

EASTMAN KODAK CO
Form DEF 14C
November 29, 2016

**SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549**

**SCHEDULE 14C
(Rule 14c-101)**

Information Statement Pursuant to Section 14(c) of the Securities Exchange Act of 1934

Check the appropriate box:

Preliminary Information Statement

Definitive Information Statement

Confidential, for Use of the Commission Only (as permitted by Rule 14c-5(d)(2))

EASTMAN KODAK COMPANY
(Name of Registrant As Specified In Its Charter)

Payment of Filing Fee (Check the Appropriate Box):

No fee required

Fee computed on table below per Exchange Act Rules 14c-5(g) and 0-11.

- | | |
|-----|---|
| (1) | Title of each class of securities to which transaction applies: |
| (2) | Aggregate number of securities to which the transaction applies: |
| (3) | Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (Set forth the amount on which the filing fee is calculated and state how it was determined): |
| (4) | Proposed maximum aggregate value of transaction: |
| (5) | Total fee paid: |

Fee paid previously with preliminary materials

Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.

- | | |
|-----|---|
| (1) | Amount previously paid: |
| (2) | Form, Schedule or Registration Statement No.: |
| (3) | Filing Party: |

(4)

Date Filed:

EASTMAN KODAK COMPANY
343 State Street, Rochester, New York 14650

**NOTICE OF ACTION BY WRITTEN CONSENT
OF MAJORITY OF SHAREHOLDERS TO BE EFFECTIVE DECEMBER 19, 2016**

**WE ARE NOT ASKING YOU FOR A PROXY AND
YOU ARE REQUESTED NOT TO SEND US A PROXY**

To the Holders of Common Stock of Eastman Kodak Company:

We are furnishing the attached Information Statement to the holders of common stock of Eastman Kodak Company, a New Jersey corporation (the Company, we, us or our), pursuant to the requirements of Section 14 of the Securities Exchange Act of 1934, as amended (the Act), the rules and regulations promulgated by the U.S. Securities and Exchange Commission thereunder, and the requirements of the New Jersey Business Corporations Act, in connection with a written consent in lieu of a special meeting (the Written Consent), dated as of November 7, 2016, executed by the holders of approximately 51% of our outstanding shares of common stock, par value \$0.01 per share (the Common Stock). A copy of the Written Consent is attached as Annex A to the Information Statement.

The Written Consent approves certain actions (the Actions) authorized by the Board of Directors of the Company relating to the issuance of the 5.50% Series A Convertible Preferred Stock of the Company (the Series A Preferred Stock). As more fully described in the accompanying Information Statement, among other actions, the voting shareholders approved the conversion feature of the Series A Preferred Stock and the issuance of all additional shares of Common Stock that are issuable pursuant to the terms of the Series A Preferred Stock in excess of 19.99% of the voting power of the Company or number of shares of Common Stock outstanding before the original issuance date of the Series A Preferred Stock.

The Certificate of Amendment to the Second Amended and Restated Certificate of Incorporation of the Company providing the terms of the Series A Preferred Stock (the Certificate of Designations) is attached as Exhibit A to the Written Consent. Pursuant to Rule 14c-2 of the Exchange Act, the Actions will become effective on or after December 19, 2016, which is 20 calendar days following the date we first mail the Information Statement to our shareholders.

As described in the Information Statement, the Actions have already been approved by shareholders representing more than a majority of our outstanding shares of Common Stock. Accordingly, the Company is not soliciting your proxy or consent in connection with the matters discussed above or in the Information Statement.

You are urged to read the Information Statement in its entirety.

The Information Statement is being mailed on or about November 29, 2016 to shareholders of record as of November 7, 2016.

THE INFORMATION STATEMENT IS FOR YOUR INFORMATION ONLY. YOU DO NOT NEED TO DO ANYTHING IN RESPONSE TO THE INFORMATION STATEMENT. THIS IS NOT A NOTICE OF A MEETING OF SHAREHOLDERS AND NO SHAREHOLDER MEETING WILL BE HELD TO CONSIDER ANY MATTER DESCRIBED IN THE INFORMATION STATEMENT.

By Order of the Board of Directors,

/s/ James V. Continenza
James V. Continenza
Chairman of the Board of Directors of
Eastman Kodak Company

EASTMAN KODAK COMPANY

INFORMATION STATEMENT

November 29, 2016

**WE ARE NOT ASKING YOU FOR A PROXY AND
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INTRODUCTION

General Information

The Board of Directors (the Board) of Eastman Kodak Company, a New Jersey corporation (the Company, we, us or our), is furnishing Information Statement to the holders of our common stock, par value \$0.01 per share (the Common Stock), in connection with a written consent in lieu of a special meeting (the Written Consent), dated as of November 7, 2016, executed by the holders (the Voting Shareholders) of approximately 51% of our outstanding shares of Common Stock. A copy of the Written Consent is attached as Annex A to this Information Statement.

The Written Consent approves certain actions (the Actions) taken by the Board relating to the issuance of the 5.50% Series A Convertible Preferred Stock of the Company (the Series A Preferred Stock). The Actions are more fully described in this Information Statement. The Certificate of Amendment to the Second Amended and Restated Certificate of Incorporation of the Company (the Certificate of Designations), which provides the terms of the Series A Preferred Stock, is attached hereto as Exhibit A to the Written Consent (Annex A to this Information Statement).

The Written Consent was in accordance with the New Jersey Business Corporations Act (the NJBCA), our Second Amended and Restated Certificate of Incorporation (the Certificate of Incorporation) and our Third Amended and Restated By-laws (the Bylaws), which permit any action which may be taken at a meeting of our shareholders to also be taken by the written consent of our shareholders. The Actions taken by the Written Consent required the approval of the holders of a majority of our outstanding shares of Common Stock.

This Information Statement is being furnished to all of our shareholders in accordance with Section 14 of the Securities Exchange Act of 1934, as amended (the Exchange Act), the rules and regulations promulgated by the U.S. Securities and Exchange Commission (SEC) thereunder, and the requirements of the NJBCA, solely for the purpose of informing our shareholders of the Actions taken by the Written Consent before it becomes effective.

This information statement will be mailed on or about November 29, 2016 to shareholders of record as of November 7, 2016 (the Record Date). Pursuant to Rule 14c-2 of the Exchange Act, the Actions will become effective on or after December 19, 2016, which is 20 calendar days following the date we first mail this Information Statement to our shareholders.

The Board approved the issuance of the Series A Preferred Stock and related actions on October 26, 2016, and a pricing committee established by the Board (the Pricing Committee) approved certain terms of such issuance and related actions on November 6, 2016.

The Voting Shareholders approved the Actions by the Written Consent on November 7, 2016.

This Information Statement contains a summary of the material aspects of the actions relating to the issuance of the Series A Preferred Stock that were approved by the Board, the Pricing Committee and the Voting Shareholders.

ABOUT THIS INFORMATION STATEMENT

What is the Purpose of this Information Statement?

This Information Statement is being furnished to you pursuant to the requirements of the Exchange Act and the NJBCA to notify you of certain corporate actions taken by the Voting Shareholders pursuant to the Written Consent. In order to eliminate the costs and management time involved in obtaining proxies and in order to effect the Actions as early as possible to accomplish the purposes herein described, the Board elected to seek the written consent of the Voting Shareholders in lieu of a special meeting. We are making this Information Statement available to you on or about November 29, 2016. The Company is not soliciting your proxy or consent and you are not being asked to take any action in connection with this Information Statement.

Who is Entitled to Notice?

Each holder of record of outstanding shares of Common Stock on the Record Date is entitled to notice of the actions to be taken pursuant to the Written Consent.

Why Did the Company Seek Shareholder Approval?

On October 26, 2016, the Board authorized the issuance and sale of up to \$210 million of Series A Preferred Stock (the Issuance). On November 7, 2016, the Company entered into a Series A Preferred Stock Purchase Agreement with Southeastern Asset Management, Inc. (Southeastern) and certain investment funds managed by Southeastern (each such investment fund, a Purchaser and, collectively, the Purchasers) for the purchase and sale of 2,000,000 shares of Series A Preferred Stock for a purchase price of \$200 million (the Purchase Agreement). As provided in the Certificate of Designations, and further described in this Information Statement, the Series A Preferred Stock is convertible into shares of Common Stock and additional shares of Common Stock are issuable under certain circumstances pursuant to the terms of the Series A Preferred Stock.

Because the Common Stock is listed on the New York Stock Exchange (the NYSE), we are subject to NYSE rules and regulations. Section 312.03 of the NYSE Listed Company Manual requires shareholder approval prior to the issuance of common stock, or securities convertible into or exercisable for common stock, in any transaction or series of transactions if (i) the common stock to be issued has, or will have upon issuance, voting power equal to or in excess of 20% of the voting power outstanding before the issuance of such stock or of securities convertible into or exercisable for common stock, or (ii) the number of shares of common stock to be issued is, or will be upon issuance, equal to or in excess of 20% of the number of shares of common stock outstanding before the issuance of the common stock or of securities convertible into or exercisable for common stock. In addition, Section 312.03(d) of the NYSE Listed Company Manual requires shareholder approval prior to the issuance of securities that will result in a change of control of the issuer.

Upon conversion of the Series A Preferred Stock and the issuance of all additional shares of Common Stock that are issuable pursuant to the terms of the Series A Preferred Stock, such shares of Common Stock would exceed 20% of both the voting power and number of shares of Common Stock outstanding before the issuance of the Series A Preferred Stock. Accordingly, holders of more than a majority of our outstanding shares of Common Stock were asked to approve the conversion feature of the Series A Preferred Stock and the issuance of all additional shares of Common Stock that are issuable pursuant to the terms of the Series A Preferred Stock in excess of 19.99% of the voting power of the Company or number of shares of Common Stock outstanding before such issuance.

Moreover, the NYSE rules do not define a change of control, so given the percentage of Common Stock that may be held by the Purchasers upon conversion of the Series A Preferred Stock and the issuance of all additional shares of Common Stock that are issuable pursuant to the terms of the Series A Preferred Stock, holders of more than a majority of our outstanding shares of Common Stock were asked to approve any change of control of the Company, if and to the extent required pursuant to the NYSE rules.

Section 7-9(4) of the NJBCA provides that, if provided in the authorization of the issuance of convertible securities by the shareholders of a New Jersey corporation, a board of directors may increase the authorized but unissued capital stock of the corporation without additional shareholder approval. Accordingly, holders of more than a majority of our outstanding shares of Common Stock were asked to consider and approve authorizing the Board to increase the amount of authorized shares of Common Stock to such number as will be not more than sufficient, when added to the previously authorized but unissued shares of Common Stock, to satisfy the conversion privileges of the Series A Preferred Stock.

What Actions were Approved by the Voting Shareholders?

