

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

In re:	)	
	)	
EASTMAN KODAK COMPANY, <i>et al.</i> , <sup>1</sup>	)	Bankruptcy Case No. 12-10202
	)	(ALG)
Debtors.	)	
	)	
KYOCERA CORPORATION,	)	
	)	
Plaintiff,	)	
v.	)	Adv. Proc. No. 13-01093 (ALG)
EASTMAN KODAK COMPANY,	)	
	)	
Defendant.	)	
	)	

**ORDER APPROVING AND AUTHORIZING ENTRY INTO THE SETTLEMENT  
AGREEMENT AND RELEASE BETWEEN EASTMAN KODAK COMPANY  
AND KYOCERA CORPORATION**

Upon the motion (the “**Motion**”)<sup>2</sup> of Eastman Kodak Company (“**Kodak**”) and certain of its affiliates, as debtors and debtors in possession (collectively, the “**Debtors**”), for entry of an order (this “**Order**”) approving and authorizing entry into the Settlement Agreement and Release (the “**Proposed Settlement Agreement**”) between Kodak and Kyocera Corporation, the Court having found that this Court has jurisdiction to consider and determine this matter pursuant to 28 U.S.C. § 1334; and the Court having found that the Motion is a core proceeding pursuant to 28

<sup>1</sup> 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.

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



U.S.C. § 157(b)(2); and the Court having found that venue of this proceeding and the Motion in this District is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and the Court having found that proper, timely, adequate, and sufficient notice, including notice of the Motion and the relief requested therein, has been provided and no other or further notice of the Motion is or shall be required; and the Court having reviewed the Motion and having heard arguments and testimony presented at the hearing before the Court (if any); and the Court having found that the relief requested in the Motion is in the best interests of the Debtors' estates, their creditors and other parties in interest; and the Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and any objections (if any) to the Motion having been withdrawn or overruled on the merits; and after due deliberation and sufficient cause appearing, it is hereby ORDERED THAT:

1. The Motion is GRANTED.
2. Kodak is authorized, pursuant to Bankruptcy Rule 9019 to enter into the Proposed Settlement Agreement, attached hereto as Exhibit 1, with Kyocera Corporation.
3. Pursuant to Bankruptcy Rule 9019, the Proposed Settlement Agreement is approved. ~~in all respects.~~
4. The Debtors are hereby authorized to execute and deliver such documents, and take and perform any and all actions, reasonably necessary or appropriate to implement and effectuate the relief requested in the Motion and granted in connection with this Order.
5. The requirements set forth in Local Rules 9013-1(a) and 9013-1(b) are satisfied.

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

Dated: May 1, 2013  
New York, New York

**s/Allan L. Gropper**  
Allan L. Gropper  
United States Bankruptcy Judge

**EXHIBIT 1**

**Proposed Settlement Agreement**

## SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement and Release (the “**Agreement**”) is entered into as of April 19, 2013, by and between (a) Eastman Kodak Company, a corporation organized under the laws of the State of New Jersey (“**Kodak**”), and (b) Kyocera Corporation, a corporation organized under the laws of Japan (“**Kyocera**”). Kodak and Kyocera shall be referred to, individually, as a “**Party**”, and collectively, as the “**Parties.**”

### RECITALS

WHEREAS, the Parties (and in the case of Kyocera, its Subsidiary Kyocera Communications, Inc., a corporation organized under the laws of the State of Delaware (“**KCI**”)), are engaged in multiple litigations relating to their respective patent and contract rights, consisting of: (a) *Eastman Kodak Co. v. Kyocera Corp.*, No. 10-cv-6334 (CJS) (W.D.N.Y.), (b) *Kyocera Corp. v. Eastman Kodak Co.*, No. 11-cv-2934 JLS (JMA) (S.D. Ca.); (c) *Kyocera Corp. v. Eastman Kodak Co.*, No. 12-cv-0057 H (RBB) (S.D. Ca.); (d) *Kyocera Communications, Inc. v. Eastman Kodak Corp.*, Adv. Pro. No. 13-01093 (ALG) (Bankr. S.D.N.Y.); and (e) *Kyocera Corp. v. Eastman Kodak Corp.*, Case No. 13-cv-00086 (JGK) (S.D.N.Y.) (collectively, the “**Litigations**”);

