

Electronics For Imaging, Inc.
303 Velocity Way
Foster City, CA 94404

Re: Vutek, Inc.
Meredith, New Hampshire
EPA ID No. NHD510166168

**ADMINISTRATIVE FINE
No. AF 07-022**

MOTION TO ACCEPT SETTLEMENT AGREEMENT

NOW COME the Department of Environmental Services, Waste Management Division (“Division”) and Electronics For Imaging, Inc. (“EFI”), parties to the above-captioned matter, and request the Commissioner to accept the following proposed settlement in this matter. In support of this motion, the parties state as follows:

1. Pursuant to RSA 147-A, the Department of Environmental Services (“DES”) regulates the management and disposal of hazardous waste. Pursuant to RSA 147-A:3, the Commissioner of DES has adopted Env-Wm 100-1100 (“Hazardous Waste Rules”) to implement this program.
2. Pursuant to RSA 147-A:17-a, the Commissioner of DES is authorized to impose fines of up to \$2,000 per violation for violations of RSA 147-A or rules adopted pursuant thereto. Pursuant to this section, the Commissioner has adopted Env-C 612 to establish the schedule of fines for such violations.
3. Vutek Inc. (“Vutek”) is a subsidiary of EFI. Vutek is a full quantity hazardous waste generator that notified the United States Environmental Protection Agency (“EPA”) of its activities through DES on June 8, 2001. EPA Identification Number NHD510166168 was assigned to Vutek’s site located at One Vutek Place in Meredith, New Hampshire.
4. On August 27, 2007, the Division issued Notice of Proposed Administrative No. AF 07-022 (the “Notice”) to EFI seeking fines totaling \$28,420 for violations of RSA 147-A and its implementing regulations, NH CODE ADMIN. RULES Env-Wm 100-1100 (the “Hazardous Waste Rules”).
5. Specifically, the Notice cited Vutek for violating Env-Wm 502.01 by failing to conduct an adequate hazardous waste determination on the cubic yard box containing waste labpack materials and waste sodium hydroxide solids (Violation 1). Pursuant to Env-C 612.05(a), the Division sought a fine of \$1,500 for each determination, for a total of \$3,000.
6. The Notice cited Vutek for violating Env-Wm 507.01(a)(1) by failing to place hazardous waste in a container that was in good condition (Violation 2). Pursuant to Env-C 612.06(b), the Division sought a fine of \$1,000 per container for full quantity generators, for a total of \$1,000.



7. The Notice cited Vutek for violating Env-Wm 507.01(a)(3) and Env-Wm 509.03(d) by failing to close the following: two (2) 1-gallon containers of hazardous waste "ink solvent mix" located in the Solvent Print Assembly Area; one (1) 1-gallon container of hazardous waste solvent located in the Sub-Assembly Area; one (1) 5-gallon container of hazardous waste "ink solvent mix" located in the Hi-Bay Engineering Area; and one (1) small tote of hazardous waste wipers with acetone located in the Hi-Bay Engineering Area (Violation 3).
8. The Notice cited Vutek for violating Env-Wm 509.02(a)(1) by failing to document the time of the inspection and the name of the inspector performing the inspection on the Inspection Checklist (Violation 4). Pursuant to Env-C 612.07(a), the Division sought a fine of \$1,000 per inspection per area, for a total of \$1,000.
9. The Notice cited Vutek for violating Env-Wm 509.02(a)(2) by failing to maintain a personnel training program and provide hazardous waste training for employees with hazardous waste management duties (Violation [5]). Pursuant to Env-C 612.07(b), the Division sought a fine of \$1,000 per individual not trained for annual updates, for a total of \$11,000.
10. The Notice cited Vutek for violating Env-Wm 509.02(a)(5) by failing to maintain a complete contingency plan on-site (Violation [6]). Pursuant to Env-C 612.07(e), the Division sought a fine of \$2,000.
11. The Notice cited Vutek for violating Env-Wm 509.02(b) by failing to post a complete emergency posting at the nearest telephone to the Hazardous Waste Storage Area (Violation 7). Pursuant to Env-C 612.07(h), the Division sought a fine of \$1,000 per area, for a total of \$1,000.
12. The Notice cited Vutek for violating Env-Wm 509.03(b) by failing to provide hazardous waste training for some satellite storage operators, who had been assigned hazardous waste duties (Violation 8).
13. The Notice cited Vutek for violating Env-Wm 509.03(g) by failing to mark containers of hazardous waste containing "wipers with acetone," with the words "hazardous waste" or words correctly describing the contents of each of sixteen (16) containers in nine (9) satellite storage areas (Violation 9). Pursuant to Env-C 612.07(j), the Division sought a fine of \$1,000 per satellite storage area, for a total fine of \$9,000.
14. The Notice cited Vutek for violating Env-Wm 1102.03 and Env-Wm 1112.04 by failing to properly mark four (4) 8-ft boxes of universal waste lamps and two (2) 4-ft boxes of universal waste lamps observed in the Maintenance Area (Violation 10). Pursuant to Env-C 610, the Division sought a fine of \$300.
15. Finally, the Notice cited Vutek for violating Env-Wm 1102.03(c)(1) by failing to keep eight (8) boxes of universal waste lamps properly closed, except when adding or removing universal waste (Violation 11). Pursuant to Env-C 610, the Division sought a fine of \$120.
16. In order to settle this matter, the Division and EFI have agreed to the terms of this Settlement Agreement ("Agreement"), as set forth herein.