Pursuant to the Written Consent (attached hereto as Annex A), the following Actions were approved by the Voting Shareholders:

In accordance with Section 312.03 of the NYSE Listed Company Manual (including, without limitation, Section 312.03(c) and, if and to the extent required, Section 312.03(d) thereof), the Voting Shareholders ratified, adopted, approved and confirmed the conversion feature of the Series A Preferred Stock and the issuance of all additional shares of Common Stock that are issuable pursuant to the terms of the Series A Preferred Stock in excess of 19.99% of the voting power of the Company or number of shares of Common Stock outstanding before such issuance.

The Voting Shareholders authorized, empowered and directed the Company to take all such actions, to cause to be prepared and filed all such documents, to make all expenditures and to execute all instruments deemed by the officers of the Company to be necessary or desirable in carrying out and effectuating the issuance of the Series A Preferred Stock and the transactions contemplated thereby.

In accordance with Section 7-9(4) of the NJBCA, the Voting Shareholders authorized the Board, without additional approval of the shareholders of the Company, to increase the amount of authorized shares of Common Stock to such number as will be not more than sufficient, when added to the previously authorized but unissued shares of Common Stock, to satisfy the conversion privileges of the Series A Preferred Stock.

What Vote was Required to Approve the Actions?

The affirmative vote of the holders of a majority of our outstanding shares of Common Stock on the Record Date was required to approve the Actions. As of the Record Date, the Company had 42,359,022 shares of Common Stock issued and outstanding. Each share of Common Stock entitles its holder to one vote on each matter submitted to our shareholders. Voting Shareholders holding approximately 51% of the total outstanding shares of Common Stock as of the Record Date have consented to the Actions. Because the Voting Shareholders, holding more than a majority of our outstanding shares of Common Stock as of the Record Date, consented to the Actions, no other shareholder votes, consents or actions will be required or obtained in connection with this Information Statement or the Actions.

Is a Vote Required to Approve the Issuance of the Series A Preferred Stock up to 19.99% of the Voting Power of the Company or Number of Shares of Common Stock Outstanding Before such Issuance?

No. No approval by the holders of Common Stock was required for the Issuance. The consummation of the purchase and sale of the shares of Series A Preferred Stock pursuant to the Purchase Agreement (the Closing) occurred on November 15, 2016 (the Closing Date). The Certificate of Designations provides that prior to the requisite shareholder approval, the shares of Common Stock issuable pursuant to the terms of the Series A Preferred Stock is limited to 19.99% of the voting power of the Company or number of shares of Common Stock outstanding before the issuance of the Series A Preferred Stock (the Conversion Cap). The Written Consent approves the issuance of Common Stock pursuant to the terms of the Series A Preferred Stock up to and above 20% of both the voting power and number of shares of Common Stock outstanding before the issuance of the Series A Preferred Stock.

Do I have appraisal rights?

No. None of the NJBCA, our Certificate of Incorporation or our Bylaws provides holders of Common Stock with dissenters or appraisal rights in connection with the Actions described in this Information Statement.

Will the Issuance of the Series A Preferred Stock be Dilutive to Existing Holders of Common Stock?

The Issuance of the Series A Preferred Stock may be dilutive to existing holders of Common Stock. Based on the capitalization of the Company as of November 7, 2016, and the initial conversion rate of 5.7471 shares of Common Stock per share of Series A Preferred Stock, the conversion of the Series A Preferred Stock would result in the holders thereof owning approximately 21% of our outstanding Common Stock after giving effect to such conversion. This would amount to a dilution of approximately 21% to existing holders of Common Stock. Further, additional shares of Common Stock may be issuable pursuant to certain other features of the Series A Preferred Stock, with such issuances being further dilutive to existing holders of Common Stock. See Possible Effects of the Issuance Dilution for additional information.

BACKGROUND AND REASONS FOR THE ISSUANCE AND SHAREHOLDER APPROVAL

Background and Reasons for the Issuance

The Board and the Company's management regularly evaluate the Company's liquidity and capital resources, including potential equity transactions. Southeastern contacted the Company on an unsolicited basis in August 2016. In late September 2016, our management and Southeastern began discussing the possibility of the purchase and sale of certain convertible preferred securities of the Company. On October 26, 2016, following discussions and negotiations with Southeastern regarding its possible purchase of certain convertible preferred securities of the Company and the details thereof, in consultation with the Company's legal and financial advisors and upon the recommendation of the Company's management, the Board authorized and approved the issuance of up to \$210 million of Series A Preferred Stock to the Purchasers.

Following the Board approval, the Company's management and Southeastern negotiated the final terms of the Series A Preferred Stock and the final terms of the sale of the Series A Preferred Stock to the Purchasers. On November 6, 2016, in consultation with the Company's legal and financial advisors and upon the recommendation of the Company's management, the Pricing Committee authorized and approved the issuance of \$200 million of Series A Preferred Stock to the Purchasers and the final terms of such transaction.

On November 7, 2016, the Company, Southeastern and the Purchasers entered into the Purchase Agreement pursuant to which the Company will sell to the Purchasers and the Purchasers will purchase from the Company, in the aggregate, 2,000,000 shares of Series A Preferred Stock for an aggregate purchase price of \$200 million. The related definitive documentation and the terms of the Series A Preferred Stock are described in further detail in this Information Statement. The consummation of the purchase and sale of the shares of Series A Preferred Stock pursuant to the Purchase Agreement (the Closing) occurred on November 15, 2016.

The Issuance is expected to strengthen the Company's capital structure and enhances its financial flexibility. The Company used the net proceeds from the Issuance, together with cash on hand, to prepay all of the outstanding term loans under the Senior Secured Second Lien Term Credit Agreement, dated as of September 3, 2013, by and among the Company, the lenders from time to time parties thereto, and Barclays Bank PLC, as administrative agent (the Second Lien Credit Agreement). This immediately reduced cash payable for interest, improving cash flow for the Company.

Reasons for Seeking Shareholder Approval

Because the Common Stock is listed on the NYSE, we are subject to NYSE rules and regulations. Section 312.03 of the NYSE Listed Company Manual requires shareholder approval prior to the issuance of common stock, or securities convertible into or exercisable for common stock, in any transaction or series of transactions if (i) the common stock to be issued has, or will have upon issuance, voting power equal to or in excess of 20% of the voting power outstanding before the issuance of such stock or of securities convertible into or exercisable for common stock, or (ii) the number of shares of common stock to be issued is, or will be upon issuance, equal to or in excess of 20% of the number of shares of common stock outstanding before the issuance of the common stock or of securities convertible into or exercisable for common stock. In addition, Section 312.03(d) of the NYSE Listed Company Manual requires shareholder approval prior to the issuance of securities that will result in a change of control of the issuer.

Upon conversion of the Series A Preferred Stock and the issuance of all additional shares of Common Stock that are issuable pursuant to the terms of the Series A Preferred Stock, such shares of Common Stock would exceed 20% of both the voting power and number of shares of Common Stock outstanding before the issuance of the Series A Preferred Stock. Accordingly, holders of more than a majority of our outstanding shares of Common Stock were asked to approve the conversion feature of the Series A Preferred Stock and the issuance of all additional shares of Common Stock that are issuable pursuant to the terms of the Series A Preferred Stock in excess of 19.99% of the voting power of the Company or number of shares of Common Stock outstanding before the issuance of the Series A Preferred Stock.

Moreover, the NYSE rules do not define a change of control, so given the percentage of Common Stock that may be held by the Purchasers upon conversion of the Series A Preferred Stock and the issuance of all additional shares of Common Stock that are issuable pursuant to the terms of the Series A Preferred Stock, holders of more than a majority of our outstanding shares of Common Stock were asked to approve any change of control of the Company, if and to the extent required pursuant to the NYSE rules.

Section 7-9(4) of the NJBCA provides that, if provided in the authorization of the issuance of convertible securities by the shareholders of a New Jersey corporation, a board of directors may increase the authorized but unissued capital stock of the corporation without additional shareholder approval. Accordingly, holders of more than a majority of our outstanding shares of Common Stock were asked to consider and approve authorizing the Board to increase the amount of authorized shares of Common Stock to such number as will be not more than sufficient, when added to the previously authorized but unissued shares of Common Stock, to satisfy the conversion privileges of the Series A Preferred Stock.

No approval by the holders of Common Stock was required for the Issuance. The consummation of the purchase and sale of the shares of Series A Preferred Stock pursuant to the Purchase Agreement (the Closing) occurred on November 15, 2016. The Certificate of Designations provides that prior to the requisite shareholder approval, the shares of Common Stock issuable pursuant to the terms of the Series A Preferred Stock is limited to the Conversion Cap. The Written Consent approves the issuance of Common Stock pursuant to the terms of the Series A Preferred Stock up to and above 20% of both the voting power and number of shares of Common Stock outstanding before the issuance of the Series A Preferred Stock.

DESCRIPTION OF THE TRANSACTION DOCUMENTS

The following is a summary of the material terms of the Purchase Agreement and the related Registration Rights Agreement, dated as of the Closing Date, by and among the Company, Southeastern and the Purchasers (the Registration Rights Agreement). While we believe this description covers the material terms of these agreements, we encourage you to read the Purchase Agreement and the Registration Rights Agreement. The Purchase Agreement was included as Exhibit 10.1 to the Current Report on Form 8-K filed by the Company on November 7, 2016, and the Registration Rights Agreement was included as Exhibit 4.1 to the Current Report on Form 8-K filed by the Company on November 16, 2016. For more information about accessing these Current Reports on Form 8-K and the other information we file with the SEC, please see [Where You Can Find More Information](#) below.

Purchase Agreement

As described above, on November 7, 2016, the Company, Southeastern and the Purchasers entered into the Purchase Agreement, pursuant to which the Company sold to the Purchasers and the Purchasers purchased from the Company, in the aggregate, 2,000,000 shares of Series A Preferred Stock for an aggregate purchase price of \$200 million. The consummation of the purchase and sale of the shares of Series A Preferred Stock pursuant to the Purchase Agreement (the Closing) occurred on November 15, 2016.

Representations and Warranties

In the Purchase Agreement, the Company made representations and warranties to the Purchasers relating to the Company, our business and the Issuance. The Purchasers also made representations and warranties to the Company regarding themselves, the sufficiency of their funds to consummate the transactions, and their compliance with securities laws. The representations and warranties made in the Purchase Agreement did not survive the Closing and the Purchase Agreement does not provide for indemnification relating to such representations and warranties.