WHEREAS, Kodak and its affiliated debtors filed voluntary petitions with the U.S. Bankruptcy Court for the Southern District of New York (the “**Bankruptcy Court**”) for relief under chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”), and the chapter 11 cases of Kodak and its affiliated debtors (collectively, “**Debtors**”) are being jointly administered under case no. 12-10202 (ALG) (the “**Bankruptcy Case**”), and Kodak has remained in possession of its property and continues to operate its business as a debtor-in-possession pursuant to sections 1107 and 1108 of the Bankruptcy Code;

WHEREAS, on July 17, 2012, Kyocera Corporation filed a proof of claim against Kodak assigned number 5734 (the “**Kyocera Proof of Claim**”), asserting an unliquidated general unsecured claim “of no less than \$80,000,000” and reserving the right to assert that some or all of the claimed amounts are entitled to be treated as administrative claims against Kodak pursuant to section 503(b) and 507(a)(1) of the Bankruptcy Code;

WHEREAS, the Parties engaged in good-faith negotiations at arm’s length regarding a comprehensive settlement to resolve the Litigations and the Kyocera Proof of Claim, to resolve all potential claims of past patent infringement, and to secure a period of patent peace between the Parties; and

WHEREAS, Kodak has determined that the compromise and settlement set forth herein is fair and reasonable, and in the best interests of the Debtors, the Debtors’ estates and their creditors. The Debtors have discussed the terms of the Agreement with advisors to the Official Committee of Unsecured Creditors (the “**Creditors’ Committee**”) and the Ad Hoc Group of Second Lien Noteholders (the “**Second Lien Committee**”), who have expressed no objection.

## AGREEMENT

NOW THEREFORE, for good and valuable consideration, and intending to be legally bound hereby, but subject to the approval by the Bankruptcy Court, Kodak and Kyocera hereby agree as follows:

I. Definitions. For the purposes of this Agreement, capitalized terms used in this Agreement, whether in singular or in plural and not otherwise defined herein shall have the following meanings:

“**Bankruptcy Plan**” means a plan of reorganization or liquidation for which a final confirmation order is entered by the Bankruptcy Court pursuant to section 1129 of the Bankruptcy Code.

“**Divested Business**” means, with respect to a Party, (a) a Person that, after being a Subsidiary of such Party, ceases to be a Subsidiary of such Party, or (b) a division, subdivision, product or service line, or business of such Party or any current or future Subsidiary of such Party (or any combination of the foregoing), in either case (a) or (b), that is sold or otherwise divested after the Settlement Date in or through any form of transaction, including a spin-off creating a separate business entity, a joint-venture, a sale of equity or assets, a merger (regardless of structure), consolidation, reorganization, or restructuring of any kind, or any other similar transaction or event.

“**Kodak Patents**” means any and all:

(a) patents and patent applications (including provisional patent applications and utility models) that are owned or controlled by Kodak or its Subsidiaries as of the Settlement Date;

(b) reissues, continuations, derivations, requests for continuing examination, continuations in-part, divisionals, or continuing prosecution applications, or design registrations claiming priority to or common priority with any item in category (a) that are owned or controlled by Kodak or its Subsidiaries as of the Settlement Date;

(c) patents issuing from any of the foregoing patent applications, or claiming priority to or common priority with any item in category (a) that are owned or controlled by Kodak or its Subsidiaries as of the Settlement Date;

(d) extensions, supplemental protection certificates, registrations, confirmations, reissues, reexaminations, extensions, restorations and renewals of the foregoing patents that are owned or controlled by Kodak or its Subsidiaries as of the Settlement Date; and

(e) national and regional counterparts or foreign equivalents of any of the foregoing issued by or filed in any country or other jurisdiction that are owned or controlled by Kodak or its Subsidiaries as of the Settlement Date.

