

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X  
In re : Chapter 11  
: :  
Ampex Corporation, : Case No. 08-\_\_\_\_\_ ( )  
: :  
Debtor. :  
-----X

In re : Chapter 11  
: :  
Ampex Data Systems Corporation, : Case No. 08-\_\_\_\_\_ ( )  
: :  
Debtor. :  
-----X

In re : Chapter 11  
: :  
Ampex Data International Corporation, : Case No. 08-\_\_\_\_\_ ( )  
: :  
Debtor. :  
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In re : Chapter 11  
: :  
Ampex Finance Corporation, : Case No. 08-\_\_\_\_\_ ( )  
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In re : Chapter 11  
: :  
AFC Holdings Corporation, : Case No. 08-\_\_\_\_\_ ( )  
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Debtor. :  
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In re : Chapter 11  
: :  
Ampex Holdings Corporation, : Case No. 08-\_\_\_\_\_ ( )  
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Debtor. :  
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In re : Chapter 11  
: :  
Ampex International Sales Corporation, : Case No. 08-\_\_\_\_\_ ( )  
: :  
Debtor. :  
-----X

**DEBTORS' MOTION FOR ORDER PURSUANT TO SECTIONS 105(a),  
503(b), AND 507(a) OF THE BANKRUPTCY CODE AUTHORIZING DEBTORS  
TO PAY PREPETITION CLAIMS OF SUPPLIERS AND VENDORS OF  
GOODS ENTITLED TO ADMINISTRATIVE PRIORITY**

TO: THE HONORABLE UNITED STATES BANKRUPTCY COURT JUDGE

The debtors and debtors in possession in the above-captioned cases (each a "**Debtor**" and, collectively, the "**Debtors**"),<sup>1</sup> by and through their proposed attorneys, Willkie Farr & Gallagher LLP, respectfully represent:

**BACKGROUND**

1. On the date hereof (the "**Petition Date**"), Ampex Corporation ("**Ampex**"), Ampex Data Systems Corporation ("**Data Systems**"), and each of the other Debtors filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**"). The Debtors intend to continue in the possession of their respective properties and the management of their respective businesses as debtors in possession pursuant to sections 1107 and 1108 of the Bankruptcy Code.<sup>2</sup> As of the date hereof, no official committee of unsecured creditors has been appointed.

2. The Debtors are a leading innovator and licensor of visual information technology. During their 63-year history, the Debtors have developed substantial proprietary technology relating to the electronic storage, processing and retrieval of images and other data. Ampex currently owns approximately 370 patents and patent applications covering digital image

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<sup>1</sup> The last four digits of the taxpayer identification numbers of the Debtors follow in parentheses: (i) Ampex Corporation (7696); (ii) Ampex Data Systems Corporation (2575); (iii) Ampex Data International Corporation (0794); (iv) Ampex Finance Corporation (6720); (v) AFC Holdings Corporation (5726); (vi) Ampex Holdings Corporation (5336); and (vii) Ampex International Sales Corporation (0866). Each of the Debtors has a mailing address of 1228 Douglas Avenue, Redwood City, California 94063.

<sup>2</sup> The Debtors have nine foreign affiliates that are incorporated in seven countries; one each in the United Kingdom, Japan, Belgium, Colombia, and Brazil, and two each in Germany and Mexico (collectively, the "**Foreign Affiliates**"), respectively. With the exception of the Foreign Affiliates located in the United Kingdom and Japan, none of the Foreign Affiliates conduct meaningful business activity. To date, none of the Foreign Affiliates have commenced insolvency proceedings in this country or abroad.

processing, digital image compression and recording technologies.

3. The Debtors' licensing division generates revenues from granting licenses covering a variety of technologies that were developed when the Debtors designed and manufactured digital video tape recorders and special effects products used in the professional television broadcast and post-production industries. Certain of the Debtors' patented innovations developed for the professional markets have been adopted in consumer products years later. Therefore, several manufacturers of consumer products have in the past paid royalties to Ampex.

4. One of the Debtors, Data Systems, develops and incorporates technology in the design and manufacture of high performance instrumentation recorders, principally used in defense applications to gather digital images and other data from aircraft, satellites and submarines. Data Systems' products are used primarily by manufacturers of commercial aircraft and U.S. and foreign military and intelligence agencies. In addition, Data Systems sells spare parts for professional video recorders and other products that it previously manufactured and marketed to companies involved in television production and post-production.