Additional Agreements

In the Purchase Agreement, the parties agreed to take certain actions, including making any necessary governmental filings, mailing this Information Statement to the holders of Common Stock as of the Record Date, and taking commercially reasonable actions as necessary to effect the Closing. Further, the Purchase Agreement provides that the Purchasers, beginning at the first annual meeting of shareholders of the Company following the Closing and for as long as the Purchasers hold any shares of Series A Preferred Stock, shall be entitled to nominate (collectively and not individually) for election at the Company's annual meeting of shareholders a number of directors to the Board commensurate with their ownership percentage of Common Stock on an as-converted basis. Accordingly, it is expected that the Purchasers will be able to nominate two directors to the Board at the Company's next annual meeting of shareholders, assuming the Purchasers retain ownership of their shares of Series A Preferred Stock. The Purchase Agreement also provides the Purchasers (collectively and not individually) the right to fill vacancies on the Board created by a designee of the Purchasers ceasing to serve on the Board. The nomination right of the Purchasers will be reduced by two nominees at any time that the holders of the Series A Preferred Stock have the right as a separate class to elect two directors. For additional information, see [Description of Issued Securities](#) [Voting Rights](#). The nomination and other rights regarding the Board granted to the Purchasers pursuant to the terms of the Purchase Agreement are not transferrable to any other person.

Registration Rights Agreement

As contemplated by the Purchase Agreement, at the Closing, the Company, Southeastern and the Purchasers entered into the Registration Rights Agreement in substantially the form attached to the Purchase Agreement as Exhibit C. As described in further detail below, the Registration Rights Agreement provides that the Company will register under the Securities Act of 1933, as amended (the Securities Act) and take certain actions with respect to the offer and sale by the Purchasers of shares of Series A Preferred Stock purchased by the Purchasers and Common Stock issuable upon conversion of the Series A Preferred Stock and issuable pursuant to the terms of the Series A Preferred Stock.

Reimbursement of Expenses

The Purchase Agreement provides that the Company will reimburse the Purchasers' external legal counsel for up to \$250,000 of their reasonable fees and expenses incurred in connection with the Issuance, and the Company has separately agreed to pay half of the fees of a financial consultant to Southeastern up to \$20,000. No other fees were paid by the Company to or on behalf of Southeastern or the Purchasers in connection with the transactions contemplated by the Purchase Agreement.

Registration Rights Agreement

As noted above, at the Closing, the Company, Southeastern and the Purchasers entered into a Registration Rights Agreement, pursuant to which the Company will register under the Securities Act and take certain actions with respect to the offer and sale by the Purchasers of shares of Series A Preferred Stock purchased by the Purchasers and shares of Common Stock issuable upon conversion of the Series A Preferred Stock and issuable pursuant to the terms of the Series A Preferred Stock (the registrable securities).

Shelf Registration and Takedowns

Within 90 days after the Closing Date, the Company will prepare and file with the SEC a registration statement on Form S-3 providing for the resale of the registrable securities pursuant to an offering to be made on a continuous basis under Rule 415. Upon the written demand of the relevant Purchaser(s), the Company will facilitate a takedown of registrable securities off of the registration statement but the Purchaser(s) may not, individually or collectively, make more than four demands in the aggregate. Any demand for an underwritten offering of Series A Preferred Stock will have an aggregate market value (based on the most recent closing price of the Common Stock into which the Series A Preferred Stock is convertible at the time of the demand) of at least \$75 million.

Piggyback Rights

The Purchasers are not entitled to piggyback registration rights.

Transferability of Registration Rights

The Registration Rights Agreement is binding upon the parties thereto and their successors and will inure to the benefit of each Purchaser and its successors and permitted assigns. Neither party may assign the Registration Rights Agreement without the prior written consent of the other party.

Expenses of Registration

The Company will bear all fees and expenses incident to the performance of the Registration Rights Agreement including all registration and filing fees and related expenses, as well as fees and expenses of persons retained by the Company to carry out its obligations under the Registration Rights Agreement (including independent public accountants). The Company will not bear any underwriters', brokers' and dealers' discounts and commissions, transfer taxes or other similar fees incurred by the Purchasers in connection with the sale of registrable securities.

Indemnification

Subject to certain exceptions, the Company has agreed to indemnify each Purchaser, its officers, directors, employees and affiliates, and each person that controls such Purchaser and the officers, directors and employees of each such controlling party, against all losses, claims, damages, liabilities, costs and expenses arising out of or relating to any violation of securities laws or any untrue or alleged untrue statement of material fact, or any omission or alleged omission to state a material fact required to be stated, in any registration statement, except to the extent such untrue statements or omissions are based solely upon information regarding the relevant Purchaser(s) furnished in writing to the Company by such Purchaser(s) expressly for use therein.

DESCRIPTION OF THE ISSUED SECURITIES

The following is a summary of the material terms and provisions of the Series A Preferred Stock as contained in the Certificate of Designations. While we believe this summary covers the material terms and provisions of the Series A Preferred Stock, we encourage you to read the Certificate of Designations, which is attached hereto as Exhibit A to the Written Consent ([Annex A](#) to this Information Statement) and was included as Exhibit 3.1 to the Current Report on Form 8-K filed by the Company on November 16, 2016. For more information about accessing this Current Report on Form 8-K and the other information we file with the SEC, please see [Where You Can Find More Information](#) below.

Dividends

Holders of Series A Preferred Stock are entitled to receive cash dividends in an amount equal to the dividend rate of 5.50% of the liquidation preference of \$100.00 per share of Series A Preferred Stock (the liquidation preference). Dividends on the Series A Preferred Stock accumulate quarterly on January 15, April 15, July 15 and October 15 of each year, commencing January 15, 2017, and accumulate from the most recent date dividends were paid, and if no dividends have been paid, from the first date on which the Series A Preferred Stock is issued (the original issue date). Dividends on the Series A Preferred Stock will be paid in cash if the Company has funds legally available for payment and the Board, or an authorized committee thereof, declares a cash dividend payable.

Prior to the 5th anniversary of the original issue date (the mandatory redemption date), unless all accumulated and unpaid dividends on the Series A Preferred Stock have been paid in full or a sum for such amounts has been set aside for payment, the Company may not declare dividends on shares of Common Stock or any other shares of the Company's stock ranking junior or equal to the Series A Preferred Stock and may not purchase, redeem or otherwise acquire such shares, subject to certain customary exceptions.

Ranking

The Series A Preferred Stock ranks senior, as to payment of dividends and distributions of assets upon the liquidation, dissolution or winding up of Company, to the Company's Common Stock and any shares of capital stock of the Company not expressly ranking senior to *opari passu* with the Series A Preferred Stock, and junior to all shares of capital stock of the Company issued in the future, the terms of which expressly provide that such shares will rank senior to the Series A Preferred Stock.

Voting Rights

Holders of Series A Preferred Stock are entitled to vote upon all matters upon which holders of Common Stock have the right to vote, and will be entitled to the number of votes equal to the number of full shares of Common Stock into which such shares of Series A Preferred Stock could be converted at the then applicable conversion rate, at the record date, such votes to be counted together with shares of Common Stock and not separately as a class, except that (i) for so long as any Series A Preferred Stock remains outstanding, the affirmative vote of holders of more than 66 2/3% of the outstanding shares of Series A Preferred Stock will be required to alter or amend the Certificate of Incorporation, the Certificate of Designations, or the Bylaws, if such amendment would alter the rights and preferences of the Series A Preferred Stock so as to adversely affect the holders thereof and (ii) whenever dividends on the Series A Preferred Stock are in arrears for six or more dividend periods, the holders of Series A Preferred Stock (voting with holders of all other classes of preferred stock of the Company whose voting rights are then exercisable) are entitled to vote for the election of two additional directors in the next annual meeting and all subsequent meetings until all accumulated dividends on such Series A Preferred Stock and other voting preferred stock have been paid or set aside. If and when all accumulated dividends have been paid on such Series A Preferred Stock and other voting preferred stock, such rights of such holders of Series A Preferred Stock and other voting preferred stock will immediately cease.

Redemption

Subject to the NJBCA and unless no shares of the Series A Preferred Stock are outstanding, on the mandatory redemption date, the Company will redeem all shares of Series A Preferred Stock at a redemption price equal to the liquidation preference plus accrued and unpaid dividends to, but excluding, the redemption date.

Conversion

Optional Conversion

Each holder of Series A Preferred Stock will have the option at any time to convert any or all of such holder's shares of Series A Preferred Stock at an initial conversion rate of 5.7471 shares of fully paid and non-assessable shares of Common Stock (subject to adjustment as described in the Anti-Dilution Adjustments below) per share of Series A Preferred Stock and a cash payment in lieu of any fractional shares of Common Stock. Prior to the effectiveness of the Actions, shares of Series A Preferred Stock are not convertible, in the aggregate, into more than 19.99% of the shares of Common Stock outstanding on the original issue date, but are freely convertible thereafter.

Mandatory Conversion

The Company has the right at any time after the 2nd anniversary of the original issue date, to cause all outstanding shares of Series A Preferred Stock to be automatically converted into shares of Common Stock using the conversion rate then in effect, with cash payment in lieu of fractional shares, if the closing price per share of Common Stock equals or exceeds 125% of the conversion price using the conversion rate then in effect for at least 45 trading days in a period of 60 consecutive trading days with the last trading day of such 60 day period ending on the trading day immediately preceding the business day on which the Company issues a press release announcing the mandatory conversion. Upon a mandatory conversion, all rights of the holders of Series A Preferred Stock will terminate except for the right to receive the whole shares of Common Stock issuable upon conversion, cash payment in lieu of any fractional shares and a partial payment of any accrued and unpaid dividend. Standard notice provisions as set forth in the Certificate of Designations apply.

Conversion upon a Fundamental Change

If (i) subject to certain exceptions, a person or a group beneficially owns more than 50% of the voting power of the Company (a change of control); (ii) the Company consummates any recapitalization, reclassification of Common Stock or any sale or transfer of all or substantially all of the consolidated assets of the Company and its subsidiaries; (iii) the Common Stock ceases to be listed on the NYSE, NASDAQ Global Select Market or the NASDAQ Global Market; or (iv) our shareholders approve any plan or proposal for the liquidation or dissolution of the Company (each of (i) through (iv), a fundamental change) (provided that any transaction whereby at least 90% of the consideration to be received by holders of Common Stock consists of shares of common stock that are or will be listed on the NYSE, NASDAQ Global Select Market or the NASDAQ Global Market as a result of which the Series A Preferred Stock becomes convertible into such consideration will not be considered a fundamental change), the holders of Series A Preferred Stock will receive for each share of Series A Preferred Stock converted during a specified window either (a) a number of shares of Common Stock equal to the then-applicable conversion rate plus an additional number of shares of Common Stock as determined by reference to a make-whole premium chart specified in the Certificate of Designations or (b) a number of shares of Common Stock equal to the conversion rate increased to equal the sum of the liquidation preference of Series A Preferred Stock plus all accumulated and unpaid dividends to the settlement date of the conversion divided by the market value of the Common Stock (defined as the volume weighted average price of the Common Stock during the 15 consecutive trading day period ending on the date of such conversion); provided that the conversion rate used in clause (b) above will not exceed 10.3448 shares of Common Stock per share of Series A Preferred Stock. In addition to the shares of Common Stock received as described above, each converting holder will have the right to receive a cash payment of all accrued, accumulated and unpaid dividends on such shares of Series A Preferred Stock for all dividend periods prior to the dividend payment date immediately preceding such conversion date as long as the Company is then legally permitted to pay such dividends.