“**Kyocera Patents**” means any and all:

(a) patents and patent applications (including provisional patent applications and utility models) that are owned or controlled by Kyocera or its Subsidiaries as of the Settlement Date;

(b) reissues, continuations, derivations, requests for continuing examination, continuations in-part, divisionals, or continuing prosecution applications, or design registrations claiming priority to or common priority with any item in category (a) that are owned or controlled by Kyocera or its Subsidiaries as of the Settlement Date;

(c) patents issuing from any of the foregoing patent applications, or claiming priority to or common priority with any item in category (a) that are owned or controlled by Kyocera or its Subsidiaries as of the Settlement Date;

(d) extensions, supplemental protection certificates, registrations, confirmations, reissues, reexaminations, extensions, restorations and renewals of the foregoing patents that are owned or controlled by Kyocera or its Subsidiaries as of the Settlement Date; and

(e) national and regional counterparts or foreign equivalents of any of the foregoing issued by or filed in any country or other jurisdiction that are owned or controlled by Kyocera or its Subsidiaries as of the Settlement Date.

“**Person**” means any individual, firm, corporation, partnership, trust, incorporated or unincorporated association, joint venture, joint stock company, limited liability company or other entity of any kind, and shall include any successor (by merger, amalgamation or otherwise) of such entity.

“**Settlement Date**” means March 7, 2013.

“**Subsidiary**” means, with respect to any Person, any other Person that is controlled by such Person. For the purposes of this definition, the word “controlled” means the actual power, either directly or indirectly through one or more intermediaries, to direct the management and policies of such Person, whether by the ownership of at least fifty percent (50%) of the voting stock of such Person, or by contract or otherwise.

2. Effective Date. Provided that neither the Creditors’ Committee nor the Second Lien Committee has previously objected to the Agreement (which objection has not been overruled by the Bankruptcy Court), this Agreement is subject to and shall be immediately effective on the date of entry of a final, non-appealable order of the Bankruptcy Court (that is not stayed) approving the terms hereof (the “**Effective Date**”). The terms and provisions of this Agreement shall be void and of no further force and effect if approval by the Bankruptcy Court is not granted. This Agreement shall be inadmissible in any future proceedings if not approved by the Bankruptcy Court. If either the Creditors’ Committee or the Second Lien Committee objects to the Agreement, then Kodak, in its sole discretion, may terminate the Agreement and not pursue its approval from the Bankruptcy Court upon written notice to Kyocera within seven (7) days of learning of the objection.

3. Payment to Kodak. Kyocera shall make a payment of US\$4,950,000.00 to Kodak within five (5) business days after the Effective Date via wire transfer to:

Bank Name:	Citibank, NA
Account Name:	Eastman Kodak Company
Account Number:	00029217
City, State:	New York, NY
ABA:	021000089
SWIFT Code:	CITIUS33
Treasury Operations Contact:	Mary Ann Kramer
Phone:	585.724.7688 (or) 585.724.4526
Fax:	585.724.9460
Email:	maryannkramer@kodak.com (and) <a href="mailto:cashmgt@kodak.com">cashmgt@kodak.com</a>

Assuming that approval from the Bankruptcy Court of this Agreement is obtained on May 1, 2013, such payment shall be due on or before May 22, 2013 in accordance with the terms of this Agreement.

4. Dismissal of Litigations. Within five (5) business days after Kodak receives the payment set forth in Section 3 above, the Parties shall (and Kyocera shall cause KCI to): (i) through their respective counsel file a stipulation of dismissal in a mutually agreed form dismissing with prejudice all claims and counterclaims in the Litigations; and (ii) take all other reasonable actions necessary to effectuate the dismissal with prejudice of all claims and counterclaims in the Litigations.

