary course of business during the first 21 days of these chapter 11 cases is essential to the success of the Debtors’ reorganization. For these reasons, the Debtors submit that the relief requested to be included in the Proposed Order is essential to preserve the ongoing value of the Debtors’ operations and hence their overall business and stakeholder recoveries.

Waiver of Bankruptcy Rule 6004 (a) and 6004 (h)

56. Given the nature of the relief requested herein, the Debtors respectfully request a waiver of (a) the notice requirements under Bankruptcy Rule 6004(a), and (b) the 14-day stay under Bankruptcy Rule 6004(h).

Debtors' Reservation of Rights

57. Nothing contained herein is intended or should be construed as an admission as to the validity of any claim against the Debtors, a waiver of the Debtors' rights to dispute any claim, or an approval or assumption of any agreement, contract, or lease under section 365 of the Bankruptcy Code. The Debtors expressly reserve their rights to contest any claims related to the Critical Vendors under applicable non-bankruptcy law. Likewise, if this Court grants the relief sought herein, any payment made pursuant to the Court's order is not intended and should not be construed as an admission as to the validity of any claim or a waiver of the Debtors' rights to dispute such claim subsequently.

Notice

58. Notice of this Motion has been provided to: (a) the U.S. Trustee; (b) the entities listed on the Consolidated List of Creditors Holding the 50 Largest Unsecured Claims; (c) the agent under the prepetition revolving credit facility; (d) the indenture trustee for the prepetition 9.2% Senior Notes due June 1, 2021; (e) the indenture trustee for the prepetition 10.625% Senior Secured Notes due March 15, 2019; (f) the indenture trustee for the prepetition 9.95% Senior Notes due July 1, 2018; (g) the indenture trustee for the prepetition 9.75% Senior Secured Notes due March 1, 2018; (h) the indenture trustee for the prepetition 7.00% Convertible Senior Notes due April 1, 2017; (i) the Securities and Exchange Commission; (j) the United States Attorney for the Southern District of New York; (k) the Internal Revenue Service; (l) the Environmental Protection Agency; (m) the Pension Benefit Guaranty Corporation; (n) counsel to KPP Trustees Limited, the trustee of the Kodak Pension Plan; (o) counsel to the Ad Hoc Committee of Holders of Senior Secured Notes; and (p) counsel to the agent under the proposed Debtor-In-Possession Credit Agreement. Due to the urgency of the circumstances surrounding

this Motion and the nature of the relief requested herein, the Debtors respectfully submit that further notice of this Motion is neither required nor necessary.

No Prior Request

59. The Debtors have not previously sought the relief requested herein from this or any other court.

WHEREFORE, the Debtors respectfully request that the Court (a) enter the Proposed Interim Order granting the relief requested in the Motion and such other and further relief as may be just and proper and (b) schedule a final hearing on the Motion within 30 days of the Petition Date or as soon as is otherwise practicable thereafter.

Dated: January 19, 2012
New York, New York

/s/ Andrew G. Dietderich
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Proposed Counsel to the Debtors and Debtors
in Possession

EXHIBIT A

Proposed Interim Order

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

EASTMAN KODAK COMPANY, *et al.*,¹

Debtors.

) Chapter 11

) Case No. 12-_____ (_____)

) (Joint Administration Requested)

**INTERIM ORDER (A) AUTHORIZING, BUT NOT DIRECTING, THE DEBTORS TO
PAY CERTAIN PREPETITION CLAIMS OF CRITICAL VENDORS, (B) APPROVING
RELATED PROCEDURES AND (C) AUTHORIZING, BUT NOT DIRECTING, ALL
FINANCIAL INSTITUTIONS TO HONOR ALL RELATED PAYMENT REQUESTS**

Upon the motion (the “**Motion**”)² of Eastman Kodak Company, on behalf of itself and its affiliated debtors and debtors in possession in these chapter 11 cases (collectively, the “**Debtors**”), for entry of interim and final orders (a) authorizing, but not directing, the Debtors to pay certain Critical Vendor Claims in accordance with the procedures provided for herein and (b) authorizing, but not directing, financial institutions to receive, process, honor and pay all related checks and electronic payment requests, solely to the extent the Debtors have sufficient funds standing to their credit with such financial institutions; and upon consideration of the First Day Declaration; and it appearing that this Court has jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that venue of these chapter 11 cases and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that this matter is a core proceeding pursuant to 28 U.S.C. § 157(b); and this Court having

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Eastman Kodak Company (7150); Creo Manufacturing America LLC (4412); Eastman Kodak International Capital Company, Inc. (2341); Far East Development Ltd. (2300); FPC Inc. (9183); Kodak (Near East), Inc. (7936); Kodak Americas, Ltd. (6256); Kodak Aviation Leasing LLC (5224); Kodak Imaging Network, Inc. (4107); Kodak Philippines, Ltd. (7862); Kodak Portuguesa Limited (9171); Kodak Realty, Inc. (2045); Laser-Pacific Media Corporation (4617); NPEC Inc. (5677); Pakon, Inc. (3462); and Qualex Inc. (6019). The location of the Debtors’ corporate headquarters is: 343 State Street, Rochester, NY 14650.

² All capitalized terms not otherwise defined herein are to be given the meanings ascribed to them in the Motion.

determined that the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors and other parties in interest; and it appearing that proper and adequate notice of the Motion has been given and that, except as otherwise ordered herein, no other or further notice is necessary; and after due deliberation thereon; and good and sufficient cause appearing therefor;

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein.
2. The Final Hearing shall be held on February [•], 2012 at _____:_____ a.m./p.m. prevailing Eastern Time. Any objections or responses to the Motion shall be filed on or before February [•], 2012 at 4:00 p.m. and served on parties in interest as required by the Local Rules.
3. The Debtors are authorized, but not required, to pay or otherwise satisfy some or all of the Critical Vendor Claims, up to an aggregate cap of \$40 million (the “**Critical Vendor Cap**”) in accordance with the procedures set forth herein, to the extent that the Debtors determine, in the exercise of their business judgment, that such payment is critical to ensure that a Critical Vendor will provide essential goods and services to the Debtors on a postpetition basis; *provided, however*, that within the 21-day period following the Petition Date, the Debtors shall only make payments to a Critical Vendor to the extent that the Debtors determine, in the exercise of their business judgment, that such payment is necessary to avoid immediate and irreparable harm to the Debtors; *provided further*, that in no event shall the Debtors pay any Critical Vendor Claims before such amounts are due and payable.
4. Prior to paying or otherwise satisfying a Critical Vendor Claim, the Debtors shall make a reasonable effort to condition payment to a Critical Vendor upon an

agreement by the Critical Vendor in question to provide Customary Trade Terms to the Debtors on a postpetition basis.

5. Prior to paying or otherwise satisfying a Creditor Vendor Claim, the Debtors shall send a letter, substantially in the form annexed hereto as Exhibit 1 (the “**Critical Vendor Agreement**”), to the applicable Critical Vendor, along with a copy of this Order. The Critical Vendor Letter shall require that the Critical Vendor enter into an agreement with the Debtors in the form thereof, and include, without limitation, the following information and terms:

- a. The amount (the “**Prepetition Claim Amount**”) of such Critical Vendor’s estimated Critical Vendor Claim, accounting for any setoffs, other credits and discounts thereto, which shall be mutually determined in good faith by the Critical Vendor and the Debtors (but such Prepetition Claim Amount shall be used only for the purposes of determining such Critical Vendor Claim under this Order and shall not be deemed a claim filed with or allowed by this Court, and the rights of all interested persons to object to such claim shall be fully preserved until further order of this Court), *provided, however*, that such Critical Vendor shall agree not to assert a claim in excess of the agreed upon Prepetition Claim Payment;
- b. The Customary Trade Terms between such Critical Vendor and the Debtors, or such other terms as the Critical Vendors and the Debtors may agree, and the Critical Vendor’s agreement to provide goods and services to the Debtors based upon Customary Trade Terms or upon such other favorable terms as the Debtors and the Critical Vendor may agree;
- c. The Critical Vendor’s acknowledgement that it has reviewed the terms and provisions of this Order and consents to be bound thereby;
- d. The Critical Vendor’s agreement, if applicable, that it will continue to extend Customary Trade Terms to the Debtors’ Foreign Affiliates; and

- e. The Critical Vendor's agreement that it will not separately seek payment for any reclamation or similar claims outside the terms of this Order.

6. To the extent that the Debtors and the Critical Vendor in question have not, despite diligent efforts, entered into a Critical Vendor Agreement, the Debtors are authorized, but not directed, to pay such Critical Vendor if the Debtors determine, in the exercise of their business judgment, that payment of the Critical Vendor Claim is necessary to the Debtors' reorganization.

7. The Debtors are authorized, but not required, on a case-by-case basis, to obtain other written acknowledgment from Critical Vendors of the Customary Trade Terms to which the Debtors and the applicable Critical Vendor have agreed.

8. If a Critical Vendor refuses to supply goods and/or services to the Debtors on Customary Trade Terms following receipt of payment on its Critical Vendor Claim, or fails to comply with any Critical Vendor Agreement entered into between such Critical Vendor and the Debtors, the Debtors may, in their sole discretion and without further order of this Court, declare that such Critical Vendor is in breach of its Critical Vendor Agreement with the Debtors. To the extent that such Critical Vendor fails to cure such default or reach a more favorable alternative agreement with the Debtors, the Debtors may (a) seek appropriate relief from this Court, including, without limitation, injunctive relief to compel performance pursuant to the existing Critical Vendor Agreement; (b) declare the payment of the applicable Critical Vendor Claim a voidable postpetition transfer pursuant to section 549(a) of the Bankruptcy Code that the Debtors may recover from such Critical Vendor in cash or in goods; and (c) demand that the creditor immediately return such payments in respect of the Critical Vendor Claim to the extent that the aggregate amount of such payments exceeds the postpetition obligations then outstanding without giving effect to alleged setoff rights, recoupment rights, adjustments, or setoffs of any

type whatsoever, and the Critical Vendor Claim shall be reinstated in such an amount as to restore the Debtors and the Critical Vendor to their original positions, as if the Critical Vendor Agreement had never been entered into and the payment of the Critical Vendor Claim had not been made, with the intent being that the Debtors will return the parties to their respective positions immediately prior to the entry of this Order.

9. The Debtors shall maintain a matrix (the “**Critical Vendor Matrix**”) summarizing: (a) the name of each Critical Vendor paid on account of a Critical Vendor Claim; (b) the amount paid to each Critical Vendor for its Critical Vendor Claim; and (c) a brief description of the type of goods and services provided by each Critical Vendor. Upon request, the Debtors shall provide the Critical Vendor Matrix to the Critical Vendor Matrix Parties; additionally, the Debtors shall provide the Critical Vendor Matrix weekly to the agent for the DIP Financing (the “**DIP Agent**”) and shall provide the DIP Agent and its affiliates with timely access to information sufficient to enable the DIP Agent and its affiliates to monitor payments made, obligations satisfied and other actions taken pursuant to this Order.

10. Nothing herein shall prejudice the Debtors’ rights, upon appropriate notice, including notice to counsel for the DIP Agent, to request authority to increase the Critical Vendor Cap. The Debtors’ payment of the Critical Vendor Claims shall not exceed the Critical Vendor Cap unless otherwise ordered by the Court, after notice and a hearing.

11. The Debtors are authorized and empowered to take all actions necessary to implement the relief granted in this Order.

12. In accordance with this Order, each of the financial institutions at which the Debtors maintain their accounts relating to the payment of the obligations described in the Motion is authorized, but not directed, to (a) receive, process, honor and pay all checks presented

for payment and to honor all fund transfer requests made by the Debtors related thereto, to the extent that sufficient funds are on deposit in those accounts and (b) accept and rely on all representations made by the Debtors with respect to which checks, drafts, wires or automated clearing house transfers should be honored or dishonored in accordance with this or any other order of this Court, whether such checks, drafts, wires, or transfers are dated prior to, on or subsequent to the Petition Date, and have no duty to inquire otherwise and shall be without liability for following the Debtors' instructions.

13. Nothing in the Motion or this Order, nor as a result of any payment made pursuant to this Order, shall be deemed or construed as an admission as to the validity or priority of any claim against the Debtors (including a Section 503(b)(9) Claim), an approval or assumption of any agreement, contract or lease pursuant to section 365 of the Bankruptcy Code or a waiver of the right of the Debtors, or shall impair the ability of the Debtors, to contest the validity and amount of any payment made pursuant to this Order.

14. To the extent that there is any inconsistency between the terms of the interim or final order approving the DIP Financing, if and when entered, and this Order, the terms of the interim or final order approving the DIP Financing, as applicable, shall govern.

15. The requirements set forth in Local Rule 9013-1(b) are satisfied.

16. The requirements set forth in Bankruptcy Rule 6003(b) are satisfied.

17. The requirements set forth in Bankruptcy Rule 6004(a) are satisfied.

18. This Order is immediately effective and enforceable, notwithstanding the possible applicability of Bankruptcy Rule 6004(h) or otherwise.

19. This Court retains jurisdiction with respect to all matters arising from or related to the enforcement of this Order.

Dated: January [•], 2012
New York, New York

United States Bankruptcy Judge

EXHIBIT 1

_____, 2012

TO: [Critical Vendor]
[Name]
[Address]

Dear Valued Vendor:

As you are no doubt aware, on January 19, 2012 (the “**Petition Date**”), Eastman Kodak Corporation and certain of its U.S. affiliates (collectively, the “**Debtors**”) filed voluntary petitions for relief (the “**Chapter 11 Cases**”) under title 11 of the United States Code in the United States Bankruptcy Court for the Southern District of New York (the “**Bankruptcy Court**”). The Debtors and their non-U.S. affiliates (“**Kodak**”) continue to operate in the ordinary course. On the Petition Date, the Debtors requested the Bankruptcy Court’s authority to pay certain critical suppliers or service providers in recognition of the importance of our relationship with such suppliers and service providers to normal business operations. On January __, 2012, the Bankruptcy Court entered an order (the “**Order**”) authorizing us, under certain conditions, to pay pre-bankruptcy claims of certain trade creditors that agree to the terms set forth below and agree to be bound by the terms of the Order. A copy of the Order is enclosed. Capitalized terms used but not otherwise defined herein shall have the meanings assigned to such terms in the Order.

To receive payment on pre-bankruptcy claims, each selected Critical Vendor must agree to continue supplying goods or services to Kodak based on acceptable and “Customary Trade Terms.” Customary Trade Terms are defined as the normal, reasonable and customary price, service, quantity and payment terms consistent with past practices, as were in effect between you and Kodak pursuant to any agreement or course of dealing, where (consistent with past practices) such terms are subject to adjustments and modifications including any applicable pricing of future goods and services and the provision of equivalent levels of service, all on terms at least as favorable to those extended to the Debtors prior to the Petition Date or on such other terms that are acceptable to the Debtors, including, but not limited to, those set forth in paragraph 2 hereof.

For purposes of administering this trade program as authorized by the Bankruptcy Court, the Debtors and you agree as follows:

1. The estimated balance of the prepetition claim (net of any setoffs, credits or discounts set forth in Schedule 1 hereto) that the Debtors owe you as of the Petition Date is \$_____ (the “**Claim**”). In consideration of your agreement to comply with the obligations set forth herein, the Debtors shall pay \$_____, within the later of (a) five business days of your execution of this letter, (b) dates on which the obligations comprising the Claim come due in accordance with Customary Trade Terms, on account of obligations owed to you by the Debtors prior to the Petition Date or (c) upon receipt of the goods described in Schedule II hereto (the “**Prepetition Claim Payment**”).¹

¹ The amounts set forth herein shall not be deemed a claim allowed by the Court, and the rights of all interested persons to object to such claim are fully preserved until further order of the Court; *provided, however*, that you agree not to assert a claim in excess of the Claim amount set forth in Schedule I. The Debtors and all parties in

2. You will hereafter extend to Kodak Customary Trade Terms as in effect prior to the Petition Date or as set forth in Schedule II.

3. The Prepetition Claim Payment may be made in the manner set forth in the Order only upon execution of this letter by a duly authorized representative of your company and the return of this letter to the Debtors. Your execution of this letter agreement and return of the same to the Debtors constitutes an agreement by you and the Debtors. You agree and/or represent:

(a) that you have reviewed the terms and provisions of the Order and that you consent to be bound by such terms;

(b) that, from and after the Petition Date, you will continue to supply Kodak with requested goods or services, as applicable, pursuant to the Customary Trade Terms and that Kodak will pay for such goods in accordance with Customary Trade Terms;

(c) that you agree to continue to extend trade credit to the Debtors and the Debtors' Foreign Affiliates in accordance with Customary Trade Terms, if applicable, and that you will not attempt to recover from any of the Debtors' Foreign Affiliates any prepetition amounts due to you from any Debtor; and

(d) that you will not separately seek payment for any reclamation and similar claims outside the terms of the Order unless your participation in the program to pay Critical Vendor Claims pursuant to the Order is terminated.

4. Notwithstanding the foregoing, if you receive the Prepetition Claim Payment from the Debtors based on any pre-bankruptcy amount owing to you and you do not extend to the Debtors all Customary Trade Terms, you are required to return the Prepetition Claim Payment to the Debtors within three business days.

5. By accepting the Prepetition Claim Payment, you agree to the terms of that certain Order of the United States Bankruptcy Court of the Southern District of New York (the "**Bankruptcy Court**"), dated January __, 2012, in the payor's chapter 11 case (Jointly Administered under Case No. 12-[_____] (____)), entitled "[_____] Order (A) Authorizing, But Not Directing, the Debtors to Pay Certain Prepetition Obligations to Critical Vendors, (B) Authorizing, But Not Directing Financial Institutions to Honor All Related Payment Requests" and you submit to the jurisdiction of the Bankruptcy Court for enforcement thereof.

6. The Prepetition Claim Payment will be allocated first to satisfy any amounts due to you that qualify as Section 503(b)(9) Claims.

7. Any dispute with respect to this agreement, the Order and/or your participation in the Trade Payment Program shall be determined by the Bankruptcy Court.

interest reserve the right to object to the Claim in whole or in part, and explicitly retain any and all rights including those under sections 502(d), 547, 548, and 550 of the Bankruptcy Code.

8. All terms of this letter (including the existence of this letter) are confidential between you and the Debtors and shall not be disclosed during the pendency of the Debtors' Chapter 11 Cases.

If you have any questions about this Agreement or our financial restructuring, please do not hesitate to call (____) _____ or (____) _____.

Sincerely,

By: _____
Its: _____

Agreed and Accepted By:
[Name of Vendor]

By: _____
Its: _____

Dated: _____

Enclosure

Schedule I

Calculation of Claim

Schedule II

Trade Terms

EXHIBIT B

Proposed Final Order

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

In re:

EASTMAN KODAK COMPANY, *et al.*,¹

Debtors.

) Chapter 11

) Case No. 12-_____ (_____)

) (Joint Administration Requested)

**FINAL ORDER (A) AUTHORIZING, BUT NOT DIRECTING, THE DEBTORS TO PAY
CERTAIN PREPETITION CLAIMS OF CRITICAL VENDORS, (B) APPROVING
RELATED PROCEDURES AND (C) AUTHORIZING, BUT NOT DIRECTING, ALL
FINANCIAL INSTITUTIONS TO HONOR ALL RELATED PAYMENT REQUESTS**

Upon the motion (the “**Motion**”)² of Eastman Kodak Company, on behalf of itself and its affiliated debtors and debtors in possession in these chapter 11 cases (collectively, the “**Debtors**”), for entry of interim and final orders (a) authorizing, but not directing, the Debtors to pay certain Critical Vendor Claims in accordance with the procedures provided for herein and (b) authorizing, but not directing, financial institutions to receive, process, honor and pay all related checks and electronic payment requests, solely to the extent the Debtors have sufficient funds standing to their credit with such financial institutions; and upon consideration of the First Day Declaration; and it appearing that this Court has jurisdiction to consider the Motion pursuant to 28 U.S.C. §§ 157 and 1334; and it appearing that venue of these chapter 11 cases and the Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and it appearing that this matter is a core proceeding pursuant to 28 U.S.C. § 157(b); and this Court having

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Eastman Kodak Company (7150); Creo Manufacturing America LLC (4412); Eastman Kodak International Capital Company, Inc. (2341); Far East Development Ltd. (2300); FPC Inc. (9183); Kodak (Near East), Inc. (7936); Kodak Americas, Ltd. (6256); Kodak Aviation Leasing LLC (5224); Kodak Imaging Network, Inc. (4107); Kodak Philippines, Ltd. (7862); Kodak Portuguesa Limited (9171); Kodak Realty, Inc. (2045); Laser-Pacific Media Corporation (4617); NPEC Inc. (5677); Pakon, Inc. (3462); and Qualex Inc. (6019). The location of the Debtors’ corporate headquarters is: 343 State Street, Rochester, NY 14650.

² All capitalized terms not otherwise defined herein are to be given the meanings ascribed to them in the Motion.

determined that the relief requested in the Motion is in the best interests of the Debtors, their estates, their creditors and other parties in interest; and it appearing that proper and adequate notice of the Motion has been given and that, except as otherwise ordered herein, no other or further notice is necessary; and after due deliberation thereon; and good and sufficient cause appearing therefor;

IT IS HEREBY ORDERED THAT:

1. The Motion is GRANTED as set forth herein.
2. The Debtors are authorized, but not required, to pay or otherwise satisfy some or all of the Critical Vendor Claims, up to an aggregate cap of \$40 million (the “**Critical Vendor Cap**”) in accordance with the procedures set forth herein, to the extent that the Debtors determine, in the exercise of their business judgment, that such payment is critical to ensure that a Critical Vendor will provide essential goods and services to the Debtors on a postpetition basis; *provided, however*, that in no event shall the Debtors pay any Critical Vendor Claims before such amounts are due and payable.
3. Prior to paying or otherwise satisfying a Critical Vendor Claim, the Debtors shall make a reasonable effort to condition payment to a Critical Vendor upon an agreement by the Critical Vendor in question to provide Customary Trade Terms to the Debtors on a postpetition basis.
4. Prior to paying or otherwise satisfying a Creditor Vendor Claim, the Debtors shall send a letter, substantially in the form annexed hereto as Exhibit 1 (the “**Critical Vendor Agreement**”), to the applicable Critical Vendor, along with a copy of this Order. The Critical Vendor Letter shall require that the Critical Vendor enter into an agreement with the

Debtors in the form thereof, and include, without limitation, the following information and terms:

- a. The amount (the “**Prepetition Claim Amount**”) of such Critical Vendor’s estimated Critical Vendor Claim, accounting for any setoffs, other credits and discounts thereto, which shall be mutually determined in good faith by the Critical Vendor and the Debtors (but such Prepetition Claim Amount shall be used only for the purposes of determining such Critical Vendor Claim under this Order and shall not be deemed a claim filed with or allowed by this Court, and the rights of all interested persons to object to such claim shall be fully preserved until further order of this Court), *provided, however*, that such Critical Vendor shall agree not to assert a claim in excess of the agreed upon Prepetition Claim Payment;
- b. The Customary Trade Terms between such Critical Vendor and the Debtors, or such other terms as the Critical Vendors and the Debtors may agree, and the Critical Vendor’s agreement to provide goods and services to the Debtors based upon Customary Trade Terms or upon such other favorable terms as the Debtors and the Critical Vendor may agree;
- c. The Critical Vendor’s acknowledgement that it has reviewed the terms and provisions of this Order and consents to be bound thereby;
- d. The Critical Vendor’s agreement, if applicable, that it will continue to extend Customary Trade Terms to the Debtors’ Foreign Affiliates; and
- e. The Critical Vendor’s agreement that it will not separately seek payment for any reclamation or similar claims outside the terms of this Order.

5. To the extent that the Debtors and the Critical Vendor in question have not, despite diligent efforts, entered into a Critical Vendor Agreement, the Debtors are authorized, but not directed, to pay such Critical Vendor if the Debtors determine, in the exercise of their business judgment, that payment of the Critical Vendor Claim is necessary to the Debtors’ reorganization.

6. The Debtors are authorized, but not required, on a case-by-case basis, to obtain other written acknowledgment from Critical Vendors of the Customary Trade Terms to which the Debtors and the applicable Critical Vendor have agreed.

7. If a Critical Vendor refuses to supply goods and/or services to the Debtors on Customary Trade Terms following receipt of payment on its Critical Vendor Claim, or fails to comply with any Critical Vendor Agreement entered into between such Critical Vendor and the Debtors, the Debtors may, in their sole discretion and without further order of this Court, declare that such Critical Vendor is in breach of its Critical Vendor Agreement with the Debtors. To the extent that such Critical Vendor fails to cure such default or reach a more favorable alternative agreement with the Debtors, the Debtors may (a) seek appropriate relief from this Court, including, without limitation, injunctive relief to compel performance pursuant to the existing Critical Vendor Agreement; (b) declare the payment of the applicable Critical Vendor Claim a voidable postpetition transfer pursuant to section 549(a) of the Bankruptcy Code that the Debtors may recover from such Critical Vendor in cash or in goods; and (c) demand that the creditor immediately return such payments in respect of the Critical Vendor Claim to the extent that the aggregate amount of such payments exceeds the postpetition obligations then outstanding without giving effect to alleged setoff rights, recoupment rights, adjustments, or setoffs of any type whatsoever, and the Critical Vendor Claim shall be reinstated in such an amount as to restore the Debtors and the Critical Vendor to their original positions, as if the Critical Vendor Agreement had never been entered into and the payment of the Critical Vendor Claim had not been made, with the intent being that the Debtors will return the parties to their respective positions immediately prior to the entry of this Order.

8. The Debtors shall maintain a matrix (the “**Critical Vendor Matrix**”) summarizing: (a) the name of each Critical Vendor paid on account of a Critical Vendor Claim; (b) the amount paid to each Critical Vendor for its Critical Vendor Claim; and (c) a brief description of the type of goods and services provided by each Critical Vendor. Upon request, the Debtors shall provide the Critical Vendor Matrix to the Critical Vendor Matrix Parties; additionally, the Debtors shall provide the Critical Vendor Matrix weekly to the agent for the DIP Financing (the “**DIP Agent**”) and shall provide the DIP Agent and its affiliates with timely access to information sufficient to enable the DIP Agent and its affiliates to monitor payments made, obligations satisfied and other actions taken pursuant to this Order.

9. Nothing herein shall prejudice the Debtors’ rights, upon appropriate notice, including notice to counsel for the DIP Agent, to request authority to increase the Critical Vendor Cap. The Debtors’ payment of the Critical Vendor Claims shall not exceed the Critical Vendor Cap unless otherwise ordered by the Court, after notice and a hearing.

10. The Debtors are authorized and empowered to take all actions necessary to implement the relief granted in this Order.

11. In accordance with this Order, each of the financial institutions at which the Debtors maintain their accounts relating to the payment of the obligations described in the Motion is authorized, but not directed, to (a) receive, process, honor and pay all checks presented for payment and to honor all fund transfer requests made by the Debtors related thereto, to the extent that sufficient funds are on deposit in those accounts and (b) accept and rely on all representations made by the Debtors with respect to which checks, drafts, wires or automated clearing house transfers should be honored or dishonored in accordance with this or any other order of this Court, whether such checks, drafts, wires, or transfers are dated prior to, on or

subsequent to the Petition Date, and have no duty to inquire otherwise and shall be without liability for following the Debtors' instructions.

12. Nothing in the Motion or this Order, nor as a result of any payment made pursuant to this Order, shall be deemed or construed as an admission as to the validity or priority of any claim against the Debtors (including a Section 503(b)(9) Claim), an approval or assumption of any agreement, contract or lease pursuant to section 365 of the Bankruptcy Code or a waiver of the right of the Debtors, or shall impair the ability of the Debtors, to contest the validity and amount of any payment made pursuant to this Order.

13. To the extent that there is any inconsistency between the terms of the interim or final order approving the DIP Financing, if and when entered, and this Order, the terms of the interim or final order approving the DIP Financing, as applicable, shall govern.

14. The requirements set forth in Local Rule 9013-1(b) are satisfied.

15. The requirements set forth in Bankruptcy Rule 6003(b) are satisfied.

16. The requirements set forth in Bankruptcy Rule 6004(a) are satisfied.

17. This Order is immediately effective and enforceable, notwithstanding the possible applicability of Bankruptcy Rule 6004(h) or otherwise.

18. This Court retains jurisdiction with respect to all matters arising from or related to the enforcement of this Order.

Dated: February [•], 2012
New York, New York

United States Bankruptcy Judge

EXHIBIT 1

_____, 2012

TO: [Critical Vendor]
[Name]
[Address]

Dear Valued Vendor:

As you are no doubt aware, on January 19, 2012 (the “**Petition Date**”), Eastman Kodak Corporation and certain of its U.S. affiliates (collectively, the “**Debtors**”) filed voluntary petitions for relief (the “**Chapter 11 Cases**”) under title 11 of the United States Code in the United States Bankruptcy Court for the Southern District of New York (the “**Bankruptcy Court**”). The Debtors and their non-U.S. affiliates (“**Kodak**”) continue to operate in the ordinary course. On the Petition Date, the Debtors requested the Bankruptcy Court’s authority to pay certain critical suppliers or service providers in recognition of the importance of our relationship with such suppliers and service providers to normal business operations. On January __, 2012, the Bankruptcy Court entered an order (the “**Order**”) authorizing us, under certain conditions, to pay pre-bankruptcy claims of certain trade creditors that agree to the terms set forth below and agree to be bound by the terms of the Order. A copy of the Order is enclosed. Capitalized terms used but not otherwise defined herein shall have the meanings assigned to such terms in the Order.

To receive payment on pre-bankruptcy claims, each selected Critical Vendor must agree to continue supplying goods or services to Kodak based on acceptable and “Customary Trade Terms.” Customary Trade Terms are defined as the normal, reasonable and customary price, service, quantity and payment terms consistent with past practices, as were in effect between you and Kodak pursuant to any agreement or course of dealing, where (consistent with past practices) such terms are subject to adjustments and modifications including any applicable pricing of future goods and services and the provision of equivalent levels of service, all on terms at least as favorable to those extended to the Debtors prior to the Petition Date or on such other terms that are acceptable to the Debtors, including, but not limited to, those set forth in paragraph 2 hereof.

For purposes of administering this trade program as authorized by the Bankruptcy Court, the Debtors and you agree as follows:

1. The estimated balance of the prepetition claim (net of any setoffs, credits or discounts set forth in Schedule 1 hereto) that the Debtors owe you as of the Petition Date is \$_____ (the “**Claim**”). In consideration of your agreement to comply with the obligations set forth herein, the Debtors shall pay \$_____, within the later of (a) five business days of your execution of this letter, (b) dates on which the obligations comprising the Claim come due in accordance with Customary Trade Terms, on account of obligations owed to you by the Debtors prior to the Petition Date or (c) upon receipt of the goods described in Schedule II hereto (the “**Prepetition Claim Payment**”).¹

¹ The amounts set forth herein shall not be deemed a claim allowed by the Court, and the rights of all interested persons to object to such claim are fully preserved until further order of the Court; *provided, however*, that you agree not to assert a claim in excess of the Claim amount set forth in Schedule I. The Debtors and all parties in

2. You will hereafter extend to Kodak Customary Trade Terms as in effect prior to the Petition Date or as set forth in Schedule II.

3. The Prepetition Claim Payment may be made in the manner set forth in the Order only upon execution of this letter by a duly authorized representative of your company and the return of this letter to the Debtors. Your execution of this letter agreement and return of the same to the Debtors constitutes an agreement by you and the Debtors. You agree and/or represent:

(a) that you have reviewed the terms and provisions of the Order and that you consent to be bound by such terms;

(b) that, from and after the Petition Date, you will continue to supply Kodak with requested goods or services, as applicable, pursuant to the Customary Trade Terms and that Kodak will pay for such goods in accordance with Customary Trade Terms;

(c) that you agree to continue to extend trade credit to the Debtors and the Debtors' Foreign Affiliates in accordance with Customary Trade Terms, if applicable, and that you will not attempt to recover from any of the Debtors' Foreign Affiliates any prepetition amounts due to you from any Debtor; and

(d) that you will not separately seek payment for any reclamation and similar claims outside the terms of the Order unless your participation in the program to pay Critical Vendor Claims pursuant to the Order is terminated.

4. Notwithstanding the foregoing, if you receive the Prepetition Claim Payment from the Debtors based on any pre-bankruptcy amount owing to you and you do not extend to the Debtors all Customary Trade Terms, you are required to return the Prepetition Claim Payment to the Debtors within three business days.

5. By accepting the Prepetition Claim Payment, you agree to the terms of that certain Order of the United States Bankruptcy Court of the Southern District of New York (the "**Bankruptcy Court**"), dated January __, 2012, in the payor's chapter 11 case (Jointly Administered under Case No. 12-[_____] (____)), entitled "[_____] Order (A) Authorizing, But Not Directing, the Debtors to Pay Certain Prepetition Obligations to Critical Vendors, (B) Authorizing, But Not Directing Financial Institutions to Honor All Related Payment Requests" and you submit to the jurisdiction of the Bankruptcy Court for enforcement thereof.

6. The Prepetition Claim Payment will be allocated first to satisfy any amounts due to you that qualify as Section 503(b)(9) Claims.

7. Any dispute with respect to this agreement, the Order and/or your participation in the Trade Payment Program shall be determined by the Bankruptcy Court.

interest reserve the right to object to the Claim in whole or in part, and explicitly retain any and all rights including those under sections 502(d), 547, 548, and 550 of the Bankruptcy Code.

8. All terms of this letter (including the existence of this letter) are confidential between you and the Debtors and shall not be disclosed during the pendency of the Debtors' Chapter 11 Cases.

If you have any questions about this Agreement or our financial restructuring, please do not hesitate to call (_____) _____ or (_____) _____.

Sincerely,

By: _____

Its: _____

Agreed and Accepted By:
[Name of Vendor]

By: _____

Its: _____

Dated: _____

Enclosure

Schedule I

Calculation of Claim

Schedule II

Trade Terms