Anti-Dilution Adjustments

The conversion rate of the Series A Preferred Stock is subject to certain anti-dilution adjustments. These anti-dilution adjustments, as described in the Certificate of Designations, will apply if:

- i. the Company exclusively issues shares of Common Stock as a dividend or distribution on all shares of Common Stock, or if the Company effects a share split or share combination;

- ii. the Company distributes to all or substantially all holders of Common Stock any rights or warrants entitling them to purchase or subscribe for shares of Common Stock at a price per share that is less than the average of the closing price per share of Common Stock over the 10 consecutive trading day period ending on the trading day immediately preceding the dividend ex-date as determined by the exchange or market that Common Stock trades on;
- iii. the Company makes distributions to all or substantially all holders of Common Stock consisting of its capital stock, evidence of indebtedness or other assets, excluding dividends or other distributions (including share splits), rights, options or warrants as to which an adjustment is effected in clause (i) or (ii) above or (vi) below and dividends or other distributions covered by (iv) below and subject to certain other exceptions;
- iv. the Company makes any cash dividends or distribution to all or substantially all holders of Common Stock;
- v. the liabilities relating to the remediation of environmental conditions at Eastman Business Park exceed \$99 million and the Company (1) is obligated to make a cash payment in accordance with the Amended and Restated Settlement Agreement, dated as of June 17, 2013 and amended and restated as of August 6, 2013 (and as may be further amended, restated, modified or supplemented from time to time), by and among the Company and the New York State Department of Environmental Conservation and the New York State Urban Development Corporation, or (2) establishes a reserve with respect to an obligation described in the preceding clause, and such cash payment or reserve is greater than or equal to \$5 million; and
- vi. the Company or any of its subsidiaries makes a payment in respect of a tender offer or exchange offer for Common Stock and the cash and other consideration payable under such tender offer or exchange offer exceeds the average closing price per share of Common Stock over 10 consecutive trading days commencing on the trading day immediately following the last day tenders and exchanges may be made.

In addition to the adjustments provided above, to the extent permitted by applicable law and subject to the applicable rules of the NYSE, the Company may (but is not required to) from time to time increase the conversion rate for a period of at least 20 business days or longer if the increase is irrevocable during such period and the Board determines that such increase would be in the Company's best interest.

Reorganization Events

In the event of: (i) any recapitalization, reclassification or change of Common Stock; (ii) any consolidation, merger or combination involving the Company; (iii) any sale, lease or other transfer to a third party of the consolidated assets of the Company and the Company's subsidiaries substantially as an entirety; or (iv) any statutory share exchange, in each case, as a result of which Common Stock is converted into, or exchanged for, stock, other securities or other property (each, referred to as a reorganization event), each share of the Series A Preferred Stock outstanding immediately prior to such reorganization event will become convertible into the kind and amount of securities, cash and other property that a holder of a number of shares of Common Stock equal to the conversion rate per share of the Series A Preferred Stock prior to the reorganization event would have owned or been entitled to receive upon the reorganization event. Upon the occurrence of any reorganization event, holders of Series A Preferred Stock may elect to receive for each share of Series A Preferred Stock shares of Common Stock equal to the conversion rate increased to equal the liquidation preference plus all accumulated and unpaid dividends to the settlement date of the conversion divided by the market value of Common Stock; provided that the conversion rate used will not exceed 10.3448 shares of Common Stock per share of Series A Preferred Stock (subject to adjustment as described in Anti-Dilution Adjustments above). In the event of a reorganization event where (i) the price per share of Common Stock that would have been received by a holder of Series A Preferred Stock upon a reorganization event (using the conversion rate prior to the reorganization event) is below \$14.50 and there is a change of control or (ii) when there is a fundamental change, the Company will have the right to require holders of the Series A Preferred Stock to convert each share of the Series A Preferred Stock outstanding immediately prior to such reorganization event into a number of shares of Common Stock equal to the conversion rate which will be increased to equal the sum of the liquidation preference plus all accumulated and unpaid dividends divided by the market value of Common Stock; provided that such conversion rate will not exceed 20.6897 shares of Common Stock per share of Series A Preferred Stock (subject to adjustment as described in Anti-Dilution Adjustments above).

POSSIBLE EFFECTS OF THE ISSUANCE

Effect on Trading Price

The Issuance may have a positive or negative effect on the trading price of Common Stock.

In connection with the Issuance, we entered into the Registration Rights Agreement. The Registration Rights Agreement provides for customary registration rights, including shelf registration rights. These registration rights will facilitate the resale of shares of Series A Preferred Stock and Common Stock into the public market and, if the Purchasers convert and sell shares, increase the number of shares of Common Stock available for public trading. The potential that the Purchasers would resell the shares of Series A Preferred Stock or Common Stock on an as-converted basis could create a market overhang that could exert downward pressure on the trading price of the Common Stock.

However, as noted above, the Company used the net proceeds from the Issuance, together with cash on hand, to prepay all of the outstanding loans under the Company's Second Lien Credit Agreement. This immediately reduced cash payable for interest, improving cash flow for the Company, which may have a positive effect on the trading price of Common Stock.

Dilution

The Series A Preferred Stock is convertible into shares of Common Stock (as described above under Description of the Issued Securities Conversion). As a result of the conversion of any issued and outstanding Series A Preferred Stock, our existing shareholders will own a smaller percentage of our outstanding Common Stock. Based on the capitalization of the Company as of November 7, 2016, and the initial conversion rate of 5.7471 shares of Common Stock per share of Series A Preferred Stock, the conversion of all shares of Series A Preferred Stock would result in the holders thereof owning approximately 21% of our outstanding Common Stock after giving effect to such conversion. This would amount to a dilution of approximately 21% to existing holders of Common Stock. Further, additional shares of Common Stock may be issuable pursuant to certain other features of the Series A Preferred Stock, with such issuances being further dilutive to existing holders of Common Stock.

If Series A Preferred Stock is converted into Common Stock, holders of such converted Common Stock will be entitled to the same dividend and distribution rights as holders of the Common Stock currently authorized and outstanding. As such, another dilutive effect resulting from the conversion of any issued and outstanding shares of Series A Preferred Stock will be a dilution to dividends and distributions. For more information, see Description of the Issued Securities above.

Concentration of Ownership in the Purchasers and Board Nominations

The Purchasers are entitled to vote upon all matters upon which holders of Common Stock have the right to vote and are entitled to the number of votes equal to the number of full shares of Common Stock into which such shares of Series A Preferred Stock could be converted at the then applicable conversion rate (subject to the Conversion Cap, if applicable). Accordingly, following the 20 calendar day period from the mailing of this Information Statement, the Purchasers will hold approximately 21% of the voting power of the Company on an as-converted basis. As a result, following the Issuance, the Purchasers may have the ability to influence future actions by the Company requiring shareholder approval.

Further, the Purchase Agreement provides that the Purchasers, beginning at the first annual meeting of shareholders of the Company following the Closing and for as long as the Purchasers hold any shares of Series A Preferred Stock, shall be entitled to nominate for election (collectively and not individually) at the Company's annual meeting of shareholders a number of directors to the Board commensurate with their ownership percentage of Common Stock on an as-converted basis. Accordingly, it is expected that the Purchasers will be able to nominate two directors to the Board at the Company's next annual meeting of shareholders, assuming the Purchasers retain ownership of their shares of Series A Preferred Stock. The Purchase Agreement also provides the Purchasers (collectively and not individually) the right to fill vacancies on the Board created by a designee of the Purchasers ceasing to serve on the Board. The nomination and other rights regarding the Board granted to the Purchasers pursuant to the terms of the Purchase Agreement are not transferrable to any other person. Also, whenever dividends on the Series A Preferred Stock are in arrears for six or more dividend periods, the holders of Series A Preferred Stock (voting with holders of all other classes of preferred stock of the Company whose voting rights are then exercisable) are entitled to vote for the election of two additional directors at the Company's next annual meeting and all subsequent meetings until all accumulated dividends on such Series A Preferred Stock and other voting preferred stock have been paid or set aside (during which time the number of directors that the Purchasers are entitled to nominate under the Purchase Agreement will be reduced by two). As a result, the potential presence of directors on the Board nominated by the Purchasers or elected by the holders of Series A Preferred Stock would enable the Purchasers or the holders of Series A Preferred Stock to influence the composition of the Board and, in turn, potentially influence and impact future actions taken by the Board.

Rights of Investors

The rights and privileges associated with the Common Stock issued upon conversion of any issued and outstanding Series A Preferred Stock (and any additional shares of Common Stock that are issued pursuant to the terms of the Series A Preferred Stock) will be identical to the rights and privileges associated with the Common Stock held by our existing holders of Common Stock, including voting rights. Upon completion of any conversion, all rights with respect to any issued Series A Preferred Stock will terminate, and all shares of Series A Preferred Stock will be cancelled and no further dividends will accrue thereon.

Reservation of Common Stock for Issuance

Holders of Common Stock will not realize any dilution in their ownership or voting rights solely as a result of the reservation of any shares of Common Stock for issuance upon conversion of the Series A Preferred Stock or for issuance of additional shares of Common Stock pursuant to certain other features of the Series A Preferred Stock or any increase in authorized shares of Common Stock due to the Issuance, but will experience dilution to the extent additional shares of Common Stock are issued in the future as described above.