5. Withdrawal of Kyocera Proof of Claim. Within five (5) business days after Kodak receives the payment set forth in Section 3 above, Kyocera shall (and shall cause KCI to) withdraw the Kyocera Proof of Claim with prejudice by filing a withdrawal of claim with the Bankruptcy Court in a mutually agreed form.

6. Releases.

(a) Kodak Release. Effective as of the Effective Date, Kodak, on behalf of itself and its Subsidiaries, hereby unconditionally and irrevocably releases, acquits and forever discharges (i) Kyocera and its Subsidiaries, and its and their respective officers, directors, employees, agents, attorneys and stockholders from any and all claims, counterclaims, demands, liabilities, suits, debts, costs, expenses, and causes of action, at law or in equity, whether asserted or unasserted, whether known or unknown, liquidated or unliquidated, fixed or contingent (collectively, the "**Kodak Claims**", and each, a "**Kodak Claim**") arising from or relating to (A) any of the Litigations to the extent based on acts occurring prior to and including the Effective Date, or (B) the infringement of the Kodak Patents, whether direct, indirect, contributory, by inducement or otherwise, to the extent based on acts occurring prior to and including the Effective Date, and (ii) past and present customers that purchase directly from Kyocera or its Subsidiaries, or in the case of telecom providers from its or their respective duly authorized resellers, from Kodak Claims of infringement of the Kodak Patents, whether direct,



indirect, contributory, by inducement or otherwise, only to the extent based on the use or resale occurring prior to and including the Effective Date of products or services sold or provided by Kyocera or its Subsidiaries as its or their own product or service with respect to, and only to the extent of, those direct purchases of products and services as sold by Kyocera or its Subsidiaries and not in combination with any other products or services. For purposes of clarity, the release in this Section 6(a) shall not extend to any past or present customer of Kyocera or its Subsidiaries except to the limited extent that such past or present customer purchases, directly from Kyocera or its Subsidiaries, or in the case of telecom providers from its or their respective duly authorized resellers, products or services sold or provided by Kyocera or its Subsidiaries as its or their own product or service with respect to, and to the extent of, those direct purchases of products or services as sold by Kyocera or its Subsidiaries and not in combination with any other products or services. Any acquirer or other transferee of any right, title or interest in or to any Kodak Patents shall be bound by the release set forth herein solely with respect to those Kodak Patents acquired or transferred. For the avoidance of doubt, (i) nothing herein shall release any Kodak Claims relating to the Kodak Patents to the extent based on acts occurring after the Effective Date, and (ii) nothing herein shall release, and Kodak (on behalf of itself and its Subsidiaries) reserves, the right to assert any and all affirmative defenses (including without limitation defenses of invalidity, unenforceability and limitations on claim coverage) in response to any claim for infringement of the Kyocera Patents (or any other patent rights previously owned or controlled by Kyocera or its Subsidiaries), whether direct, indirect, contributory, by inducement or otherwise.

(b) Kyocera Release. Effective as of the Effective Date, Kyocera, on behalf of itself and its Subsidiaries, hereby unconditionally and irrevocably releases, acquits and forever discharges (i) Kodak and its Subsidiaries, and its and their respective officers, directors, employees, agents, attorneys and stockholders from any and all claims, counterclaims, demands, liabilities, suits, debts, costs, expenses, and causes of action, at law or in equity, whether asserted or unasserted, whether known or unknown, liquidated or unliquidated, fixed or contingent (collectively, the “**Kyocera Claims**”, and each, a “**Kyocera Claim**”) arising from or relating to (A) any of the Litigations or the Kyocera Proof of Claim to the extent based on acts occurring prior to and including the Effective Date, or (B) the infringement of the Kyocera Patents, whether direct, indirect, contributory, by inducement or otherwise, to the extent based on acts occurring prior to and including the Effective Date, and (ii) past and present customers that purchase directly from Kodak or its Subsidiaries, or in the case of telecom providers from its or their respective duly authorized resellers, from Kyocera Claims of infringement of the Kyocera Patents, whether direct, indirect, contributory, by inducement or otherwise, only to the extent based on the use or resale occurring prior to and including the Effective Date of products or services sold or provided by Kodak or its Subsidiaries as its or their own product or service with respect to, and only to the extent of, those direct purchases of products and services as sold by Kodak or its Subsidiaries and not in combination with any other products or services. For purposes of clarity, the release in this Section 6(b) shall not extend to any past or present customer of Kodak or its Subsidiaries except to the limited extent that such past or present customer purchases, directly from Kodak or its Subsidiaries, or in the case of telecom providers from its or their respective duly authorized resellers, products or services sold or provided by Kodak or its Subsidiaries as its or their own product or service with respect to, and to the extent of, those direct purchases of products or services as sold by Kodak or its Subsidiaries and not in combination with any other products or services. Any acquirer or other transferee of any right,

title or interest in or to any Kyocera Patents shall be bound by the release set forth herein solely with respect to those Kyocera Patents acquired or transferred. For the avoidance of doubt, (i) nothing herein shall release any Kyocera Claims relating to the Kyocera Patents to the extent based on acts occurring after the Effective Date, and (ii) nothing herein shall release, and Kyocera (on behalf of itself and its Subsidiaries) reserves, the right to assert any and all affirmative defenses (including without limitation defenses of invalidity, unenforceability and limitations on claim coverage) in response to any claim for infringement of the Kodak Patents (or any other patent rights previously owned or controlled by Kodak or its Subsidiaries), whether direct, indirect, contributory, by inducement or otherwise.

(c) California Code Section 1542. In connection with the releases set forth in this Section 6, each Party, on behalf of itself and its Subsidiaries, irrevocably and forever expressly waives all rights that such Party or its Subsidiaries may have arising under California Civil Code Section 1542 and all similar rights under the laws of any other applicable jurisdictions with respect to the release granted by such Party under this Section 6. Each Party understands that Section 1542 provides: "A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor." Each Party acknowledges that it has been fully informed by its counsel concerning the effect and import of this Agreement under California Civil Code Section 1542 and similar laws of any other applicable jurisdictions and knowingly waives all rights under California Civil Code Section 1542 and similar laws of other applicable jurisdictions.

7. Standstill. From the Effective Date until the third anniversary following entry of a final order confirming Kodak's Bankruptcy Plan (the "**Standstill Period**"), (i) Kodak shall (and shall cause its present and future Subsidiaries to) delay, until after the expiration of the Standstill Period, asserting any Kodak Claim of patent infringement (other than providing notice as permitted by Section 7(c) below) or otherwise seeking to enforce any existing or future patent rights owned or controlled during the Standstill Period by Kodak or its present and future Subsidiaries against Kyocera or any of its present and future Subsidiaries or against any Divested Business of Kyocera or against its and their respective past, present and future customers that purchase, directly from Kyocera or its Subsidiaries, or in the case of telecom providers from its or their respective duly authorized resellers, products or services sold or provided by Kyocera or its Subsidiaries as its or their own product or service with respect to, and only to the extent of, those direct purchases of products or services as sold by Kyocera or its Subsidiaries and not in combination with any other products or services, and (ii) Kyocera shall (and shall cause its present and future Subsidiaries to) delay, until after the expiration of the Standstill Period, asserting any Kyocera Claim of patent infringement (other than providing notice as permitted by Section 7(c) below) or otherwise seeking to enforce any existing or future patent rights owned or controlled during the Standstill Period by Kyocera or any of its present and future Subsidiaries against Kodak or any of its present and future Subsidiaries or against any Divested Business of Kodak or against its and their respective past, present and future customers that purchase, directly from Kodak or its Subsidiaries, or in the case of telecom providers from its or their respective duly authorized resellers, products or services sold or provided by Kodak or its Subsidiaries as its or their own product or service with respect to, and only to the extent of, those direct purchases of products or services as sold by Kodak or its Subsidiaries and not in combination with any other products or services, in each case, subject to the following:

(a) All damages shall accrue during the Standstill Period, and shall be subject to potential recovery after the Standstill Period;

(b) All defenses shall be tolled during the Standstill Period, and may be asserted after the Standstill Period; provided, however, that during the Standstill Period, a Party shall have the right to assert the provisions of this Agreement as a defense to any Kodak Claim of patent infringement or to any Kyocera Claim of patent infringement, as applicable, or to a Party otherwise seeking to enforce any existing or future patent rights during the Standstill Period;

(c) The Standstill Period shall not prevent any Person from providing notice of patent infringement at any time;

(d) During the Standstill Period, in the event of any sale, assignment, exclusive license, or other disposition or grant of any right, title or interest in or to any Kodak Patents or future patent rights owned or controlled during the Standstill Period by Kodak or its present and future Subsidiaries, or any Kyocera Patents or future patent rights owned or controlled during the Standstill Period by Kyocera or its present and future Subsidiaries, including with respect to any Divested Business, as applicable (a "**Patent Right Transfer**"), the transferor shall cause the immediate Person that receives a Patent Right Transfer with respect to any such patent rights (a "**Transferor's Immediate Transferee**") to acquire such Patent Right Transfer subject to the obligations during the Standstill Period as set forth in this Section 7 solely with respect to the patents and patent applications transferred as part of the Patent Right Transfer. Transferor will also impose on the Transferor's Immediate Transferee an obligation with respect to the transferred patent rights in the Patent Right Transfer to impose the obligations of this Section 7 on any subsequent recipient of a Patent Right Transfer from the Transferor's Immediate Transferee (a "**Subsequent Transferee**"), and an obligation on such Subsequent Transferee to impose the obligations of this Section 7 on its respective immediate transferees. Nothing herein shall impose any obligations upon any Transferor's Immediate Transferee or Subsequent Transferee with respect to patents or other patent rights existing independent of a Patent Right Transfer; and

(e) A Party may inquire in writing to the other Party, and the receiving Party promptly shall respond in writing to such inquiry, whether any patent or patent right asserted against Kodak or any of its present and future Subsidiaries, Kyocera or any of its present and future Subsidiaries, or any Divested Business, as applicable, was transferred as part of a Patent Right Transfer. Any inquiry pursuant to this Section 7(e) shall be directed to the General Counsel of Kodak or the General Manager, Corporate Legal and Intellectual Property Group of Kyocera, as applicable, at the following addresses:

If to Kodak: Eastman Kodak Company  
343 State Street  
Rochester, New York 14650  
U.S.A.  
Attention: General Counsel

If to Kyocera: Kyocera Corporation  
Head Office  
6 Takeda Tobadono-cho  
Fushimi-ku  
Kyoto 612-8501  
Japan  
Attention: General Manager, Corporate Legal and Intellectual  
Property Group

For purposes of clarity, the standstill obligation in this Section 7 shall not extend (1) to any past, present or future customer of Kyocera or its Subsidiaries except to the limited extent that such past, present or future customer purchases, directly from Kyocera or its Subsidiaries, or in the case of telecom providers from its or their respective duly authorized resellers, products or services sold or provided by Kyocera or its Subsidiaries as its or their own product or service with respect to, and to the extent of, those direct purchases of products or services as sold by Kyocera or its Subsidiaries and not in combination with any other products or services, or (2) to any past, present or future customer of Kodak or its Subsidiaries except to the limited extent that such past, present or future customer purchases, directly from Kodak or its Subsidiaries, or in the case of telecom providers from its or their respective duly authorized resellers, products or services sold or provided by Kodak or its Subsidiaries as its or their own product or service with respect to, and to the extent of, those direct purchases of products or services as sold by Kodak or its Subsidiaries and not in combination with any other products or services.

8. Assignments. Neither Kodak nor Kyocera may assign or transfer this Agreement or any or all of its rights and obligations under this Agreement to any Person except in accordance with, and to the extent provided by, Section 6 and Section 7 above, without prior written consent of all Parties. Notwithstanding the foregoing, Kodak may assign its rights under this Agreement to any entity succeeding to the business of Kodak upon consummation of the Bankruptcy Plan without such consent, provided that such successor entity shall be bound by and entitled to the benefits of this Agreement to the same extent as if it were an original signatory hereto.

9. Entire Agreement. The recitals set forth at the beginning of this Agreement are incorporated by reference and made a part of this Agreement. This Agreement constitutes the entire agreement and understanding of the Parties and supersedes all prior negotiations, agreements and/or representations, proposed or otherwise, written or oral, concerning the subject matter hereof.

10. Modification. This Agreement may be modified only in a writing agreed to and signed by each of the Parties hereto.

11. Governing Law. The validity, performance, construction and interpretation of the Agreement shall be governed by the laws of the State of New York without regard to its conflict of law provisions, to the extent that they would result in the application of laws of any other jurisdiction.

12. Third Party Beneficiaries. Any Person named as beneficiaries in Section 6 or Section 7 above shall be intended third party beneficiaries of this Agreement solely with respect to the rights and benefits set forth Section 6 or Section 7, as applicable.

13. Dispute Resolution. Each Party agrees that for so long as the Bankruptcy Court is exercising jurisdiction in the Bankruptcy Case, it will bring any actions, suits or proceedings arising out of or relating to this Agreement in the Bankruptcy Court, and thereafter exclusively in the United States District Court for the Southern District of New York. In the event that the Bankruptcy Court or the United States District Court for the Southern District of New York, as applicable, declines to or may not accept jurisdiction over a particular matter, each Party agrees to then proceed in the Supreme Court of the State of New York for New York County (collectively as set forth in this Section 13, the "**Chosen Courts**"). Each Party, with respect to any actions, suits or proceedings arising out of or relating to this Agreement, (a) irrevocably submits to the exclusive jurisdiction of the Chosen Courts, (b) waives any objection or claim to laying venue in any such action, suit or proceeding in the Chosen Courts, and (c) waives any objection that the Chosen Courts are an inconvenient forum or do not have jurisdiction over any Party.

14. Costs. All legal fees and other expenses incurred on behalf of a Party in connection with negotiating, drafting and effectuating the Agreement will be borne by such Party.

15. Severability. If any term, clause, provision, or part thereof, of this Agreement is invalidated or unenforceable by operation of law or otherwise, the Parties shall negotiate in good faith a replacement, but legally valid, term, clause or provision that best meets the intent of the Parties. The remaining provisions of this Agreement will remain in full force and effect.

16. Reliance on Own Counsel. Each Party has had the opportunity to be represented by counsel of its choice in negotiating this Agreement. This Agreement shall therefore be deemed to have been negotiated at arm's length, with the advice and participation of counsel, and prepared at the joint request, direction and instruction of the Parties, and shall be interpreted in accordance with its terms without favor to any Party.

17. Authority to Execute Agreement. By signing below, each Party warrants and represents that the Person signing this Agreement on its behalf has authority to bind that Party and that Party's execution of this Agreement is not in violation of any by-law, covenants and/or other restrictions placed upon the Party.

18. Headings. The headings of the Sections of this Agreement are inserted for convenience only and shall not constitute a part hereof or affect in any way the meaning or interpretation of this Agreement.

19. Counterparts. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same instrument. The Parties agree that the delivery of this Agreement may be effected by means of an exchange of signatures via facsimile transmission, Portable Document Format, or other electronic transmission.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly  
executed and delivered by their authorized representatives.

**EASTMAN KODAK COMPANY**

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

Name: *Timothy Lynch*  
Title: *Vice President*

**KYOCERA CORPORATION**

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

Name:  
Title:

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly  
executed and delivered by their authorized representatives.

**EASTMAN KODAK COMPANY**

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

**KYOCERA CORPORATION**

By: Junichi Jinno  
Name: Junichi Jinno  
Title: Senior Executive Officer  
General Manager, Corporate Legal and  
Intellectual Property Group