5. Ampex, the ultimate parent of the other Debtors, is a publicly-held corporation, whose Class A Common Stock has been listed on the NASDAQ Capital Market (formerly the NASDAQ SmallCap Market) since September 1, 2006, under the symbol "AMPX."<sup>3</sup>

6. As of March 30, 2008, the Debtors had approximately \$59.6 million of outstanding funded indebtedness. Approximately, \$6.9 million represents principal and interest that has accrued under an indenture dated as of February 28, 2002 (as amended, the

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<sup>3</sup> From June 24, 2005 to August 31, 2006, the Class A Common Stock was listed on the NASDAQ Global Market (formerly the NASDAQ National Market). From November 21, 2003 to June 23, 2005, the Class A Common Stock was listed for quotation on the OTC Bulletin Board under the symbol "AEXCA."

“**Indenture**”), between Ampex, as Issuer, and U.S. Bank, National Association, as successor trustee to State Street Bank and Trust Company, as initial trustee. Pursuant to the Indenture, Ampex issued 12% Senior Secured Notes due 2008 (the “**Senior Notes**”), which are secured by liens on certain collateral including Ampex’s rights to receive all royalties, license fees and other payments under certain licensing agreement. The remaining \$52.7 million, as of March 30, 2008, of the Debtors’ outstanding financing relates to pension obligations satisfied by Hillside Capital Incorporated (“**Hillside**”), a former affiliate of the Debtors. For the year ending December 31, 2006, the Debtors reported total revenue of \$35,921,000. As of December 31, 2007, the Debtors’ unaudited balance sheet reflected total assets of \$26,467,000 and total liabilities of \$133,602,000.

7. Despite strong core businesses with positive cash flows, the payments needed to satisfy legacy pension obligations, and the Debtors’ resulting obligations to Hillside, overwhelm the Debtors’ balance sheet. At the direction of Ampex’s Board of Directors, management engaged in discussions with Hillside and, later, known major holders of the Senior Notes to explore a consensual restructuring of the Debtors’ obligations.

8. These discussions were successful and culminated in the Joint Chapter 11 Plan of Reorganization for Ampex Corporation and Its Affiliated Debtors (as may be amended, the “**Plan**”). If consummated, the restructuring transactions contemplated in the Plan will substantially delever the Company and provide additional needed liquidity. As evidenced by a Plan Support Agreement, executed by Hillside and holders of in excess of a majority in amount of the outstanding Senior Notes, the Plan has a broad base of support.

#### **JURISDICTION**

9. This Court has jurisdiction to consider this motion (the “**Motion**”)

pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue of these cases and this Motion in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409. The statutory predicates for the relief requested herein are sections 105(a), 503(b), and 507(a) of the Bankruptcy Code.

### **RELIEF REQUESTED**

10. In the ordinary course of the Debtors' business, certain suppliers and vendors (the "**Priority Vendors**") provide the Debtors with materials, supplies, goods, products and related items (collectively, the "**Goods**") that are essential to the Debtors' continued operations. By this Motion, the Debtors seek entry of an order (the "**Order**") authorizing payment of the prepetition claims of the Priority Vendors for certain undisputed obligations arising out of the delivery of Goods to the Debtors within 20 days prior to the Petition Date (the "**Priority Vendor Claims**"). As such Priority Vendor Claims are entitled to administrative priority under sections 503(b)(9) and 507(a)(2) of the Bankruptcy Code, the Debtors submit that no creditor or party in interest will be prejudiced by the relief requested herein. Absent the relief requested in this Motion, one or more of the Priority Vendors may refuse to continue providing the Debtors with Goods after the Petition Date. This result could not only be detrimental to the Debtors and their creditors, but would be without a concomitant benefit given the priority afforded to Priority Vendor Claims by the Bankruptcy Code.

11. The relief requested is particularly important as Data Systems primarily manufactures products to fill specific customer orders and rarely maintains inventory from which it could continue to operate if there was an interruption in the delivery of Goods from Priority Vendors. As such, any delay or disruption in the delivery of Goods due to non-payment of prepetition invoices could result in the immediate cessation of one of the Debtors' primary

sources of revenue. While the Debtors believe that they are current on all or substantially all invoices received from Priority Vendors as of the Petition Date, there may be invoices received shortly before the Petition Date on account of the prepetition delivery of Goods that are currently outstanding. Furthermore, invoices may be received shortly after the Petition Date on account of the prepetition delivery of Goods.

### **CUSTOMARY TRADE TERMS AND TRADE AGREEMENTS**

12. Subject to the terms set forth below, the Debtors propose to condition the payment of Priority Vendor Claims on the agreement of individual Priority Vendors to continue supplying Goods to the Debtors on the trade terms in effect on a historical basis prior to the Petition Date (the “**Customary Trade Terms**”) (or pursuant to such other trade terms, practices and programs that are at least as favorable to the Debtors as those that were in effect prior to the Petition Date).

13. To ensure that Priority Vendors who are not otherwise bound pursuant to an executory contract continue to deal with the Debtors on Customary Trade Terms, the Debtors propose that a letter agreement (a “**Trade Agreement**”)<sup>4</sup> substantially in the form attached hereto as Exhibit A be sent to the Priority Vendors for execution, together with a copy of the Order granting this Motion.<sup>5</sup>

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<sup>4</sup> The Debtors’ entry into a Trade Agreement shall not change the nature or priority of the underlying Priority Vendor Claims, and shall not constitute an assumption or rejection of any executory contract or prepetition or postpetition agreement between the Debtors and a Priority Vendor. Moreover, nothing in this Motion should be construed as a waiver by any of the Debtors of their rights to contest any claim of a Priority Vendor under applicable law.

<sup>5</sup> The Debtors do not seek to leverage the commencement of these cases against Priority Vendors to secure unwarranted concessions, but rather seek execution of Trade Agreements to ensure that both the Debtors and the Priority Vendors continue to engage in “business as usual.”

14. The Debtors propose that each Trade Agreement include, without limitation:

- a. the amount of the relevant Priority Vendor's estimated Priority Vendor Claim(s), accounting for any setoffs, other credits and discounts thereto; provided, however, such amount shall be used only for the purposes of determining such Priority Vendor's claim under the Order and shall not be deemed an allowed claim by the Court, and the rights of all interested persons to object to such claim shall be fully preserved until further order of this Court;
- b. the Customary Trade Terms applicable to such Priority Vendor, or such other terms as the Priority Vendor and the Debtors may agree on, and the Priority Vendor's agreement to provide goods and/or services to the Debtors pursuant to such terms until the earlier of (i) the date that is six (6) months from the Petition Date, or (ii) the date a plan of reorganization is consummated in these cases;
- c. the Priority Vendor's agreement not to file or otherwise assert against any or all of the Debtors, their estates or any other person or entity or any of their respective assets or property (real or personal) any lien (a "**Lien**") or claim for reclamation ("**Reclamation Claim**"), regardless of the statute or other legal authority upon which such Lien or Reclamation Claim may be asserted, related in any way to any remaining prepetition amounts allegedly owed to the Priority Vendor by the Debtors arising from agreements or other arrangements entered into prior to the Petition Date and, to the extent the Priority Vendor has already obtained or otherwise asserted such a Lien or Reclamation Claim, the Priority Vendor shall (at its own expense) take whatever actions are necessary to remove such Lien or withdraw such Reclamation Claim;
- d. the Priority Vendor's acknowledgment that it has reviewed the terms and provisions of the Order in respect of this Motion and is bound thereby; and
- e. the Priority Vendor's agreement that it will not separately seek payment for Reclamation Claims outside the terms of the Order sought hereby unless the Priority Vendor's participation in the program to pay Priority Vendor Claims pursuant to such Order is terminated.

15. The Debtors believe that the Trade Agreements will ensure the uninterrupted flow of Goods on terms no less favorable than those in place prior to the Petition

Date. Accordingly, by this Motion, the Debtors seek authority, in their sole discretion, to enter into Trade Agreements with some or all of the Priority Vendors. The Debtors also seek authority to make payments on account of Priority Vendor Claims in the absence of a Trade Agreement, if the Debtors determine in their business judgment that failure to pay the Priority Vendor Claims is likely to result in substantial or irreparable harm to the Debtors' operations, or that the cost of entering into the Trade Agreement is unduly burdensome in light of the de minimus nature of the Priority Vendor Claim.

16. If, notwithstanding entry of an order granting the relief requested herein, a Priority Vendor refuses to supply Goods to the Debtors on Customary Trade Terms (or such other terms as are agreed by the parties) following receipt of payment on its Priority Vendor Claim (regardless of whether such Priority Vendor has entered into a Trade Agreement), or fails to comply with its Trade Agreement, the Debtors hereby seek authority, in their discretion and without further order of the Court to:

- a. terminate a Trade Agreement between the Debtors and a Priority Vendor (a "**Terminated Vendor**") on written notice (a "**Termination Notice**");
- b. declare that payments made to such Terminated Vendor on account of its Priority Vendor Claims be deemed to have been in payment of then-outstanding (or subsequently accruing) postpetition claims of such Terminated Vendor without further order of the Court or action by any person or entity; and/or
- c. recover any payment made to such Terminated Vendor on account of its Priority Vendor Claims to the extent that such payments exceed the postpetition claims of such Terminated Vendor, without prejudice and without giving effect to any rights of setoff, claims, provision for payment of reclamation or trust fund claims, or other defense.

17. In sum, in the event a Trade Agreement is terminated or a Priority Vendor refuses to supply Goods to the Debtors on Customary Trade Terms (or such other terms as have

been agreed by the parties) following receipt of payment on its Priority Vendor Claim, the Debtors seek authority to return the parties to the positions they held immediately prior to the entry of any order approving this Motion with respect to all prepetition claims. In addition, the Debtors reserve the right to seek damages or other appropriate remedies against any breaching Priority Vendor.

18. The Debtors further propose that any Trade Agreement terminated as a result of a Terminated Vendor's refusal to comply with the terms thereof may be reinstated if:

- a. the underlying default under the Trade Agreement is fully cured by the Terminated Vendor not later than five (5) business days following the date of a Termination Notice; or
- b. the Debtors, in their sole discretion, reach a favorable alternative agreement with the Terminated Vendor.

19. Finally, some of the Priority Vendors also may have obtained mechanics' liens, possessory liens, or other similar state law trade liens ("**Trade Liens**") on the Debtors' (or other parties') assets, based upon Priority Vendor Claims. As a further condition to receiving payment on a Priority Vendor Claim, the Debtors submit that a Priority Vendor should be required to agree to take whatever action is necessary to remove any such Trade Lien, at such Priority Vendor's sole cost and expense.

#### **BASIS FOR RELIEF**

20. The Debtors believe that the Priority Vendor Claims are entitled to priority under sections 503(b)(9) and 507(a)(2) of the Bankruptcy Code. Under section 503(b)(9), a claim is accorded administrative expense priority where such claim is for the value of any goods received by the debtor within 20 days before the petition date if such goods were sold to the debtor in the ordinary course. See 11 U.S.C. § 503(b)(9). Furthermore, under section 507(a)(2) of the Bankruptcy Code, administrative expenses allowed under section 503(b) of the Bankruptcy Code are granted priority status. See 11 U.S.C. § 507(a)(2). Pursuant to these

sections, the Debtors will be required to pay Priority Vendor Claims in full in order to secure confirmation of a plan of reorganization. See 11 U.S.C. § 1129(a)(9)(A). Accordingly, the relief sought herein only affects the timing, and not the amount, payable to Priority Vendors.

Therefore, the payment of Priority Vendor Claims will not prejudice the unsecured creditors of Debtors.

21. Although prepetition vendor claims may be paid pursuant to a plan of reorganization, this Court has the power to authorize the postpetition payment of such obligations when such payment is necessary to a successful reorganization or preservation of the value of the estate's assets. See, e.g., Gregg v. Metropolitan Trust Co., 197 U.S. 183 (1905); In re NVR L.P., 147 B.R. 126 (E.D. Va. 1992); In re Ionosphere Clubs, Inc., 98 B.R. 174, 176 (Bankr. S.D.N.Y. 1989).

22. As explained above, it is critical to ongoing operations that the Debtors continue to receive Goods from the Priority Vendors. Any interruption in the delivery of Goods could impair the Debtors' cash flow and their ability to generate receivables at a time when it is needed the most. Moreover, by requiring the Priority Vendors to trade on Customary Trade Terms and enter into a Trade Agreement, the Debtors can ensure that no party secures undeserved leverage or concessions in their conduct of business with the Debtors.

23. Additionally, relief similar to that requested herein has been repeatedly granted by courts in other chapter 11 cases including, *inter alia*, In re Dana Corp., No. 06-10354 (BRL) (Bankr. S.D. N.Y. Mar. 3, 2006); Dura Automotive Systems, Inc., No. 06-11202 (KJC) (Bankr. D. Del. Nov. 20, 2006); In re Pliant Corp., No. 06-10001 (MFW) (Bankr. D. Del. Jan. 4, 2006); and In re Werner Holding Co., Inc., No. 06-10578 (KJC) (Bankr. D. Del. June 13, 2006).

24. Accordingly, for all of the foregoing reasons, the Debtor submits that

cause exists for granting the relief requested herein.

**NOTICE**

25. Notice of this Motion will be given to: (a) the United States Trustee for the Southern District of New York; (b) counsel to Hillside; (c) counsel to the Indenture Trustee; and (d) the parties listed on the Debtors' consolidated list of fifty (50) largest unsecured creditors.

The Debtors submit that, under the circumstances, no other or further notice is required.

26. No previous motion for the relief sought herein has been made to this or any other Court.

27. Because this Motion raises no novel issues of law, and the authorities relied upon herein are set forth above, the Debtors respectfully submit that the Motion itself satisfies the requirements of Rule 9013-1(b) of the Local Bankruptcy Rules of the Southern District of New York regarding the submission of a memorandum of law.

**CONCLUSION**

WHEREFORE, the Debtors respectfully request that the Court enter an order, substantially in the form annexed hereto as Exhibit B, granting the relief requested in the Motion and such other and further relief as may be just and proper.

Dated: New York, New York  
March 30, 2008

Ampex Corporation et al.,  
Debtors and Debtors in Possession

By: D. Gordon Strickland  
D. Gordon Strickland  
Chief Executive Officer

WILLKIE FARR & GALLAGHER LLP  
Proposed Attorneys for Debtors and  
Debtors in Possession

By: Rachel C. Strickland  
Matthew Feldman (MF-8961)  
(A Member of the Firm)  
Rachel C. Strickland (RS-3787)  
(A Member of the Firm)  
Lauren C. Cohen (LC-3262)

787 Seventh Avenue  
New York, New York 10019  
(212) 728-8000

**EXHIBIT A**

**Trade Agreement**

\_\_\_\_\_, 2008

TO: [Priority Vendor]  
[Name]  
[Address]

Dear Valued Supplier:

As you may be aware, on March 30, 2008 (the "Petition Date"), Ampex Corporation, Ampex Data Systems Corporation, and certain of their affiliates (collectively, the "Company"), filed voluntary petitions under chapter 11 of title 11 of the United States Code in the United States Bankruptcy Court for the District of Southern District of New York (the "Bankruptcy Cases" and the "Bankruptcy Court," respectively). On the Petition Date, the Company requested the Bankruptcy Court's authority to pay certain suppliers in recognition of the importance of our relationship with such suppliers and our desire that the Bankruptcy Cases have as little effect on them as possible. On \_\_\_\_\_, 2008, the Bankruptcy Court entered an order (the "Order") authorizing us, under certain conditions, to pay amounts owed for goods delivered up to twenty (20) days prior to the Petition Date ("Priority Vendor Claims") to certain trade creditors that agree to the terms set forth below and to be bound by the terms of the Order. A copy of the Order is enclosed.

To receive payment on Priority Vendor Claims, we require each selected trade creditor to agree to continue supplying goods to the Company based on "Customary Trade Terms." In the Order, Customary Trade Terms are defined as the trade terms in effect between such trade creditor and the Company on a historical basis prior to the Petition Date (the "Prepetition Trade Terms") or such other trade terms, practices and programs that are at least as favorable to the Company as the Prepetition Trade Terms. Prepetition Trade Terms shall include, but are not limited to, credit limits, pricing, cash discounts, timing of payments, allowance, rebates, coupon reconciliation, normal product mix and availability and other applicable terms and programs.

For purposes of administration of this trade program as authorized by the Bankruptcy Court, the Company and you agree as follows:

1. The estimated balance of the prepetition trade claim (net of any setoffs, credits or discounts) (the "Trade Claim") is \$\_\_\_\_\_. Your Trade Claim does not constitute an allowed claim by the Court in the Bankruptcy Cases, and signing this Trade Agreement does not excuse you from any requirement of filing a proof of claim in the Bankruptcy Cases.
2. The open trade balance or credit line that you will extend to the Company for shipment of postpetition goods is \$\_\_\_\_\_ (which shall not be less than the greater of the open trade balance outstanding: (a) on \_\_\_\_\_, 2008, or (b) on normal and customary terms on a historical basis for the period prior

to the Petition Date).

3. In consideration of the payment described herein, you agree not to file or otherwise assert against the Company, its estate or any other person or entity or any of their respective assets or property (real or personal) any lien (a "Lien") or claim for reclamation ("Reclamation Claim"), regardless of the statute or other legal authority upon which such Lien or Reclamation Claim may be asserted, related in any way to any remaining prepetition amounts allegedly owed to you by the Company arising from agreements or other arrangements entered into prior to the Petition Date and, to the extent you have already obtained or otherwise asserted such a Lien or Reclamation Claim, you hereby agree to take whatever actions are necessary to remove such Lien or withdraw such Reclamation Claim (at your own expense).
4. You will hereafter extend to the Company all Customary Trade Terms, including but not limited to:

[ADD INDIVIDUALIZED SET OF CUSTOMARY TRADE TERMS]

Payment of your Trade Claim in the manner set forth in the Order may occur upon execution of this letter by a duly authorized representative of your company and the return of this letter to the Company. Your execution of this letter agreement and the return of the same to the Company constitutes an agreement by you and the Company:

- (a) to the Customary Trade Terms and, subject to the reservations contained in the Order, to the amount of the Trade Claim set forth above;
- (b) that, until the earlier of (i) the date that is six (6) months from the Petition Date, or (ii) the date a plan of reorganization is consummated in these cases, you will continue to supply the Company with goods, pursuant to the terms hereof and that the Company will pay for such goods in accordance with terms hereof;
- (c) that you have reviewed the terms and provisions of the Order and acknowledge that you are bound by such terms;
- (d) that you will not separately seek payment for reclamation or similar claims outside of the terms of the Order unless your participation in the trade payment program authorized by the Order (the "Trade Payment Program") is terminated; and
- (e) that if either the Trade Payment Program or your participation therein terminates as provided in the Order, any payments received by you on account of your Trade Claim will be deemed to have been in payment of then outstanding (or subsequently accruing) postpetition obligations owed to you and you will immediately repay to the Company any payments made to you on account of

your Trade Claim to the extent that the aggregate amount of such payments exceed the postpetition obligations, without prejudice and without giving effect to any rights of setoff, claims, provision for payment of reclamation or trust fund claims, or other defense.

The Company and you also hereby agree that any dispute with respect to this agreement, the Order and/or your participation in the Trade Payment Program shall be determined by the Bankruptcy Court.

If you have any questions about this Agreement or our financial restructuring, please do not hesitate to call [Name] at (\_\_\_\_)\_\_\_\_\_ or [Name] (\_\_\_\_)\_\_\_\_\_.

Sincerely,  
[Company]  
By:  
Its:

Agreed and Accepted by:

[Name of Trade Vendor]  
By:  
Its:  
Dated:

**EXHIBIT B**

**Proposed Order**

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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**ORDER PURSUANT TO BANKRUPTCY CODE SECTIONS  
105(a), 503(b), AND 507(a) OF THE BANKRUPTCY CODE  
AUTHORIZING DEBTORS TO PAY PREPETITION CLAIMS OF SUPPLIERS  
AND VENDORS OF GOODS ENTITLED TO ADMINISTRATIVE PRIORITY**

Upon the motion (the “Motion”) of the debtors and debtors in possession in the above-captioned cases (collectively, the “Debtors”) for an order, pursuant to sections 105(a), 503(b), and 507(a) of title 11 of the United States Code (the “Bankruptcy Code”), authorizing Debtors to pay prepetition claims of suppliers of goods entitled to administrative priority; and upon the Affidavit of Craig L. McKibben, Chief Financial Officer of Ampex Corporation, in Support of Chapter 11 Petitions and First Day Pleadings; and due and sufficient notice of the Motion having been given; and it appearing that no other or further notice need be provided; and it appearing that the relief requested by this Motion is in the best interests of these estates, their creditors, and other parties in interest; and after due deliberation and sufficient cause appearing therefor, it is hereby

ORDERED, ADJUDGED AND DECREED, that:

1. The Motion is granted to the extent set forth herein.
2. Capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.
3. The Debtors are authorized, but not directed, to pay, in the ordinary course, undisputed Priority Vendor Claims that are entitled to priority under sections 503(b) and 507(a)(2) of the Bankruptcy Code.
4. The Debtors are authorized, but not directed, to undertake appropriate efforts to cause the Priority Vendors to enter into a Trade Agreement with the Debtors substantially similar to that annexed as Exhibit A to the Motion, as a condition of payment of each such Priority Vendor’s Priority Vendor Claims.

5. The Debtors are authorized, but not directed, to make payments on account of a Priority Vendor Claim, subject to the other limits set forth herein. In the absence of a Trade Agreement if the Debtors determine, in their business judgment, that failure to pay such Priority Vendor Claim is likely to result in substantial or irreparable harm to the Debtors' business operations, or that the cost of entering into the Trade Agreement is unduly burdensome in light of the *de minimus* nature of the Priority Vendor Claim, without further order of this Court.

6. If a Priority Vendor refuses to supply Goods to the Debtors on Customary Trade Terms (or such other terms as are agreed by the parties) following receipt of payment on its Priority Vendor Claim (regardless of whether such Priority Vendor has entered into a Trade Agreement), or fails to comply with any Trade Agreement entered into between such Priority Vendor and the Debtors, then the Debtors may, in their discretion and without further order of the Court: (a) terminate a Trade Agreement between the Debtors and a Terminated Vendor; (b) declare that payments made to such Terminated Vendor on account of its Priority Vendor Claims shall be deemed to have been in payment of then-outstanding or subsequently accruing postpetition claims of such Terminated Vendor without further order of the Court or action by any person or entity; and/or (c) recover any payment made to such Terminated Vendor on account of its Priority Vendor Claims to the extent that such payments exceed the postpetition claims of such Terminated Vendor, without giving effect to any rights of setoff, claims, provision of payment of reclamation on trust fund claims or other defense. Under any such circumstances, such Priority Vendor shall immediately repay to the Debtors any payment made to it on account of its Priority Vendor Claims to the extent that such payments exceed the postpetition claims of such Priority Vendor then outstanding, without prejudice and without

giving effect to any rights of setoff, claims, provision for payment of reclamation or trust fund claims, or other defense.

7. Nothing herein shall constitute a waiver of the Debtors' rights to seek damages or other appropriate remedies against any breaching Terminated Vendor.

8. Notwithstanding the foregoing, the Debtors may, in their sole discretion, reinstate a Trade Agreement if:

- a. the underlying default under the Trade Agreement is fully cured by the Terminated Vendor not later than five (5) business days following the date of a Termination Notice; or
- b. the Debtors, in their sole discretion, reach a favorable alternative agreement with the Terminated Vendor.

9. Nothing herein shall change the nature or priority of the underlying Priority Vendor Claims.

10. Nothing contained in this order shall be deemed to constitute an assumption or rejection of any executory contract or prepetition or postpetition agreement between the Debtors and a Priority Vendor or to require the Debtors to make any of the payments authorized herein.

11. Nothing herein shall be construed as a waiver by any of the Debtors of their rights to contest the amount, priority, or validity of any claim of a Priority Vendor under the Bankruptcy Code or other applicable law.

12. This Court shall retain jurisdiction with respect to all matters arising from or related to the implementation and/or interpretation of this Order.

Dated: New York, New York  
\_\_\_\_\_, 2008

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UNITED STATES BANKRUPTCY JUDGE