VOTE REQUIRED AND INFORMATION ON VOTING SHAREHOLDERS

As of the date of the Written Consent and the Record Date, the Company had 42,359,022 shares of Common Stock issued and outstanding and entitled to vote, which are entitled to one vote per share. On November 7, 2016, the following Voting Shareholders owning a total of 21,681,459 shares of Common Stock, which represented approximately 51% of the total number of voting shares outstanding on the Record Date, executed and delivered the Written Consent. The Voting Shareholders' names, beneficial holder and affiliation, and holdings are as follows:

Name	Beneficial Holder and Affiliation	Number of Voting Shares	Percent of Total Voting Shares
GSO SPECIAL SITUATIONS MASTER FUND LIMITED PARTNERSHIP	Blackstone Holdings I L.P., et al ⁽¹⁾ c/o The Blackstone Group L.P. 345 Park Avenue New York, New York 10154	6,103,867	14.4 %
GSO CREDIT-A PARTNERS LP	Blackstone Holdings I L.P., et al ⁽¹⁾ c/o The Blackstone Group L.P. 345 Park Avenue New York, New York 10154	1,226,470	2.9 %
GSO PALMETTO OPPORTUNISTIC INVESTMENT PARTNERS LP	Blackstone Holdings I L.P., et al ⁽¹⁾ c/o The Blackstone Group L.P. 345 Park Avenue New York, New York 10154	986,236	2.3 %
GSO CACTUS CREDIT OPPORTUNITIES FUND LP	Blackstone Holdings I L.P., et al ⁽¹⁾ c/o The Blackstone Group L.P. 345 Park Avenue New York, New York 10154	171,471	0.4 %
BLUEMOUNTAIN CREDIT ALTERNATIVES MASTER FUND LP	BlueMountain Capital Management, LLC, et al ⁽²⁾ 280 Park Avenue, 12th Floor New York, New York 10017	2,991,266	7.1 %
BLUEMOUNTAIN CREDIT OPPORTUNITIES MASTER FUND I LP	BlueMountain Capital Management, LLC, et al ⁽²⁾ 280 Park Avenue, 12th Floor New York, New York 10017	1,907,698	4.5 %
BLUEMOUNTAIN MONTENVERS MASTER FUND SCA SICAV-SIF	BlueMountain Capital Management, LLC, et al ⁽²⁾ 280 Park Avenue, 12th Floor New York, New York 10017	677,792	1.6 %
BLUE MOUNTAIN SUMMIT TRADING LP	BlueMountain Capital Management, LLC, et al ⁽²⁾ 280 Park Avenue, 12th Floor New York, New York 10017	485,690	1.2 %
BLUEMOUNTAIN DISTRESSED MASTER FUND LP	BlueMountain Capital Management, LLC, et al ⁽²⁾ 280 Park Avenue, 12th Floor New York, New York 10017	353,537	0.8 %
BLUEMOUNTAIN TIMBERLINE LTD	BlueMountain Capital Management, LLC, et al ⁽²⁾ 280 Park Avenue, 12th Floor New York, New York 10017	325,159	0.8 %

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Name	Beneficial Holder and Affiliation	Number of Voting Shares	Percent of Total Voting Shares	
BLUEMOUNTAIN STRATEGIC CREDIT MASTER FUND LP	BlueMountain Capital Management, LLC, et al ⁽²⁾ 280 Park Avenue, 12th Floor New York, New York 10017	264,865	0.6	%
BLUEMOUNTAIN KICKING HORSE FUND LP	BlueMountain Capital Management, LLC, et al ⁽²⁾ 280 Park Avenue, 12th Floor New York, New York 10017	251,971	0.6	%
BLUEMOUNTAIN GUADALUPE PEAK FUND LP	BlueMountain Capital Management, LLC, et al ⁽²⁾ 280 Park Avenue, 12th Floor New York, New York 10017	191,428	0.5	%
MOMAR CORPORATION	Moses Marx ⁽³⁾ 160 Broadway New York, New York 10038	3,139,741	7.4	%
UNITED EQUITIES COMMODITIES COMPANY	Moses Marx ⁽³⁾ 160 Broadway New York, New York 10038	1,343,714	3.2	%
GEORGE KARFUNKEL	George Karfunkel ⁽⁴⁾ c/o The Sabr Group 126 East 56 th Street 15 th Floor New York, NY 10022	1,260,554	3.0	%
TOTAL		21,681,459	51.2	%

⁽¹⁾ See the tables included under Common Stock Ownership of Directors, Executive Officers and Certain Shareholders below for additional information regarding Blackstone Holdings I L.P.'s ownership of Common Stock and Jason New's affiliation with Blackstone Holdings I L.P.

⁽²⁾ See the tables included under Common Stock Ownership of Directors, Executive Officers and Certain Shareholders below for additional information regarding BlueMountain Capital Management, LLC's (BlueMountain) ownership of Common Stock and Derek Smith's affiliation with BlueMountain.

⁽³⁾ See the table Beneficial Security Ownership of More Than 5% of the Company's Common Shares included under Common Stock Ownership of Directors, Executive Officers and Certain Shareholders below for additional information regarding Moses Marx's ownership of Common Stock.

⁽⁴⁾ See the table Beneficial Security Ownership of Directors and Executive Officers included under Common Stock Ownership of Directors, Executive Officers and Certain Shareholders below for additional information regarding George Karfunkel's ownership of Common Stock. George Karfunkel is a member of the Board.

**COMMON STOCK OWNERSHIP OF DIRECTORS, EXECUTIVE OFFICERS AND
CERTAIN SHAREHOLDERS**

We have provided stock ownership tables below that contain certain information about shareholders whom we believe, in each case as of the Record Date, are the beneficial owners of more than 5% of our outstanding Common Stock, as well as information regarding stock ownership by our directors, named executive officers and our directors and executive officers as a group. Except as described below, as of the Record Date, we know of no person that beneficially owns more than 5% of our outstanding Common Stock, based solely upon filings made with the SEC.

Beneficial Security Ownership of More Than 5% of the Company's Common Shares

The table below presents certain information as of November 7, 2016 (the Record Date) regarding the persons known to us to be the beneficial owner of more than 5% of the outstanding shares of Common Stock, with percentages based on 42,359,022 shares outstanding.

Name and Address of Beneficial Owner	Number of Common Shares Beneficially Owned		Percent of Class Beneficially Owned	
Blackstone Holdings I L.P., et al c/o The Blackstone Group L.P. 345 Park Avenue New York, New York 10154	8,938,916	(1)	21.1	%
BlueMountain Capital Management, LLC, et al 280 Park Avenue, 12th Floor New York, New York 10017	7,960,764	(2)	18.6	%
Moses Marx 160 Broadway New York, New York 10038	5,277,832	(3)	12.4	%
Franklin Mutual Advisers, LLC 101 John F. Kennedy Parkway Short Hills, NJ 07078-2789	3,825,309	(4)	9.0	%
GKarfunkel Family LLC c/o Sabr Group 126 East 56 th Street 1 st Floor New York, NY 10022	2,513,006	(5)	5.9	%

⁽¹⁾Blackstone Holdings I L.P. reports sole voting and dispositive power with respect to 6,662,505 shares of Common Stock. Based on a closing price of \$13.99 per share of Common Stock on October 13, 2016, the amount shown does not include shares of Common Stock issuable upon the exercise of 172,912 net-share settled warrants to purchase shares of Common Stock that may be deemed to be beneficially owned by the reporting persons but that cannot be settled for shares of Common Stock pursuant to the terms thereof. This information is based on Amendment No. 5 to Schedule 13D filed with the SEC by Blackstone Holdings I, L.P., et al on October 18, 2016.

⁽²⁾BlueMountain serves as investment manager to various funds and reports shared voting and dispositive power with respect to 7,449,406 shares of Common Stock directly owned by the funds. This amount includes 511,358 net-share settled warrants to purchase shares of Common Stock. This information is based on Amendment No. 2 to Schedule 13D filed with the SEC on December 2, 2014 by BlueMountain.

⁽³⁾Moses Marx reports sole voting and dispositive power over 3,139,741 shares, or 7.4%, of Common Stock held by Momar Corporation, of which Mr. Marx serves as president, and 1,504,449 shares held by United Equities Commodities Company, a private investment company of which Mr. Marx is a 99% general partner. The amount shown also includes 246,574 shares held directly by Mr. Marx, 85,000 shares held by 111 John Realty Corp., in which Mr. Marx and his spouse hold a 50% interest, 6,030 shares held by Marneau Holding Company, in which Mr. Marx holds a direct and indirect 75% interest and an aggregate of 296,038 net-share settled warrants to purchase shares of Common Stock. This information is based on the Schedule 13D filed jointly by Mr. Marx and Momar Corporation on September 13, 2013, and subsequent Section 16 reports filed with the SEC by Mr. Marx.

⁽⁴⁾Franklin Mutual Advisers, LLC reports sole voting and dispositive power with respect to all 3,825,309 shares. Franklin Mutual Quest Fund, a series of Franklin Mutual Series Funds and an investment company registered under the Investment Company Act of 1940, has an interest in all 3,825,309 shares (including 97,164 net-share settled warrants to purchase shares of Common Stock). This information is based on Amendment No. 1 to Schedule 13G filed with the SEC on February 2, 2016 by Franklin Mutual Advisers, LLC, reporting beneficial ownership as of December 31, 2015.

⁽⁵⁾GKarfunkel Family LLC (the Family LLC) and Henry Reinhold, the sole manager of the Family LLC, have sole voting and dispositive power with respect to 2,380,154 shares and 132,852 net-share settled warrants to purchase shares of Common Stock owned by the Family LLC. Three family trusts, of which George Karfunkel is the settlor and Henry Reinhold is the sole trustee, are the members of the Family LLC. This information has been provided to the Company by advisors to the Family LLC.

Beneficial Security Ownership of Directors and Executive Officers

The table below presents certain information as of November 7, 2016 (the Record Date) regarding shares of Common Stock held by our directors, each of our named executive officers and all directors and executive officers as a group. The address of each director and named executive officer listed below is: c/o Eastman Kodak Company, 343 State Street, Rochester, New York 14650.

Name of Beneficial Owner	Number of Common Shares Beneficially Owned ⁽¹⁾⁽³⁾	Percent of Class Beneficially Owned ⁽¹⁾⁽²⁾⁽³⁾
Directors		
Mark S. Burgess	12,682 ⁽⁴⁾	--
Jeffrey J. Clarke ⁽⁵⁾	196,130 ⁽⁶⁾	--
James V. Continenza	0 ⁽⁷⁾	--
Matthew A. Doheny	0 ⁽⁸⁾	--
John A. Janitz	14,710	--
George Karfunkel	1,413,924 ⁽³⁾⁽⁹⁾	3.3%
Jason New	0 ⁽¹⁰⁾	--
William G. Parrett	26 ⁽¹¹⁾	--
Derek Smith	0 ⁽¹²⁾	--
Named Executive Officers		
Philip Cullimore	20,068 ⁽¹³⁾	--
Brad W. Kruchten	83,800 ⁽³⁾⁽¹⁴⁾	--
Eric-Yves Mahe	14,342 ⁽¹⁵⁾	--
John N. McMullen ⁽¹⁶⁾	21,269 ⁽¹⁶⁾	--
All directors and executive officers as a group (19 persons, including the above)	1,974,902⁽³⁾⁽¹⁷⁾	4.6%

⁽¹⁾Under the rules of the SEC, beneficial ownership is deemed to include shares for which an individual, directly or indirectly, has or shares voting or dispositive power, whether or not they are held for the individual's benefit, and includes shares that may be acquired within 60 days, including, but not limited to, the right to acquire shares by the exercise of options or warrants. Shares that may be acquired within 60 days are referred to in the footnotes to this table as presently exercisable options, presently exercisable warrants or restricted stock units (RSUs) that vest on a specific date. Percentages are based on 42,359,022 shares outstanding except where the person has the right to receive shares within the next 60 days (as indicated in the other footnotes to this table), which increases the number of shares owned by such person and the number of shares outstanding. Unless otherwise indicated in the other footnotes to this table, each shareholder named in the table has sole voting and investment power with respect to all of the shares shown as owned by the shareholder.

