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UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

| | | |
|--------------------------------|---|------------------------|
| _____ |) | Chapter 11 |
| In re: |) | |
| EASTMAN KODAK COMPANY, et al., |) | Case No. 12-10202(ALG) |
| Debtors |) | |
| |) | (Jointly Administered) |
| _____ |) | |

**LIMITED OBJECTION AND RESERVATION OF RIGHTS OF
V.G. REED & SONS, INCORPORATED WITH RESPECT TO
CONFIRMATION AND TO
DEBTORS' NOTICE OF FILING OF PLAN SUPPLEMENT FOR THE
FIRST AMENDED JOINT CHAPTER 11 PLAN OF REORGANIZATION OF
EASTMAN KODAK COMPANY AND ITS DEBTOR AFFILIATES**

V.G. Reed & Sons, Incorporated ("VGR") submits its Limited Objection and Reservation of Rights with respect to Confirmation and to the Debtors' Notice of Filing of Plan Supplement for the First Amended Joint Chapter 11 Plan of Reorganization (the "Plan") of Eastman Kodak Company and Its Debtor Affiliates (the "Notice") [Doc. 4489] (the "Notice") and respectfully states as follows:

1. Pursuant to the Notice, Eastman Kodak Company (the "Debtor") identifies one contract with VGR as Specified Contracts that it intends to assume. The Debtors' Second Notice



of Assumption of Specified Contracts also identifies seven additional contracts which it wishes to assume. VGR objects to the Notice because it does not identify a contract, the Customer Agreement dated June 29, 2011 (the “Non-Specified Contract”) between the Debtor and VGR which must also be assumed because it is part of the integrated transactions between the Debtor and VGR. By way of example, one or more of the Specified Contracts involves maintenance on equipment which is the subject of the Non-Specified Contract.

2. The Non-Specified Contract and the Specified Contracts are interrelated and are inextricably intertwined. However, the Debtor has not filed a specific notice to the effect that it intends to assume the Non-Specified Contract.

3. Under New York law, “a contract is entire when by its terms, nature and purpose, it contemplates and intends that each and all of its parts and the consideration therefor shall be common each to the other and interdependent.” *First Savings and Loan Association of Jersey City, N.J., v. American Home Assurance Company*, 29 N.Y.2d 297, 277 N.E.2d 638, 639 (N.Y. 1971). In bankruptcy, a debtor cannot pick and choose to assume or reject one contract among a number of contracts that form an integrated transaction. *In re FPSDA I, LLC*, 450 B.R. 392, 399 (Bankr. E.D. N.Y. 2001) (in determining the timing of a contract assumption, court acknowledged obligation to assume or reject all related contracts. See also *In re Coudert Bros. LLP*, 2009 U.S. Dist. LEXIS 81331, **9-12 (S.D. N.Y. 2009) (lease and lease amendment constituted one integrated contract that must be assumed or rejected together); *In re Exide Technologies*, 340 B.R. 222, 228 (Bankr. Del. 2006) (“all of the contracts that comprise an integrated agreement must either be assumed or rejected, since they all make up one contract.”).

4. Accordingly, the Debtor’s assumption of the Specified Contracts should be

conditioned upon its assumption of the Non-Specified Contract. VGR objects to the Notice on that basis.

5. VGR also objects to confirmation of the Debtors' Plan without the Non-Specified Contract being assumed.

WHEREFORE, VGR respectfully asks the Court to (1) prohibit the Debtor from assuming the Specified Contracts unless the Debtor also assumes the Non-Specified Contract; (2) deny confirmation of the Debtors' Plan; and (3) specifically reserve to VGR all of its rights, remedies, claims and defenses with respect to damages that may arise from the Debtor's failure to assume the Non-Specified Contract.

Dated: August 9, 2013
New York, New York

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