17. The Division agrees not to seek the proposed fines associated with Violations 2, 4, 7, 10 and 11 because they are not Class I violations.

18. The Division did not propose and will not seek fines associated with Violations 3 & 8 because the violations occurred in the same areas included in Violation 9.

19. The Division agrees that due to Vutek's good faith efforts to comply with the applicable rules that a 10% reduction, in the amount of \$1,600, should be applied to the fines proposed for Violations 1, 5 and 6.

20. The Division stipulates that Vutek provided information pertaining to Violation 9 showing that three (3) containers marked "Waste Flammable Liquid" located in two (2) satellite storage areas did not contain hazardous waste. Based on this information, the Division has agreed to reduce the proposed fine from \$9,000 to \$7,000. The Division further agrees that due to Vutek's timely cooperation in providing information and correcting the violation that a 15% reduction, in the amount of \$1,050, should be applied to the proposed fine as revised.

21. EFI agrees to pay the remaining proposed fines in the amount of \$20,350 upon execution of this Agreement by an authorized representative of EFI.

22. Payment pursuant to the preceding paragraph shall be paid by certified check made payable to "Treasurer, State of New Hampshire" and mailed to:

NH DES, Legal Unit
Attn: Legal Assistant
P.O. Box 95
Concord, NH 03302-0095

23. If any payment is made by check or money order that is returned due to insufficient funds, pursuant to NH RSA 6:11-a, DES may charge a fee in the amount of 5% of the face amount of the check or money order or \$25.00, whichever is greater, plus all protest and bank fees, in addition to the amount of the check or money order, to cover the costs of collection.

24. By executing this Agreement, EFI waives its right to a hearing on or any appeal of the administrative fines identified in this Agreement, and agrees that this Agreement may be entered into and enforced by a court of competent jurisdiction. Other than this enforcement action or any action that may be necessary to enforce this Agreement, DES shall pursue no further administrative action against EFI relative to the allegations contained herein. In any proceeding to enforce this Agreement, EFI agrees not to challenge the validity of any provision of this Agreement.

25. EFI shall not challenge the validity of the violations alleged herein in the context of any future proceeding by DES in assessing the compliance history of EFI and alleging violations of RSA 147-A and/or Env-Wm 100-1100 or successor rules in subtitle Env-Hw. Except as described in this paragraph, this Agreement shall not constitute, be construed as, or operate as: (i) an admission or evidence of liability by EFI; (ii) an admission by EFI or evidence that it violated any law, rule,



regulation, policy or regulatory interpretation; or (iii) a waiver of any defense EFI might raise in any third party proceeding.

26. The effective date of this Agreement will be the date on which it is signed by an authorized representative of EFI, the Director of the Waste Management Division, and the Commissioner of DES. After that date, this Agreement may be amended only by written agreement signed by both parties and the Commissioner. Any such amendment will become effective on the date on which it has been accepted by the Commissioner.

27. No failure by DES to enforce any provision of this Agreement after any breach or default will be deemed as a waiver of its rights with regard to that breach or default, nor will such failures be construed as a waiver of the right to enforce each and all provisions of this Agreement on any further breach or default.

WHEREFORE, the parties respectfully request the Commissioner to accept the terms of this Agreement by granting this Motion.

Respectfully submitted,
Electronics For Imaging, Inc.

4/2/08
Date

APPROVED
Peter W. Schaffer
SR. Dir. Global Real Estate & Facilities
By: Peter Schaffer,
Sr. Director Global Real Estate & Facilities
Duly Authorized

DES, Waste Management Division

4/11/08
Date

[Signature]
Michael J. Wimsatt, P.G., Director

This Motion to Accept Settlement Agreement is granted this 18th day of April, 2008.

[Signature]
Thomas S. Burack, Commissioner
Department of Environmental Services