⁽²⁾We have omitted percentages of less than 1% from the table.

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- (3) For Messrs. Karfunkel, Kruchten and certain executive officers who are not named executive officers, the amounts shown include 125% warrants to purchase shares of Common Stock at an exercise price of \$14.93 and 135% warrants to purchase shares of Common Stock at an exercise price of \$16.12. Each of these warrants entitles the holder to purchase one share of Common Stock; however, for each warrant exercised, the holder will receive a net share amount equal to the number of shares issuable upon the exercise multiplied by the closing sale price of Common Stock on the exercise date minus the exercise price, divided by the closing sale price, together with cash for any fractional shares. The shares shown and referred to in the other footnotes to this table regarding the warrants are subject to this net-share calculation.
- (4) Mr. Burgess has 2,608 shares of phantom stock credited to his account under the Company's Deferred Compensation Plan for Directors.
- (5) Mr. Clarke is also a named executive officer.
- (6) The amount shown includes presently exercisable options to purchase 127,363 shares of Common Stock.
- (7) Mr. Continenza has 29,071 shares of phantom stock credited to his account under the Company's Deferred Compensation Plan for Directors.
- (8) Mr. Doheny has 14,710 shares of phantom stock credited to his account under the Company's Deferred Compensation Plan for Directors.
- (9) The amount shown includes presently exercisable warrants as follows: 125% warrants to purchase 31,451 shares of Common Stock and 135% warrants to purchase 31,451 shares of Common Stock.
- (10) Certain funds or accounts managed, advised or sub-advised by GSO Capital Partners LP (GSO) own beneficial interests in our company, including the shares of Common Stock and warrants reported by Blackstone Holdings I L.P. in the table Beneficial Security Ownership of More than 5% of the Company's Common Shares. GSO makes investment decisions through committees composed of senior managing directors and senior management. Mr. New is a Senior Managing Director of GSO. Mr. New disclaims beneficial ownership of these shares.
- (11) The amount shown represents presently exercisable warrants as follows: 125% warrants to purchase 13 shares of Common Stock and 135% warrants to purchase 13 shares of Common Stock.
- (12) Various private funds managed by BlueMountain hold the 7,960,764 shares (inclusive of warrants) reported in the table Beneficial Security Ownership of More Than 5% of the Company's Common Shares. Each fund has delegated voting and investment power of its investments, including the 7,960,764 shares, to BlueMountain, which is exercised by BlueMountain's Investment Committee. Mr. Smith is a member of the Investment Committee.
- (13) The amount shown includes presently exercisable options to purchase 14,245 shares of Common Stock.
- (14) The amount shown includes 1,624 shares of Common Stock held by Mr. Kruchten's spouse; presently exercisable options to purchase 59,833 shares and presently exercisable warrants as follows: Mr. Kruchten: 125% warrants to purchase 943 shares of Common Stock and 135% warrants to purchase 943 shares of Common Stock; Ms. Kruchten: 125% warrants to purchase 31 shares of Common Stock and 135% warrants to purchase 31 shares of Common Stock.
- (15) The amount shown includes presently exercisable options to purchase 8,169 shares of Common Stock.
- (16) Mr. McMullen resigned as Chief Financial Officer and Executive Vice President, effective June 30, 2016. The amount shown is based on information available to the Company as of Mr. McMullen's retirement date and may not reflect his beneficial ownership as of November 7, 2016.
- (17) The amount shown includes presently exercisable options, presently exercisable warrants and RSUs that vest within 60 days for executive officers who are not named executive officers as follows: options to purchase an aggregate of 123,514 shares of Common Stock; 125% warrants to purchase an aggregate of 1,102 shares of Common Stock; 135% warrants to purchase an aggregate of 1,102 shares of Common Stock and RSUs, which will convert into 9,392 shares of Common Stock on a one-for-one basis on December 15, 2016.

INTERESTS OF CERTAIN PERSONS

No directors or officers of the Company purchased any shares of Series A Preferred Stock in the transactions described in this Information Statement, nor do any directors or officers of the Company beneficially own any shares of Series A Preferred Stock.

In its resolutions approving the Issuance, the Board acknowledged that Jason New and Bill Parrett had declared a possible conflict of interest to the Board in connection with the Issuance because the proceeds of the sale of the shares of Series A Preferred Stock are anticipated to be used to repay certain debt obligations owed by the Company to an entity affiliated with such director. Such resolutions were intended to satisfy the condition set forth in Section 6-8(1)(b) of the NJBCA, which provides for the approval of a conflicted transaction by a majority of disinterested directors. The Board disclosed to the Voting Shareholders that Jason New and Bill Parrett had declared this possible conflict of interest in connection with the Issuance. As acknowledged in the Written Consent, the Voting Shareholders were aware of and considered this possible conflict prior to executing and delivering the Written Consent.

OTHER MATTERS

Proposals by Security Holders

No shareholder proposals are included in this Information Statement.

Effective Dates

The Actions will take effect on December 19, 2016, which is 20 calendar days following the date we first mail this Information Statement to our shareholders. The consummation of the purchase and sale of the shares of Series A Preferred Stock pursuant to the Purchase Agreement (the Closing) occurred on November 15, 2016.

Expenses

We will bear all costs related to this Information Statement. We will reimburse brokerage houses and other custodians, nominees, trustees and fiduciaries representing beneficial owners of shares for their reasonable out-of-pocket expenses for forwarding this Information Statement to such beneficial owners.

Dissenters Rights of Appraisal

None of the NJBCA, our Certificate of Incorporation or our Bylaws provides holders of Common Stock with dissenters or appraisal rights in connection with the Actions described in this Information Statement.

Householding

We are sending this Information Statement to each shareholder of record. We have elected not to take advantage of the SEC's householding rules that allow us to deliver a single set of materials to shareholders of record who share the same address. If you are a beneficial owner, your broker or other nominee may continue to send a single Information Statement to your household. Please contact your broker or other nominee if you wish to adjust your preferences regarding the delivery of materials from the Company.

WHERE YOU CAN FIND MORE INFORMATION

The SEC maintains a website that contains reports, proxy and information statements and other information regarding us and other issuers that file electronically with the SEC at www.sec.gov. Our proxy statements, annual reports on Form 10-K, quarterly reports on Form 10-Q and current reports on Form 8-K, as well as any amendments to those reports, are available free of charge through the SEC's website. Shareholders may also read and copy materials that we file with the SEC at the SEC's Public Reference Room at 100 F Street, NE, Washington, DC 20549. Shareholders may obtain information on the operation of the Public Reference Room by calling the SEC at 1-800-SEC-0330.

INCORPORATION BY REFERENCE

The SEC allows us to incorporate by reference into this Information Statement documents we file with the SEC. This means that we can disclose important information to you by referring you to those documents. The information incorporated by reference is an important part of this Information Statement, and information that we file later with the SEC will automatically update and supersede this information. Therefore, you should check for reports that we may have filed with the SEC after the date of this Information Statement. We incorporate by reference the following filings (except for information therein furnished to the SEC that is not deemed to be filed for purposes of the Exchange Act):

The Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2015, which was filed on March 15, 2016 and amended by Amendment No. 1 thereto, filed on March 18, 2016, and Amendment No. 2 thereto, filed on April 1, 2016 (collectively, the Annual Report);

The Company's Proxy Statement on Schedule 14A for the Company's 2016 annual meeting, filed on April 11, 2016;

The Company's Quarterly Reports on Form 10-Q for the quarterly periods ended March 31, 2016, June 30, 2016, and September 30, 2016, filed on May 5, 2016, August 9, 2016 and November 9, 2016, respectively; and

The Company's Current Reports on Form 8-K, filed on May 26, 2016, May 27, 2016, June 15, 2016, August 9, 2016, September 15, 2016, November 7, 2016, November 16, 2016 and November 18, 2016.

Any statement contained in this Information Statement or in a document incorporated by reference herein shall be deemed to be modified or superseded for purposes of this Information Statement to the extent that a statement contained in any subsequently filed document which is incorporated by reference herein modifies or supersedes such statement. Any such statement so modified or superseded shall not be deemed, except as so modified or superseded, to constitute a part of this Information Statement.

This Information Statement, or information incorporated by reference herein, contains summaries of certain agreements that we have filed as exhibits to various SEC filings, as well as certain agreements that we entered into in connection with the transactions discussed herein. The descriptions of the agreements contained in this Information Statement or information incorporated by reference herein do not purport to be complete and are subject to, or qualified in their entirety by reference to, the definitive agreements. You can obtain the documents incorporated by reference in this Information Statement, including the Annual Report, through our website, www.kodak.com, and from the SEC at its website, www.sec.gov, or by contacting our Shareholder Services at (585) 724-4053 or shareholderservices@kodak.com. Copies of the definitive agreements will also be made available to you without charge by contacting our Shareholder Services at (585) 724-4053 or shareholderservices@kodak.com.

