

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

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***In re*** : **Chapter 11**
  
:
  
**NEWPAGE CORPORATION, et al.,** : **Case No. 11-12804 (KG)**
  
:
  
**Debtors.**<sup>1</sup> : **Jointly Administered**
  
:
  
-----X **Related Docket Nos. 18 & 58**

**CERTIFICATION OF COUNSEL REGARDING AMENDED ORDER  
AUTHORIZING (I) THE DEBTORS TO PAY THE PREPETITION CLAIMS OF  
CERTAIN CRITICAL VENDORS AND ADMINISTRATIVE CLAIMHOLDERS, AND  
(II) FINANCIAL INSTITUTIONS TO HONOR AND PROCESS PREPETITION  
CHECKS AND TRANSFERS TO CERTAIN CRITICAL VENDORS**

The undersigned hereby certifies that:

1. On September 7, 2011, NewPage Corporation, et al., and certain of its subsidiaries, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “Debtors”) filed the *Debtors’ Motion for Order Pursuant to Sections 363(b), 503(b)(9), and 105(a) of the Bankruptcy Code Authorizing (I) the Debtors to Pay the Prepetition Claims of Certain Critical Vendors and Administrative Claimholders; and (II) Financial Institutions to Honor and Process Prepetition Checks and Transfers to Certain Critical Vendors*

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: Chillicothe Paper Inc. (6154), Escanaba Paper Company (5598), Luke Paper Company (6265), NewPage Canadian Sales LLC (5384), NewPage Consolidated Papers Inc. (8330), NewPage Corporation (6156), NewPage Energy Services LLC (1838), NewPage Group Inc. (2465), NewPage Holding Corporation (6158), NewPage Port Hawkesbury Holding LLC (8330), NewPage Wisconsin System Inc. (3332), Rumford Paper Company (0427), Upland Resources, Inc. (2996), and Wickliffe Paper Company LLC (8293). The Debtors’ corporate headquarters is located at 8540 Gander Creek Drive, Miamisburg, OH 45342.



(the "Motion") [Docket No. 18].<sup>2</sup>

2. On September 8, 2011, the United States Bankruptcy Court for the District of Delaware (the "Court") entered the *Order Authorizing (I) the Debtors to Pay the Prepetition Claims of Certain Critical Vendors and Administrative Claimholders, and (II) Financial Institutions to Honor and Process Prepetition Checks and Transfers to Certain Critical Vendors* (the "Original Order") [Docket No. 58].

3. On September 21, 2011, the U.S. Trustee appointed the Official Committee of Unsecured Creditors (the "Committee") in the above-captioned cases [Docket No. 191].

4. Subsequent to the Court's entry of the Original Order and the appointment of the Committee, the Committee requested certain revisions to the Original Order. Rather than require the Committee to file a motion for reconsideration of the Original Order pursuant to Local Rule 9013-1(m)(v), the Debtors have agreed to submit the Committee's proposed changes to the Court for approval through this certification of counsel.

5. Attached hereto as **Exhibit A** is the proposed *Amended Order Authorizing (I) the Debtors to Pay the Prepetition Claims of Certain Critical Vendors and Administrative Claimholders, and (II) Financial Institutions to Honor and Process Prepetition Checks and Transfers to Certain Critical Vendors* (the "Proposed Amended Order"). A corresponding blackline comparing the Proposed Amended Order to the Original Order is attached hereto as

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<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meaning ascribed to such terms in the Motion.

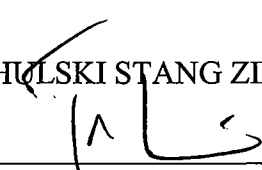
**Exhibit B**. The form of the Proposed Amended Order has been approved by the Committee.

6. Accordingly, the Debtors request entry of the Proposed Amended Order attached hereto as **Exhibit A** at the Court's earliest convenience. Counsel is available for further discussion if the Court wishes.

