

Hearing Date: February 15, 2012 at 11:00 a.m. (Eastern Time)

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Proposed Counsel to the Debtors and
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**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

)	Chapter 11
In re:)	
EASTMAN KODAK COMPANY, <i>et al.</i> , ¹)	Case No. 12-10202 (ALG)
)	(Jointly Administered)
Debtors.)	
)	Ref. No. 13
)	

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

PLEASE TAKE NOTICE that on January 19, 2012 the Debtors' Motion for
Entry of Interim and Final Orders (A) Authorizing, But Not Directing, the Debtors to Pay
Certain Prepetition Claims of Foreign Vendors, (B) Approving Related Procedures and (C)

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.



Authorizing, But Not Directing, All Financial Institutions to Honor All Related Payment Requests (the “**Motion**”). Attached as Exhibit B to the Motion was the proposed final order (the “**Proposed Final Order**”).

PLEASE TAKE FURTHER NOTICE that the Debtors have received and incorporated informal comments to the Proposed Final Order (the “**Revised Proposed Final Order**”). Attached hereto as Exhibit A is a blackline reflecting the revisions to the Proposed Final Order. The undersigned counsel will present the Revised Proposed Final Order to the Honorable Allan L. Gropper, in Room 617 of the United States Bankruptcy Court for the Southern District of New York (the “**Bankruptcy Court**”), One Bowling Green, New York, New York 10004, at a hearing to be held on **February 15, 2012 at 11:00 a.m. (Eastern Time)**.

Dated: February 13, 2012
New York, New York

/s/ Andrew G. Dietderich

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EXHIBIT A

Blackline of Proposed Final Order

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

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

)	Chapter <u>11</u>
)	
In re:)	Case No. <u>12</u> _____ (→)
)	
EASTMAN KODAK COMPANY, <i>et al.</i> , ¹)	(Joint Administration Requested
)	<u>10202 (ALG)</u>
<u>Debtors.</u>)	<u>(Jointly Administered)</u>

FINAL ORDER (A) AUTHORIZING, BUT NOT DIRECTING, THE DEBTORS TO PAY CERTAIN PREPETITION CLAIMS OF FOREIGN 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 Foreign 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

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 used but~~ otherwise not defined herein ~~are to be given~~ shall have the meanings ~~ascribed to them~~ set forth in the Motion.

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 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 Foreign Vendor Claims, up to an aggregate cap of \$60 million (the “**Foreign 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 Foreign 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 Foreign Vendor Claims before such amounts are due and payable.

3. Prior to paying or otherwise satisfying a Foreign Vendor Claim, the Debtors shall make a reasonable effort to condition payment to a Foreign Vendor upon an agreement by the Foreign Vendor in question to provide Customary Trade Terms to the Debtors on a postpetition basis.

4. Prior to paying or otherwise satisfying a Foreign Vendor Claim, the Debtors shall send a letter, substantially in the form annexed hereto as Exhibit 1 (the “**Foreign**

Vendor Agreement”), to the applicable Foreign Vendor, along with a copy of this Order. The

Foreign Vendor- Letter shall require that the Foreign Vendor enter into an agreement with the Debtors in the form thereof, and include, without limitation, the following information and terms:

~~1~~a. The amount (the “**Prepetition Claim Amount**”) of such Foreign Vendor’s estimated Foreign Vendor Claim, accounting for any setoffs, other credits and discounts thereto, which shall be mutually determined in good faith by the Foreign Vendor and the Debtors (but such Prepetition Claim Amount shall be used only for the purposes of determining such Foreign 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 Foreign Vendor shall agree not to assert a claim in excess of the agreed upon Prepetition Claim Payment;

~~2~~b. The Customary Trade Terms between such Foreign Vendor and the Debtors, or such other terms as the Foreign Vendors and the Debtors may agree, and the Foreign 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 Foreign Vendor may agree;

~~3~~c. The Foreign Vendor’s acknowledgement that it has reviewed the terms and provisions of this Order and consents to be bound thereby;-

~~4~~d. The Foreign Vendor’s agreement, if applicable, that it will continue to extend trade credit to the Debtors’ Foreign Affiliates; and

~~5~~e. The Foreign 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 Foreign Vendor in question have not, despite diligent efforts, entered into a Foreign Vendor Agreement, the Debtors are authorized, with the consent of the Official Committee of Unsecured Creditors (the “**Creditors’ Committee**”), but not directed, to pay such Foreign Vendor if the Debtors determine, in the

exercise of their business judgment, that payment of the Foreign 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 Foreign Vendors of the Customary Trade Terms to which the Debtors and the applicable Foreign Vendor have agreed.

7. Notwithstanding anything to the contrary herein, the Debtors shall provide at least two business days advance notice to the Creditors' Committee and the Ad Hoc Committee of Second Lien Noteholders (the "Second Lien Noteholder Committee") of any proposed payment to a Foreign Vendor.