By Order of the Board of Directors,

/s/ James V. Continenza
James V. Continenza
Chairman of the Board of Directors of
Eastman Kodak Company

ANNEX A

WRITTEN CONSENT

[Attached]

**MAJORITY CONSENT IN LIEU OF
A SPECIAL MEETING OF THE SHAREHOLDERS OF
EASTMAN KODAK COMPANY**

A New Jersey Corporation

November 7, 2016

The undersigned, being, as of November 7, 2016 (the Record Date), the holders of approximately 51% of all outstanding shares of common stock, par value of \$0.01 per share (the Common Stock), of Eastman Kodak Company, a New Jersey corporation (the Company), acting by written consent in accordance with Section 10 of the Company's Third Amended and Restated By-laws (the Bylaws) and Section 14A:5-6 of the New Jersey Business Corporation Act (the NJBCA), do hereby authorize and approve the following corporate actions set forth in the following resolutions without the formality of convening a meeting, and do hereby consent to the following actions of the Company as approved and deemed advisable by the Board of Directors of the Company (the Board of Directors) pursuant to the meeting of the Board of Directors held on October 26, 2016 and a meeting of the pricing committee of the Board of Directors (the Pricing Committee) held on November 6, 2016, which actions are deemed effective as of the date hereof:

WHEREAS, the Board of Directors has declared advisable and approved certain transactions, whereby the Company would issue and sell up to \$210 million in aggregate liquidation preference of the Company's Series A Preferred Stock, no par value (the Series A Preferred Stock) which shall have a liquidation preference of \$100 per share (or such other amount as approved by the Pricing Committee) and shall be convertible into shares of Common Stock, in a private placement (the Offering) exempt from registration under the Securities Act of 1933, as amended, and the Pricing Committee has approved the final terms of the Offering and the Series A Preferred Stock;

WHEREAS, the Certificate of Amendment to the Second Amended and Restated Certificate of Incorporation of the Company, attached hereto as Exhibit A (the Certificate of Designations), sets forth the terms of the Series A Preferred Stock;

WHEREAS, the Common Stock is listed on the New York Stock Exchange (the NYSE) and the Company is subject to NYSE rules and regulations;

WHEREAS, Section 312.03(c) of the NYSE Listed Company Manual requires shareholder approval prior to the issuance of common stock, or securities convertible into or exercisable for common stock, in any transaction or series of transactions if (i) the common stock to be issued has, or will have upon issuance, voting power equal to or in excess of 20% of the voting power outstanding before the issuance of such stock or of securities convertible into or exercisable for common stock, or (ii) the number of shares of common stock to be issued is, or will be upon issuance, equal to or in excess of 20% of the number of shares of common stock outstanding before the issuance of the common stock or of securities convertible into or exercisable for common stock;

WHEREAS, Section 312.03(d) of the NYSE Listed Company Manual requires shareholder approval prior to an issuance that will result in a change of control of the issuer;

WHEREAS, Section 312.07 of the NYSE Listed Company Manual requires that where any matter requires shareholder approval, the minimum vote which will constitute shareholder approval for such purposes is defined as approval by a majority of votes cast on a proposal in a proxy bearing on the particular matter;

WHEREAS, as provided in the Certificate of Designations and in compliance with Section 312.03(c) of the NYSE Listed Company Manual, on an as converted basis and accounting for all of the additional shares of Common Stock that are issuable pursuant to the terms of the Series A Preferred Stock, the Series A Preferred Stock will represent, prior to the approval by holders of more than a majority of the shares of Common Stock, 19.99% of the voting power of the Company or number of shares of Common Stock outstanding before such issuance;

WHEREAS, as provided in the Certificate of Designations and in compliance with Section 312.03(c) of the NYSE Listed Company Manual, upon approval by holders of more than a majority of the shares of Common Stock of the conversion feature of the Series A Preferred Stock and the issuance of all additional shares of Common Stock that are issuable pursuant to the terms of the Series A Preferred Stock in excess of 19.99%, the Series A Preferred Stock will represent upon such approval, more than 20% of the voting power of the Company or number of shares of Common Stock outstanding before such issuance;

WHEREAS, in order to obtain the shareholder approval required by Section 312.03(c) of the NYSE Listed Company Manual and authorize the conversion of the Series A Preferred Stock into shares of Common Stock and any other feature of the Series A Preferred Stock providing for the issuance of shares of Common Stock in excess of 19.99% of the voting power of the Company or number of shares of Common Stock outstanding before such issuance, the Board of Directors has submitted such conversion feature of the Series A Preferred Stock and any other feature of the Series A Preferred Stock providing for the issuance of shares of Common Stock for approval by the shareholders of the Company;

WHEREAS, as Section 312.03(d) of the NYSE Listed Company Manual does not define a change of control, in order to obtain any shareholder approval required by Section 312.03(d) upon conversion of the Series A Preferred Stock into shares of Common Stock and any other feature of the Series A Preferred Stock providing for the issuance of shares of Common Stock in excess of 19.99% of the voting power of the Company or number of shares of Common Stock outstanding before such issuance, the Board of Directors has submitted such conversion feature of the Series A Preferred Stock and any other feature of the Series A Preferred Stock providing for the issuance of shares of Common Stock for the approval by the shareholders of the Company if and to the extent required pursuant to Section 312.03(d) of the NYSE Listed Company Manual;

WHEREAS, the Board of Directors has disclosed to the undersigned that Jason New and Bill Parrett have declared a possible conflict of interest to the Board of Directors in connection with the Offering because the proceeds of the sale of the shares of Series A Preferred Stock are anticipated to be used to repay certain debt obligations owed by the Company to an entity affiliated with such directors;

WHEREAS, the Pricing Committee has set the Record Date as the record date for determining the shareholders entitled to vote on the approval of the conversion feature of the Series A Preferred Stock and any other feature of the Series A Preferred Stock providing for the issuance of shares of Common Stock (and all related matters and approvals);

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WHEREAS, the undersigned desire to ratify, adopt, approve and confirm the conversion feature of the Series A Preferred Stock and the issuance of all additional shares of Common Stock that are issuable pursuant to the terms of the Series A Preferred Stock in excess of 19.99% of the voting power of the Company or number of shares of Common Stock outstanding before such issuance; and

WHEREAS, Section 7-9(4) of the NJBCA provides that if provided in the authorization of the issuance of convertible securities by the shareholders of a New Jersey corporation, the board of directors may increase the authorized but unissued capital stock of the corporation without additional shareholder approval.

NOW, THEREFORE, IT IS:

RESOLVED, that the undersigned, being, as of the Record Date, the holders of approximately 51% of all outstanding shares of Common Stock, in accordance with the Bylaws and the NJBCA, and in accordance with Section 312.03 of the NYSE Listed Company Manual (including, without limitation, Section 312.03(c) and, if and to the extent required, Section 312.03(d) of the NYSE Listed Company Manual), hereby ratify, adopt, approve and confirm the conversion feature of the Series A Preferred Stock and the issuance of all additional shares of Common Stock that are issuable pursuant to the terms of the Series A Preferred Stock in excess of 19.99% of the voting power of the Company or number of shares of Common Stock outstanding before such issuance.

FURTHER RESOLVED, that the Company is authorized, empowered and directed to take all such actions, to cause to be prepared and filed all such documents, to make all expenditures and to execute all instruments deemed by the officers of the Company to be necessary or desirable in carrying out and effectuating the foregoing resolution and the transactions contemplated thereby.

FURTHER RESOLVED, that in accordance with Section 7-9(4) of the NJBCA, the Board of Directors is authorized, without approval of the shareholders of the Company, to increase the amount of authorized shares of Common Stock to such number as will be not more than sufficient, when added to the previously authorized but unissued shares of Common Stock, to satisfy the conversion privileges of the Series A Preferred Stock.

Pursuant to Section 14A:5-6 of the New Jersey Business Corporation Act, the corporate actions referred to herein shall be effective upon the execution of this consent by a sufficient number of holders of the Common Stock authorized to vote and to take the actions set forth in this consent and upon the receipt of this written consent, the proper officer or officers of the Company are directed to promptly notify all non-consenting shareholders who would have been entitled to notice of a meeting to vote upon such action, of the action consented to and the effective date of such action.

This written consent may be executed in separate counterparts, including by facsimile, each of which shall be an original and all of which taken together shall constitute one and the same consent.

[Signature pages follow]

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IN WITNESS WHEREOF, the undersigned have executed this Written Consent as of the date first above written.

GSO SPECIAL SITUATIONS MASTER FUND
LIMITED PARTNERSHIP
Shares of Common Stock Held: 6,103,867

By: /s/ Marisa Beeney
Name: Marisa Beeney
Title: Authorized Signatory

GSO CREDIT-A PARTNERS LP
Shares of Common Stock Held: 1,226,470

By: /s/ Marisa Beeney
Name: Marisa Beeney
Title: Authorized Signatory

GSO PALMETTO OPPORTUNISTIC
INVESTMENT PARTNERS LP
Shares of Common Stock Held: 986,236

By: /s/ Marisa Beeney
Name: Marisa Beeney
Title: Authorized Signatory

GSO CACTUS CREDIT OPPORTUNITIES
FUND LP
Shares of Common Stock Held: 171,471

By: /s/ Marisa Beeney
Name: Marisa Beeney
Title: Authorized Signatory

[Signature Page to Written Consent]

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BLUEMOUNTAIN CREDIT
ALTERNATIVES By: /s/ David M. O Mara
MASTER FUND LP Name: David M. O Mara
Shares of Common Stock Held: 2,991,266 Title: Deputy General Counsel

BLUEMOUNTAIN CREDIT
OPPORTUNITIES By: /s/ David M. O Mara
MASTER FUND I L.P. Name: David M. O Mara
Shares of Common Stock Held: 1,907,698 Title: Deputy General Counsel

BLUEMOUNTAIN MONTENVERS
MASTER By: /s/ David M. O Mara
FUND SCA SICAV-SIF Name: David M. O Mara
Shares of Common Stock Held: 677,792 Title: Deputy General Counsel

BLUEMOUNTAIN SUMMIT TRADING L.P. By: /s/ David M. O Mara
Shares of Common Stock Held: 485,690 Name: David M. O Mara
Title: Deputy General Counsel

BLUEMOUNTAIN DISTRESSED MASTER By: /s/ David M. O Mara
FUND L.P. Name: David M. O Mara
Shares of Common Stock Held: 353,537 Title: Deputy General Counsel

BLUEMOUNTAIN TIMBERLINE LTD. By: /s/ David M. O Mara
Shares of Common Stock Held: 325,159 Name: David M. O Mara
Title: Deputy General Counsel

BLUEMOUNTAIN STRATEGIC CREDIT
MASTER By: /s/ David M. O Mara
FUND L.P. Name: David M. O Mara
Shares of Common Stock Held: 264,865 Title: Deputy General Counsel

BLUEMOUNTAIN KICKING HORSE FUND
L.P. By: /s/ David M. O Mara
Shares of Common Stock Held: 251,971 Name: David M. O Mara
Title: Deputy General Counsel

BLUEMOUNTAIN GUADALUPE PEAK
FUND L.P. By: /s/ David M. O Mara
Shares of Common Stock Held: 191,428 Name: David M. O Mara
Title: Deputy General Counsel

[Signature Page to Written Consent]

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MOMAR CORPORATION

Shares of Common Stock Held:

3,139,741

By: /s/ Moses Marx

Name: M. Marx

Title: President

UNITED EQUITIES COMMODITIES COMPANY By: /s/ Moses Marx

Shares of Common Stock Held:

1,343,714

Name: M. Marx

Title: Partner

[Signature Page to Written Consent]

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GEORGE KARFUNKEL

Shares of Common Stock Held:

By: /s/ George Karfunkel
1,260,554 Name: George Karfunkel

Title:

[Signature Page to Written Consent]

Exhibit A

Certificate of Designations

CERTIFICATE OF AMENDMENT TO THE

SECOND AMENDED AND RESTATED

CERTIFICATE OF INCORPORATION

OF

EASTMAN KODAK COMPANY

(Pursuant to Section 14A:7-2(2) and (4) of the
New Jersey Business Corporation Act)