*[Remainder of page intentionally left blank]*

Dated: October 7, 2011

PACHULSKI STANG ZIEHL & JONES LLP

  
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*Attorneys for the Debtors and Debtors in  
Possession*

**EXHIBIT A**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

-----X  
*In re* : **Chapter 11**  
: **Case No. 11-12804 (KG)**  
NEWPAGE CORPORATION, *et al.*, : **Jointly Administered**  
: **Related Docket Nos. 18 and 58**  
Debtors.<sup>1</sup> :  
-----X

**AMENDED ORDER PURSUANT TO SECTIONS 363(b),  
503(b)(9), AND 105(a) OF THE BANKRUPTCY CODE  
AUTHORIZING (I) THE DEBTORS TO PAY THE PREPETITION  
CLAIMS OF CERTAIN CRITICAL VENDORS AND ADMINISTRATIVE  
CLAIMHOLDERS, AND (II) FINANCIAL INSTITUTIONS TO HONOR  
AND PROCESS PREPETITION CHECKS AND  
TRANSFERS TO CERTAIN CRITICAL VENDORS**

Upon the motion dated September 7, 2011 (the “Motion”),<sup>2</sup> of NewPage Corporation (“NewPage”) and certain of its subsidiaries and affiliates, as debtors and debtors in possession (collectively with NewPage, the “Debtors”), for an order pursuant to sections 363(b), 503(b)(9), and 105(a) of title 11 of the United States Code (the “Bankruptcy Code”) (i) authorizing the Debtors to pay the prepetition claims to certain critical vendors (the “Critical Vendor”), and (ii) authorizing financial institutions to honor and process prepetition payments, checks and transfers to certain Critical Vendors; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. § 1334; and consideration

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, as applicable, are: Chillicothe Paper Inc. (6154), Escanaba Paper Company (5598), Luke Paper Company (6265), NewPage Canadian Sales LLC (5384), NewPage Consolidated Papers Inc. (8330), NewPage Corporation (6156), NewPage Energy Services LLC (1838), NewPage Group Inc. (2465), NewPage Holding Corporation (6158), NewPage Port Hawkesbury Holding LLC (8330), NewPage Wisconsin System Inc. (3332), Rumford Paper Company (0427), Upland Resources, Inc. (2996), and Wickliffe Paper Company LLC (8293). The Debtors’ corporate headquarters is located at 8540 Gander Creek Drive, Miamisburg, OH 45342.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and no trustee or examiner having been appointed in these chapter 11 cases; and on September 21, 2011, the U.S. Trustee having appointed the Statutory Committee of Unsecured Creditors (the “Creditors’ Committee”) in the above-captioned cases [Docket No. 191]; and due and proper notice of the Motion having been provided, and it appearing that no other or further notice need be provided; and a hearing having been held to consider the relief requested in the Motion (the “Hearing”); and upon the Motion and the *Declaration of George F. Martin in Support of the Debtors’ First Day Motions and Applications*, the record of the Hearing, and all of the proceedings had before the Court; and any objections to the Motion having been withdrawn or overruled; and upon the entry of this Court’s *Order Authorizing (I) the Debtors to Pay the Prepetition Claims of Certain Critical Vendors and Administrative Claimholders, and (II) Financial Institutions to Honor and Process Prepetition Checks and Transfers to Certain Critical Vendors* [Docket No. 58] (the “Original Order”); and upon the comments received from the Creditors’ Committee after entry of the Original Order pursuant to Local Rule 9013-1(m)(v); and the Court having found and determined that the relief sought in the Motion is in the best interests of the Debtors, their estates and creditors, and all parties in interest, and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is

ORDERED that the Motion is granted as may be modified herein; and it is further

ORDERED that, to the extent permitted by the DIP Documents (as defined in the Debtors’ motion filed on the Commencement Date seeking interim and final approval of postpetition financing (the “DIP Motion”)), the Debtors are authorized, but not directed, in their

sole discretion and in the reasonable exercise of their business judgment, to pay certain prepetition claims of certain Critical Vendors (the “Critical Vendor Claims”) subject to the conditions set forth in this Order; and it is further

ORDERED that the Debtors’ payment of the Critical Vendor Claims shall not exceed \$20 million (the “Critical Vendor Cap”) in the aggregate, unless otherwise permitted by the DIP Documents and ordered by the Court, after notice and a hearing; *provided, however*, the Debtors shall provide the Creditors’ Committee with such advance notice as is practicable under the circumstances of any motion to increase the Critical Vendor Cap beyond \$20 million; and it is further

ORDERED that the Debtors may in their discretion apply all payments of Critical Vendor Claims first to the Critical Vendor’s claims for goods received by the Debtors within 20 days prior to the Commencement Date (it being understood that any such payments shall be subject to the Critical Vendor Cap); and it is further

ORDERED that, as a condition to payment of the Critical Vendor Claims, unless otherwise modified or waived by the Debtors in their sole discretion, the Critical Vendors are hereby required to continue to provide goods and services to the Debtors on the most favorable terms in effect between such Critical Vendor and the Debtors in the 12 months before the Commencement Date, or on such other favorable terms as the Debtors and the Critical Vendor may otherwise agree (such terms, the “Customary Trade Terms”).<sup>3</sup> The Customary Trade Terms shall apply throughout the Debtors’ chapter 11 cases, as long as the Debtors agree to pay for such goods in accordance with such terms; and it is further

ORDERED that the Debtors are hereby authorized, but not directed, to obtain

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<sup>3</sup> A sample agreement identifying the terms the Debtors would seek from a Critical Vendor is attached hereto as Schedule 1 to the Order.



written verification before issuing payment to a Critical Vendor that such Critical Vendor will continue to provide goods and services to the Debtors on Customary Trade Terms for the remaining term of the Critical Vendor's agreement with the Debtors; *provided, however*, that the absence of such written verification will not limit the Debtors' rights hereunder; and it is further

ORDERED that if any Critical Vendor accepts payment on account of a Critical Vendor Claim and thereafter fails to provide the Debtors with the requisite Customary Trade Terms, any such payment shall be deemed an unauthorized postpetition transfer under section 549 of the Bankruptcy Code and shall be recoverable by the Debtors in cash or goods, or, at the Debtors' option, may be applied as a credit against any outstanding postpetition claims held by such Critical Vendor. Upon recovery of a payment made in respect of a Critical Vendors Claim, such claim shall be reinstated as a prepetition claim in the amount so recovered, less the Debtors' reasonable costs of recovery; and it is further

ORDERED that the Banks are authorized, at the Debtors' request, to receive, honor, process, and pay any and all checks and electronic transfers related to the prepetition Critical Vendor Claims, whether presented before or after the Commencement Date, *provided* that the Debtors have sufficient good funds standing to the Debtors' credit with such Bank in the applicable accounts to cover such payments; and it is further

ORDERED that the Banks are authorized to rely on the representations of the Debtors as to which checks or fund transfers are issued or authorized to be paid pursuant to this Order without any duty of further inquiry and without liability for following the Debtors' instructions; and it is further

ORDERED that the Debtors shall be and hereby are authorized to issue in their sole discretion new postpetition checks or effect new postpetition fund transfers on account of

the Critical Vendor Claims to replace any prepetition check or fund transfer requests that may be dishonored or rejected; and it is further

ORDERED that the Debtors shall provide to the administrative agent for its debtor in possession financing and counsel to the Creditors' Committee weekly written reports of each payment made hereunder and reasonable and timely access to information sufficient to enable such agent to monitor payments made, obligations satisfied, and other actions taken pursuant to this Order; *provided, however*, that if the advisors for the Creditors' Committee make a reasonable request for additional information that the Debtors are readily able to compile to be included in such report, the respective financial advisors for the Creditors' Committee and the Debtors shall work cooperatively to reach agreement on a mutually acceptable way to reflect such additional information in the report; *provided further however*, the Creditors' Committee's rights to return to Court if the Debtors and the Creditors' Committee are unable to reach an agreement with respect to such additional information are hereby preserved and the Creditors' Committee's rights to obtain any other information in accordance with its duties under the Bankruptcy Code are also hereby preserved; and it is further

ORDERED, that with respect to any proposed (a) waiver of any avoidance action against a Critical Vendor, and (b) payment in excess of \$1 million to a particular Critical Vendor, the Debtors shall provide the Creditors' Committee's financial advisor with twenty-four (24) hours advance notice (which notice shall be accompanied by supporting documentation) of any such proposed waiver and/or payment unless such notice is not reasonably practicable under the circumstances, as determined by the Debtors in good faith; and it is further

ORDERED that nothing in the Motion or this Order, or the Debtors' payment of any claims pursuant to this Order, shall be deemed or construed (a) as an admission as to the

validity of any claim or lien against the Debtors or their estates, (b) as a waiver of the Debtors' rights to dispute any claim or lien, (c) to prejudice any of the Debtors' rights to seek relief under any section of the Bankruptcy Code on account of any amounts owed or paid to any Critical Vendor, or (d) an assumption of any executory contract; and it is further

ORDERED that to the extent that there may be any inconsistency between the terms of the interim or final order approving the proposed debtor in possession financing, if and when entered, and this Order, the terms of the interim or final order approving the proposed debtor in possession financing, as applicable, shall govern; and it is further

ORDERED that nothing in the Motion or this Order shall be deemed to constitute the postpetition assumption of any executory contract between the Debtors and any third party; and it is further

ORDERED that the requirements of Bankruptcy Rule 6003 are satisfied by the contents of the Motion and the arguments and evidence presented at the hearing; and it is further

ORDERED that Bankruptcy Rule 6004(a) is waived, for the purposes of the Motion, and notwithstanding any applicability of Bankruptcy Rule 6004(h), this Order shall be immediately effective and enforceable upon its entry; and it is further

ORDERED that this Court shall retain jurisdiction with respect to all matters arising from or relating to the interpretation or implementation of this Order.

Dated: October \_\_\_\_, 2011  
Wilmington, Delaware

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The Honorable Kevin Gross  
Chief Judge, United States Bankruptcy Court

**Schedule 1**

**Sample Agreement with Critical Vendor**

[Critical Vendor Sample Letter]

\_\_\_\_\_, 2011

TO: [Vendor]  
[Name]  
[Address]

Dear Vendor:

As you may be aware, on \_\_\_\_\_, 2011 (the "Commencement Date"), NewPage Corporation ("NewPage") and certain of its subsidiaries and affiliates, as debtors and debtors in possession (collectively with NewPage, the "Debtors"), each commenced a voluntary case under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court"). On the Commencement Date, we requested authority from the Bankruptcy Court to pay certain vendors and suppliers in recognition of, among other things, the importance of our relationship with such vendors and suppliers and our desire that the restructuring efforts have as little effect on our business as possible. On \_\_\_\_\_, 2011, the Bankruptcy Court entered an order (the "Critical Vendor Order") authorizing us, under certain conditions, to pay pre-bankruptcy claims of certain trade creditors that agree to the terms set forth below and to be bound by the terms of the Critical Vendor Order. A copy of the Critical Vendor Order is enclosed.

To receive payment on pre-bankruptcy claims, we require each selected trade creditor to agree to continue supplying goods to the Debtors based on "Customary Trade Terms" as described in the Critical Vendor Order and this agreement (the "Agreement"). In the Critical Vendor Order, Customary Trade Terms are defined as the normal and customary trade terms, practices and programs (including, but 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) which were favorable to the Debtors and in effect between such trade creditor and the Debtors on an historical basis for the period within 12 months of the Commencement Date (the "Prepetition Trade Terms"), or such other trade terms as we mutually agree.

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

Subject to the below, 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 a claim allowed by the Bankruptcy Court, and signing this Agreement does not excuse you from any requirement of filing a proof of claim in the bankruptcy proceedings, including, without limitation, for any portion of your Trade Claim not paid in accordance with this Agreement, if any.

To the extent any portion of the Trade Claim remains outstanding following agreement as to the amount of the Trade Claim, either party may seek a determination from the Bankruptcy Court as to the allowability and timing of payment as to such disputed portion of the Trade Claim.

In consideration for the obligations and payment terms described herein, you agree 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 (a "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 Debtors prior to the Petition Date and, to the extent you already obtained or otherwise asserted such a Lien or Reclamation Claim, you shall (at your expense) immediately take whatever actions are necessary to remove such Lien or withdraw such Reclamation Claim.

You will hereafter extend to the Debtors all Customary Trade Terms, which are:

[ADD INDIVIDUALIZED SET OF CUSTOMARY TRADE TERMS]

Your execution of this Agreement and the return of the same to the Debtors constitute an agreement by you and the Debtors:

to the Customary Trade Terms and, subject to the reservations contained in the Critical Vendor Order, to the amount of the Trade Claim set forth above;

that you will continue to supply the Debtors with goods pursuant to the terms hereof and that the Debtors will pay for such goods in accordance with the terms hereof;

that you have reviewed the terms and provisions of the Critical Vendor Order and acknowledge that you are bound by such terms;

that you will not separately seek payment for reclamation or similar claims outside of the terms of the Critical Vendor Order;

that you agree to be subject to the jurisdiction of the Bankruptcy Court for purposes of resolving any disputes arising under, related to, or in connection with this Agreement; and

that if you refuse to supply goods in accordance with the Customary Trade Terms or this Agreement, any payments received by you on account of your Trade Claim will be deemed to have been in payment of postpetition obligations owed to you and you will immediately repay to the Debtors 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 the right of any setoffs, reclamation, or other defense.

You and the Debtors also hereby agree that any dispute with respect to this Agreement, the Vendor Orders or the payment of your Trade Claim, in whole or in part, shall be determined by 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,  
[Debtors]

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

Agreed and Accepted by:  
[Name of Trade Vendor]

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

Its: \_\_\_\_\_

Dated:

**EXHIBIT B**



**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

|                                     |   |   |
|-------------------------------------|---|---|
| .....                               | x |   |
|                                     | : |   |
| <i>In re</i>                        | : | <b>Chapter 11</b>                               |
|                                     | : |   |
| <b>NEWPAGE CORPORATION, et al.,</b> | : | <b>Case No. 11-12804 (KG)</b>                   |
|                                     | : |   |
| <b>Debtors.<sup>1</sup></b>         | : | <b>Jointly Administered</b>                     |
|                                     | : |   |
| .....                               | x | <b>Related Docket No. <u>Nos. 18 and 58</u></b> |

**AMENDED ORDER PURSUANT TO SECTIONS 363(b),  
503(b)(9), AND 105(a) OF THE BANKRUPTCY CODE  
AUTHORIZING (I) THE DEBTORS TO PAY THE PREPETITION  
CLAIMS OF CERTAIN CRITICAL VENDORS AND ADMINISTRATIVE  
CLAIMHOLDERS, AND (II) FINANCIAL INSTITUTIONS TO HONOR  
AND PROCESS PREPETITION CHECKS AND  
TRANSFERS TO CERTAIN CRITICAL VENDORS**

Upon the motion dated September 7, 2011 (the "Motion"),<sup>2</sup> of NewPage Corporation ("NewPage") and certain of its subsidiaries and affiliates, as debtors and debtors in possession (collectively with NewPage, the "Debtors"), for an order pursuant to sections 363(b), 503(b)(9), and 105(a) of title 11 of the United States Code (the "Bankruptcy Code") (i) authorizing the Debtors to pay the prepetition claims to certain critical vendors (the "Critical Vendor"), and (ii) authorizing financial institutions to honor and process prepetition payments, checks and transfers to certain Critical Vendors; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. § 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. §

<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, as applicable, are: Chillicothe Paper Inc. (6154), Escanaba Paper Company (5598), Luke Paper Company (6265), NewPage Canadian Sales LLC (5384), NewPage Consolidated Papers Inc. (8330), NewPage Corporation (6156), NewPage Energy Services LLC (1838), NewPage Group Inc. (2465), NewPage Holding Corporation (6158), NewPage Port Hawkesbury Holding LLC (8330), NewPage Wisconsin System Inc. (3332), Rumford Paper Company (0427), Upland Resources, Inc. (2996), and Wickliffe Paper Company LLC (8293). The Debtors' corporate headquarters is located at 8540 Gander Creek Drive, Miamisburg, OH 45342.

<sup>2</sup> Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Motion.

157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and no trustee, ~~or examiner, or statutory creditors' committee~~ having been appointed in these chapter 11 cases; and on September 21, 2011, the U.S. Trustee having appointed the Statutory Committee of Unsecured Creditors (the "Creditors' Committee") in the above-captioned cases [Docket No. 191]; and due and proper notice of the Motion having been provided, and it appearing that no other or further notice need be provided; and a hearing having been held to consider the relief requested in the Motion (the "Hearing"); and upon the Motion and the *Declaration of George F. Martin in Support of the Debtors' First Day Motions and Applications*, the record of the Hearing, and all of the proceedings had before the Court; and any objections to the Motion having been withdrawn or overruled; and upon the entry of this Court's Order Authorizing (I) the Debtors to Pay the Prepetition Claims of Certain Critical Vendors and Administrative Claimholders, and (II) Financial Institutions to Honor and Process Prepetition Checks and Transfers to Certain Critical Vendors [Docket No. 58] (the "Original Order"); and upon the comments received from the Creditors' Committee after entry of the Original Order pursuant to Local Rule 9013-1(m)(v); and the Court having found and determined that the relief sought in the Motion is in the best interests of the Debtors, their estates and creditors, and all parties in interest, and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is

ORDERED that the Motion is granted as may be modified herein; and it is further

ORDERED that, to the extent permitted by the DIP Documents (as defined in the Debtors' motion filed on the Commencement Date seeking interim and final approval of postpetition financing (the "DIP Motion")), the Debtors are authorized, but not directed, in their

sole discretion and in the reasonable exercise of their business judgment, to pay certain prepetition claims of certain Critical Vendors (the “Critical Vendor Claims”) subject to the conditions set forth in this Order; and it is further

ORDERED that the Debtors’ payment of the Critical Vendor Claims shall not exceed \$20 million (the “Critical Vendor Cap”) in the aggregate, unless otherwise permitted by the DIP Documents and ordered by the Court, after notice and a hearing; provided, however, the Debtors shall provide the Creditors’ Committee with such advance notice as is practicable under the circumstances of any motion to increase the Critical Vendor Cap beyond \$20 million; and it is further

ORDERED that the Debtors may in their discretion apply all payments of Critical Vendor Claims first to the Critical Vendor’s claims for goods received by the Debtors within 20 days prior to the Commencement Date (it being understood that any such payments shall be subject to the Critical Vendor Cap); and it is further

ORDERED that, as a condition to payment of the Critical Vendor Claims, unless otherwise modified or waived by the Debtors in their sole discretion, the Critical Vendors are hereby required to continue to provide goods and services to the Debtors on the most favorable terms in effect between such Critical Vendor and the Debtors in the 12 months before the Commencement Date, or on such other favorable terms as the Debtors and the Critical Vendor may otherwise agree (such terms, the “Customary Trade Terms”).<sup>3</sup> The Customary Trade Terms shall apply throughout the Debtors’ chapter 11 cases, as long as the Debtors agree to pay for such goods in accordance with such terms; and it is further

<sup>3</sup> A sample agreement identifying the terms the Debtors would seek from a Critical Vendor is attached hereto as Schedule 1 to the Order.

ORDERED that the Debtors are hereby authorized, but not directed, to obtain written verification before issuing payment to a Critical Vendor that such Critical Vendor will continue to provide goods and services to the Debtors on Customary Trade Terms for the remaining term of the Critical Vendor's agreement with the Debtors; *provided, however*, that the absence of such written verification will not limit the Debtors' rights hereunder; and it is further

ORDERED that if any Critical Vendor accepts payment on account of a Critical Vendor Claim and thereafter fails to provide the Debtors with the requisite Customary Trade Terms, any such payment shall be deemed an unauthorized postpetition transfer under section 549 of the Bankruptcy Code and shall be recoverable by the Debtors in cash or goods, or, at the Debtors' option, may be applied as a credit against any outstanding postpetition claims held by such Critical Vendor. Upon recovery of a payment made in respect of a Critical Vendors Claim, such claim shall be reinstated as a prepetition claim in the amount so recovered, less the Debtors' reasonable costs of recovery; and it is further

ORDERED that the Banks are authorized, at the Debtors' request, to receive, honor, process, and pay any and all checks and electronic transfers related to the prepetition Critical Vendor Claims, whether presented before or after the Commencement Date, *provided* that the Debtors have sufficient good funds standing to the Debtors' credit with such Bank in the applicable accounts to cover such payments; and it is further

ORDERED that the Banks are authorized to rely on the representations of the Debtors as to which checks or fund transfers are issued or authorized to be paid pursuant to this Order without any duty of further inquiry and without liability for following the Debtors' instructions; and it is further

ORDERED that the Debtors shall be and hereby are authorized to issue in their sole discretion new postpetition checks or effect new postpetition fund transfers on account of the Critical Vendor Claims to replace any prepetition check or fund transfer requests that may be dishonored or rejected; and it is further

ORDERED that the Debtors shall provide to the administrative agent for its debtor in possession financing and counsel to the Creditors' Committee weekly written reports of each payment made hereunder and reasonable and timely access to information sufficient to enable such agent to monitor payments made, obligations satisfied, and other actions taken pursuant to this Order; provided, however, that if the advisors for the Creditors' Committee make a reasonable request for additional information that the Debtors are readily able to compile to be included in such report, the respective financial advisors for the Creditors' Committee and the Debtors shall work cooperatively to reach agreement on a mutually acceptable way to reflect such additional information in the report; provided further however, the Creditors' Committee's rights to return to Court if the Debtors and the Creditors' Committee are unable to reach an agreement with respect to such additional information are hereby preserved and the Creditors' Committee's rights to obtain any other information in accordance with its duties under the Bankruptcy Code are also hereby preserved; and it is further

ORDERED, that with respect to any proposed (a) waiver of any avoidance action against a Critical Vendor, and (b) payment in excess of \$1 million to a particular Critical Vendor, the Debtors shall provide the Creditors' Committee's financial advisor with twenty-four (24) hours advance notice (which notice shall be accompanied by supporting documentation) of any such proposed waiver and/or payment unless such notice is not reasonably practicable under the circumstances, as determined by the Debtors in good faith; and it is further

ORDERED that nothing in the Motion or this Order, or the Debtors' payment of any claims pursuant to this Order, shall be deemed or construed (a) as an admission as to the validity of any claim or lien against the Debtors or their estates, (b) as a waiver of the Debtors' rights to dispute any claim or lien, (c) to prejudice any of the Debtors' rights to seek relief under any section of the Bankruptcy Code on account of any amounts owed or paid to any Critical Vendor, or (d) an assumption of any executory contract; and it is further

ORDERED that to the extent that there may be any inconsistency between the terms of the interim or final order approving the proposed debtor in possession financing, if and when entered, and this Order, the terms of the interim or final order approving the proposed debtor in possession financing, as applicable, shall govern; and it is further

ORDERED that nothing in the Motion or this Order shall be deemed to constitute the postpetition assumption of any executory contract between the Debtors and any third party; and it is further

ORDERED that the requirements of Bankruptcy Rule 6003 are satisfied by the contents of the Motion and the arguments and evidence presented at the hearing; and it is further

ORDERED that Bankruptcy Rule 6004(a) is waived, for the purposes of the Motion, and notwithstanding any applicability of Bankruptcy Rule 6004(h), this Order shall be immediately effective and enforceable upon its entry; and it is further

ORDERED that this Court shall retain jurisdiction with respect to all matters arising from or relating to the interpretation or implementation of this Order.

Dated:           October          , 2011  
Wilmington, Delaware

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The Honorable Kevin Gross  
Chief Judge, United States Bankruptcy Court

**Schedule 1**

**Sample Agreement with Critical Vendor**

[Critical Vendor Sample Letter]

\_\_\_\_\_, 2011

TO: [Vendor]  
[Name]  
[Address]

Dear Vendor:

As you may be aware, on \_\_\_\_\_, 2011 (the "Commencement Date"), NewPage Corporation ("NewPage") and certain of its subsidiaries and affiliates, as debtors and debtors in possession (collectively with NewPage, the "Debtors"), each commenced a voluntary case under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code") in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court"). On the Commencement Date, we requested authority from the Bankruptcy Court to pay certain vendors and suppliers in recognition of, among other things, the importance of our relationship with such vendors and suppliers and our desire that the restructuring efforts have as little effect on our business as possible. On \_\_\_\_\_, 2011, the Bankruptcy Court entered an order (the "Critical Vendor Order") authorizing us, under certain conditions, to pay pre-bankruptcy claims of certain trade creditors that agree to the terms set forth below and to be bound by the terms of the Critical Vendor Order. A copy of the Critical Vendor Order is enclosed.

To receive payment on pre-bankruptcy claims, we require each selected trade creditor to agree to continue supplying goods to the Debtors based on "Customary Trade Terms" as described in the Critical Vendor Order and this agreement (the "Agreement"). In the Critical Vendor Order, Customary Trade Terms are defined as the normal and customary trade terms, practices and programs (including, but 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) which were favorable to the Debtors and in effect between such trade creditor and the Debtors on an historical basis for the period within 12 months of the Commencement Date (the "Prepetition Trade Terms"), or such other trade terms as we mutually agree.

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

- ~~1-~~ Subject to the below, 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 a claim allowed by the Bankruptcy Court, and signing this Agreement does not excuse you from any requirement of filing a proof of claim in the bankruptcy proceedings, including, without limitation, for any portion of your Trade Claim not paid in accordance with this Agreement, if any.



- ~~2.~~ To the extent any portion of the Trade Claim remains outstanding following agreement as to the amount of the Trade Claim, either party may seek a determination from the Bankruptcy Court as to the allowability and timing of payment as to such disputed portion of the Trade Claim.
- ~~3.~~ In consideration for the obligations and payment terms described herein, you agree 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 (a "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 Debtors prior to the Petition Date and, to the extent you already obtained or otherwise asserted such a Lien or Reclamation Claim, you shall (at your expense) immediately take whatever actions are necessary to remove such Lien or withdraw such Reclamation Claim.
- ~~4.~~ You will hereafter extend to the Debtors all Customary Trade Terms, which are:

[ADD INDIVIDUALIZED SET OF CUSTOMARY TRADE TERMS]

Your execution of this Agreement and the return of the same to the Debtors constitute an agreement by you and the Debtors:

- ~~(a)~~ to the Customary Trade Terms and, subject to the reservations contained in the Critical Vendor Order, to the amount of the Trade Claim set forth above;
- ~~(b)~~ that you will continue to supply the Debtors with goods pursuant to the terms hereof and that the Debtors will pay for such goods in accordance with the terms hereof;
- ~~(c)~~ that you have reviewed the terms and provisions of the Critical Vendor 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 Critical Vendor Order;
- ~~(e)~~ that you agree to be subject to the jurisdiction of the Bankruptcy Court for purposes of resolving any disputes arising under, related to, or in connection with this Agreement; and
- ~~(f)~~ that if you refuse to supply goods in accordance with the Customary Trade Terms or this Agreement, any payments received by you on account of your Trade Claim will be deemed to have

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been in payment of postpetition obligations owed to you and you will immediately repay to the Debtors 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 the right of any setoffs, reclamation, or other defense.

You and the Debtors also hereby agree that any dispute with respect to this Agreement, the Vendor Orders or the payment of your Trade Claim, in whole or in part, shall be determined by 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,  
[Debtors]

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

Its: \_\_\_\_\_

Agreed and Accepted by:  
[Name of Trade Vendor]

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

Its: \_\_\_\_\_

Dated:

Document comparison by Workshare Professional on Thursday, October 06, 2011  
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