7.8. If a Foreign Vendor refuses to supply goods and/or services to the Debtors on Customary Trade Terms following receipt of payment on its Foreign Vendor Claim, or fails to comply with any Foreign Vendor Agreement entered into between such Foreign Vendor and the Debtors, the Debtors may, in their sole discretion and without further order of this Court, but upon consultation with the Creditors' Committee, declare that such Foreign Vendor is in breach of its Foreign Vendor Agreement with the Debtors. To the extent that such Foreign Vendor fails to cure such default or reach a more favorable alternative agreement with the Debtors, the Debtors may ~~(a)~~, upon consultation with the Creditors' Committee, (a) seek appropriate relief from this Court, including, without limitation, injunctive relief to compel performance pursuant to the existing Foreign Vendor Agreement; ~~(b)~~ declare the payment of the applicable Foreign Vendor Claim a voidable postpetition transfer pursuant to section 549(a) of the Bankruptcy Code that the Debtors may recover from such Foreign Vendor in cash or in goods; and ~~(c)~~ demand that the creditor immediately return such payments in respect of the Foreign 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 Foreign Vendor Claim shall be reinstated in such an amount as to restore the Debtors and the Foreign Vendor to their original positions, as if the Foreign Vendor Agreement had never been entered into and the payment of the Foreign 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.

~~8.9.~~ 9. The Debtors shall maintain a matrix (the “**Foreign Vendor Matrix**”) summarizing: (a) the name of each Foreign Vendor paid on account of a Foreign Vendor Claim; (b) the amount paid to each Foreign Vendor for its Foreign Vendor Claim; and (c) a brief description of the type of goods and services provided by each Foreign Vendor. Upon request, the Debtors shall provide the Foreign Vendor Matrix to the ~~Foreign Vendor Matrix Parties.~~ U.S. Trustee. Additionally, the Debtors shall provide the Foreign Vendor Matrix weekly to professionals to the Creditors’ Committee and Second Lien Noteholder Committee, and directly to the agent for the DIP Financing (the “**DIP Agent**”) and shall provide professionals to the Creditors’ Committee and the Second Lien Noteholder Committee and the DIP Agent (directly) and its affiliates with timely access to information sufficient to enable the Creditors’ Committee, the Second Lien Noteholder Committee and the DIP Agent and its affiliates to monitor payments made, obligations satisfied and other actions taken pursuant to this Order.

10. Professionals to the Creditors’ Committee shall be authorized to share the information in the Foreign Creditors’ Matrix with members of the Creditors’ Committee with the Debtors’ written consent. The Debtors shall provide such additional information regarding the Foreign Vendors as the professionals to the Creditors’ Committee may reasonably request.

~~9.11.~~ 11. Nothing herein shall prejudice the Debtors' rights, upon appropriate notice, to request authority to increase the Foreign Vendor Cap, upon consultation with the Creditors' Committee. The Debtors' payment of the Foreign Vendor Claims shall not exceed the Foreign Vendor Cap unless otherwise ordered by the Court, after notice and a hearing.

~~10.12.~~ 12. The Debtors are authorized and empowered to take all actions necessary to implement the relief granted in this Order.

~~11.13.~~ 13. 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 required, 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.

~~12.14.~~ 14. 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, the Second Lien Noteholder Committee, the Creditors' Committee or the DIP Agent, or shall impair the ability of the Debtors, or any other party in

interest, to the extent applicable, to contest the validity and amount of any payment made pursuant to this Order.

~~13.15.~~ To the extent that ~~there is~~ any inconsistency exists between this Order and the terms of the ~~interim or final order approving the~~ Debtors' DIP Financing, ~~if and when entered, and this Order, the terms of the interim or final order~~ or any Order of this Court approving the DIP Financing, ~~as applicable,~~ the terms of such DIP Financing and the Order approving the same shall ~~govern~~ control.

~~14.16.~~ The requirements set forth in Local Rule ~~9013-1(b)~~ are satisfied.

~~15.17.~~ The requirements set forth in Bankruptcy Rule ~~6003(b)~~ are satisfied.

~~16.18.~~ The requirements set forth in Bankruptcy Rule ~~6004(a)~~ are satisfied.

~~17.19.~~ This Order is immediately effective and enforceable, notwithstanding the possible applicability of Bankruptcy Rule ~~6004(h)~~ or otherwise.

~~18.20.~~ 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~~

Dated: February [•], 2012

New York, New York

Allan L. Gropper

United States Bankruptcy Judge

Exhibit-1

January [•], 2012

TO: {Foreign Vendor}
{Name}
{Address}

TO: [Foreign 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 19, 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 meaning assigned to such terms in the Order.

To receive payment on pre-bankruptcy claims, each selected Foreign 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) the 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 on Schedule II hereto (the "~~Prepetition Claim Payment~~")¹;

~~2.~~ ^{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.~~ ^{3.} The Prepetition Claim Payment may be made in the manner set forth in the Order and may occur 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) ~~(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) ~~(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) ~~(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 Foreign Vendor Claims pursuant to the Order is terminated.

~~4.~~ ^{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.~~ ^{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 Foreign 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.

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

~~6. 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. 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.

~~8. 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: _____~~

By: _____

Its: _____

Agreed and Accepted By:

[Name of Vendor]

By: _____

Its: _____

Dated: _____

(Enclosure)

|

Schedule I

Calculation of Claim

Schedule-II

Trade Terms