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Pursuant to the provisions of N.J.S.A. 14A:7-2(2) and (4), the undersigned corporation executes the following Certificate of Amendment to its Second Amended and Restated Certificate of Incorporation:

1. The name of the corporation is Eastman Kodak Company, a corporation organized and existing under the laws of the State of New Jersey (hereinafter called the Company).
2. The following amendment to the Second Amended and Restated Certificate of Incorporation (the Certificate), was approved by the Company s Board of Directors (the Board) as required by Section 14A:7-2 of the New Jersey Business Corporation Act at a meeting duly called and held on October 26, 2016.
3. The Board, in accordance with the Certificate, and Third Amended and Restated By-laws, as amended (the By-laws), and applicable law, at said meeting duly called, convened and held on October 26, 2016, authorized the issuance and sale by the Company of up to \$210 million in aggregate liquidation preference of shares of the Company s preferred stock, no par value per share (Preferred Stock), created a series of 5.50% Series A Convertible Preferred Stock of the Company designated as 5.50% Series A Convertible Preferred Stock , adopted resolutions establishing and empowering a Special Committee of the Board (the Pricing Committee), and established limits specifically prescribed by the Board within which the Pricing Committee may determine the final terms of the 5.50% Series A Convertible Preferred Stock. Pursuant to the authority conferred by the Board upon the Pricing Committee and the resolutions of the Board, the Pricing Committee, at a meeting called and held on November 6, 2016, fixed and determined the authorized number of shares of the series, the dividend rate of shares of the series, the designations, and certain other powers, preferences, and relative, participating, optional or other rights, and the qualifications, limitations and restrictions thereof, and amended the Certificate to add such terms to the end of Article III of the Certificate as follows:

5.50% Series A Convertible Preferred Stock:

Section 1. Designation and Amount. There is hereby created out of the authorized and unissued shares of preferred stock of the Company a series of preferred stock designated as 5.50% Series A Convertible Preferred Stock (the Series A Preferred Stock) and the number of shares constituting the Series A Preferred Stock shall be 2,000,000.

Section 2. Dividends and Distributions.

(A) Holders of shares of Series A Preferred Stock shall be entitled to receive, on each share of Series A Preferred Stock and with respect to each Dividend Period, cash dividends in an amount equal to the Dividend Rate multiplied by the Liquidation Preference per share of Series A Preferred Stock. Dividends on the Series A Preferred Stock shall cumulate quarterly on each Dividend Payment Date at the Dividend Rate, and shall accumulate from the most recent date as to which dividends shall have been paid or, if no dividends have been paid, from the Original Issue Date, whether or not in any Dividend Period(s) there have been funds legally available for the payment of such dividends. Dividends shall be payable to holders of record as they appear on the Company s stock register on the immediately preceding Dividend Record Date (if such dividend has been declared). Accumulations of dividends on shares of Series A Preferred Stock do not bear interest. Dividends payable on the Series A Preferred Stock for any period other than a full Dividend Period shall be computed on the basis of a 360-day year consisting of twelve 30-day months and, for partial months, on the basis of the number of days actually elapsed in a 30-day month.

(B) The Company shall make each dividend payment on the Series A Preferred Stock in cash, with such cash dividends being paid only to the extent (i) the Company has funds legally available for payment and (ii) the Board, or an authorized committee thereof, declares such dividend payable.

(C) No dividend shall be declared or paid upon, or any sum set apart for the payment of dividends upon, any outstanding share of Series A Preferred Stock with respect to any Dividend Period unless all dividends for all preceding Dividend Periods have been declared and paid, or declared and a sufficient sum has been set apart for the payment of such dividend, upon all outstanding shares of Series A Preferred Stock.

(D) Prior to the fifth (5th) anniversary of the Original Issue Date, unless all accumulated and unpaid dividends on the Series A Preferred Stock for all past Dividend Periods shall have been paid in full, or a sum for such accumulated and unpaid dividends has been set apart for the payment of dividends upon the Series A Preferred Stock, the Company shall not:

(i) declare or pay any dividend or make any distribution of assets on any Junior Stock; or

(ii) redeem, purchase or otherwise acquire any shares of Junior Stock or pay or make any monies available for a sinking fund for such shares of Junior Stock, other than (1) upon conversion or exchange for other Junior Stock or (2) the purchase of fractional interests in shares of any Junior Stock pursuant to the conversion or exchange provisions of such shares of Junior Stock;

provided, however, that the foregoing limitations shall not apply to (x) redemptions, purchases or other acquisitions of shares of Junior Stock in connection with any employment contract, benefit plan or other similar arrangement with or for the benefit of any one or more employees, officers, directors, managers or consultants of, or to, the Company or any of its subsidiaries; (y) an exchange, redemption, reclassification or conversion of any class or series of Junior Stock for any class or series of Junior Stock that ranks equal or junior to the applicable Junior Stock; or (z) any dividend in the form of stock, warrants, options or other rights where the dividend stock or the stock issuable upon exercise of such warrants, options or other rights is the same stock as that on which the dividend is being paid or ranks equal or junior to the applicable Junior Stock.

(E) Holders of shares of Series A Preferred Stock at the close of business on a Dividend Record Date will be entitled to receive the dividend payment on such shares on the corresponding Dividend Payment Date (if such dividend has been declared) notwithstanding the conversion of such shares following such Dividend Record Date or the Company's default in payment of the dividend due on such Dividend Payment Date. Holders of shares of Series A Preferred Stock will not be entitled to any dividend in excess of full cumulative dividends.

Section 3. Rank.

The Series A Preferred Stock will rank senior, as to payment of dividends and distributions of assets upon the liquidation, dissolution or winding up of Company, to the Company's Common Stock and any shares of capital stock of the Company not expressly ranking senior to or *pari passu* with the Series A Preferred Stock, and junior to all shares of capital stock of the Company issued in the future, the terms of which expressly provide that such shares will rank senior to the Series A Preferred Stock.

Section 4. Mandatory Redemption. Subject to the New Jersey Business Corporation Act, unless no shares of the Series A Preferred Stock are outstanding, on the fifth (5th) anniversary of the Original Issue Date, the Company shall redeem all shares of Series A Preferred Stock at a redemption price equal to the Liquidation Preference plus accrued and unpaid dividends to, but excluding the redemption date (the Mandatory Redemption Price).

Section 5. Conversion.

(A) Each Holder of Series A Preferred Stock shall have the right at any time, at its option, to convert, subject to the terms and provisions of this Section 5, any or all of such Holder's shares of Series A Preferred Stock at an initial conversion rate of 5.7471 shares of fully paid and non-assessable shares of Common Stock (subject to adjustment as provided in this Section 5, the Conversion Rate) per share of Series A Preferred Stock; provided, however, that prior to the receipt of Shareholder Approval (the period prior to such Shareholder Approval the Approval Period) shares of Series A Preferred Stock shall not be convertible pursuant to this Section 5 in the aggregate into more than 19.99% of the shares of Common Stock outstanding on the Original Issue Date (subject to appropriate adjustment in the event of a stock split, stock dividend, combination or other similar recapitalization) (such limitation, the Conversion Cap). Shares of Series A Preferred Stock shall immediately and permanently cease to be subject to the Conversion Cap upon the receipt of Shareholder Approval. If on any day during the Approval Period, the holders of Series A Preferred Stock provide notice of an election to convert that would result in the Series A Preferred Stock converting into more than the Conversion Cap, the Company shall determine in its sole and absolute discretion which Holder(s) and how many shares of Series A Preferred Stock held by any such Holder(s) shall be allowed to convert solely to prevent conversion into more than the Conversion Cap. For the avoidance of doubt and notwithstanding anything in this Certificate of Amendment to the Second Amended and Restated Certificate of Incorporation of the Company (the Certificate of Amendment) to the contrary, the Conversion Cap shall not in any way limit the amounts that may be added to the Liquidation Preference. Upon conversion of any share of Series A Preferred Stock, the Company shall deliver to the converting Holder, in respect of each share of Series A Preferred Stock being converted, a number of shares of Common Stock equal to the Conversion Rate, together with a cash payment in lieu of any fractional share of Common Stock in accordance with Section 13 and any dividend pursuant to Section 2(E), on the third Trading Day immediately following the relevant Conversion Date.

(B) Before any Holder shall be entitled to convert a share of Series A Preferred Stock as set forth above, such Holder shall (i) in the case of a beneficial interest in a Global Preferred Stock, comply with the procedures of the Depository in effect at that time and (ii) in the case of Certificated Preferred Stock (1) complete, manually sign and deliver an irrevocable notice to the office of the Transfer Agent as set forth in the Form of Notice of Conversion (or a facsimile thereof) substantially in the form of Exhibit B hereto (a Notice of Conversion) and state in writing therein the number of shares of Series A Preferred Stock to be converted and the name or names (with addresses) in which such Holder wishes the certificate or certificates for any shares of Common Stock to be delivered to be registered, (2) surrender such shares of Series A Preferred Stock, at the office of the Transfer Agent and (3) if required, furnish appropriate endorsements and transfer documents. The Transfer Agent shall notify the Company of any conversion pursuant to this Section 5 on the Conversion Date for such conversion. The date on which a Holder complies with the procedures in this clause (B) is the Conversion Date. If more than one share of Series A Preferred Stock shall be surrendered for conversion at one time by the same Holder, the number of shares of Common Stock to be delivered upon conversion of such shares of Series A Preferred Stock shall be computed on the basis of the aggregate number of shares of Series A Preferred Stock so surrendered.

(C) Immediately prior to the close of business on the Conversion Date with respect to a conversion, a converting Holder of Series A Preferred Stock shall be deemed to be the holder of record of the Common Stock issuable upon conversion of such Holder's Series A Preferred Stock notwithstanding that the share register of the Company shall then be closed or that certificates representing such Common Stock shall not then be actually delivered to such Holder. On the date of any conversion, all rights with respect to the shares of Series A Preferred Stock so converted, including the rights, if any, to receive notices, will terminate, excepting only the rights of holders thereof to (i) receive certificates for the number of whole shares of Common Stock into which such shares of Series A Preferred Stock have been converted (with a cash payment in lieu of any fractional share of Common Stock in accordance with Section 13); (ii) exercise the rights to which they are thereafter entitled as holders of the Common Stock; and (iii) receive any dividend payable notwithstanding the conversion.

(D) The Conversion Rate shall be adjusted, without duplication, upon the occurrence of any of the following events:

(i) If the Company exclusively issues shares of Common Stock as a dividend or distribution on all shares of its Common Stock, or if the Company effects a share split or share combination, the Conversion Rate shall be adjusted based on the following formula: