

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

B E T W E E N:

IN THE MATTER OF THE *COMPANIES' CREDITORS*
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
SANDVINE CORPORATION, SANDVINE HOLDINGS UK LIMITED, PROCERA
NETWORKS, INC., PROCERA HOLDING, INC., NEW PROCERA GP COMPANY, and
SANDVINE OP (UK) LTD.

Applicants

AFFIDAVIT OF JEFFREY A. KUPP
(Sworn January 28, 2025)

I, Jeffrey A. Kupp, of the city of Dallas, in the state of Texas, MAKE OATH AND SAY:

1. I am the Chief Financial Officer of Sandvine Corporation (“**Sandvine Canada**”, and together with the other Applicants and the partnership Procera II LP the “**Sandvine Entities**”, and collectively with certain non-filing entities, “**Sandvine**” or the “**Company**”) and the Treasurer and Secretary of New Procera GP Company and, as such, have knowledge of the matters contained in this Affidavit. Where I have relied on other sources for information, I have stated the source of my information and I believe such information to be true. I am familiar with the business and have relied upon the books and records of the Company in preparing this affidavit. I have also consulted with members of the senior management team of the Applicants and the Applicants’ financial and legal advisors. The Applicants do not waive or intend to waive any applicable privilege by any statement herein.

2. This affidavit is sworn further to, and should be read in conjunction with, my affidavit sworn on January 16, 2025 (the “**Second Kupp Affidavit**”). Capitalized terms used herein and not otherwise defined have the meanings ascribed to them in the Second Kupp Affidavit.

3. I make this Affidavit in support of a motion by the Applicants for the issuance of an Approval and Vesting Order and a Post-Closing Administration Order. The motion record of the Applicants was served on the Service List on January 16, 2025. Since then, the Company and its advisors, in consultation with the Monitor, have continued to consider how best to implement certain aspects of the Transactions and have negotiated certain amendments to the Transition Services Agreement to facilitate a smooth transition from the Sellers to the Purchasers. Copies of the amended Transition Services Agreement and a blackline to the version of the Transition Services Agreement attached to the Second Kupp Affidavit (as Schedule “G” to the Stalking Horse Transaction Agreement) are attached hereto as **Exhibits “A”** and **“B”** respectively. The main revisions are summarized below.

A. Ongoing Monitoring Services

4. The revisions to the Transition Services Agreement stipulate that the NewCos will provide the OldCos with a license validation service that is owned and maintained by the NewCos (as more particularly described in Schedule “B” to the Transition Services Agreement, the “**Ongoing Monitoring Services**”). The Ongoing Monitoring Services allow for the termination of licenses, that continue to be owned by the OldCos’ exiting customers, should any of these Transition Customers violate their End User License Agreements with the OldCos.

5. The Ongoing Monitoring Services will be provided from the date of the Transition Services Agreement until the earlier of either December 31, 2026, or the date that the OldCos and the NewCos mutually determine that the Ongoing Monitoring Services are not required for each Transition Customer (the “**Ongoing Monitoring Services Period**”). Following the Ongoing Monitoring Services Period, the licenses will be updated to no longer require validation through the licensing service. No other services will be provided by the NewCos for the benefit of the OldCos’ customers following the Transition Period aside from the Ongoing Monitoring Services.

6. The NewCos will receive compensation for providing the Transition Services and Ongoing Monitoring Services to the OldCos in the amount of: (i) the cash received by OldCos for services provided to the Transition Customers under the Transition Contracts or in connection with OldCos’ support of the discontinuance of the use of the solutions currently provided under the Transition Contracts, minus (ii) the Direct Costs (as defined in the Transition Services Agreement) of the OldCos during the Transition Period, plus 10% or such other percentage agreed by the NewCos and OldCos, with the consent of the Monitor.

B. OldCos Transition Services

7. To ensure that the NewCos have access to human resources services, the OldCos have agreed to provide transition services to the NewCos, as set out in Schedule “C” to the Transition Services Agreement (the “**OldCos Transition Services**”). The OldCos Transition Services include: (i) use of the OldCos’ bank accounts and payroll processing systems for payroll and for payment of vendor invoices payable by the NewCos; (ii) providing and maintaining Employee Plan (as defined in the Stalking Horse Transaction Agreement) coverage and benefits; (iii) services

related to employee-related tax filings and documentation; (iv) use of the OldCos' credit cards to make payments on behalf of NewCos; and (v) redirecting customer payments, purchase orders, and vendor invoices received by the OldCos to the NewCos.

8. The OldCos Transition Services will be provided to the NewCos until the date that is six months from the date of the Transition Services Agreement, or a later date if the parties mutually agree in writing with the consent of the Monitor (the "**OldCos Transition Period**"). The NewCos will pay all reasonable and documented direct costs, fees, expenses and charges paid or payable by an OldCo for the OldCos Transition Period that are reasonably necessary for the performance of the OldCos Transition Services.

C. Delayed Transfer Employees

9. Pursuant to the Stalking Horse Transaction Agreement, certain employees that are employed by the United Arab Emirates branch of Procera US¹ (the "**Delayed Transfer Employees**"), will not be immediately transferred to a Purchaser. They will instead remain employees of Procera US post-closing until the expiration of the Employee TSA Period (as defined in the Stalking Horse Transaction Agreement), at which point the Sellers will terminate the Delayed Transfer Employees' employment and the applicable Purchaser (or an affiliate) will provide an offer of employment on terms that are no less favourable than those enjoyed by the Delayed Transfer Employees immediately prior to Closing.

¹ To be set out in a confidential disclosure letter to be delivered by the OldCos to the NewCos, with a copy to the Monitor.

10. The revisions to the Transition Services Agreement provide that, during the six months following date of the Transition Services Agreement (or such later date as the Parties may mutually agree) (the “**Employee Transition Services Period**”), the OldCos will provide to the NewCos all of the professional services, support and maintenance services, and other services as more particularly described in Schedule “D” to the Transition Services Agreement (the “**Employee Transition Services**”). The Employee Transition Services include: (i) services regarding Assigned Contracts, sales, product implementation and customer support; (ii) services necessary to facilitate continuity of services, including facilitating the NewCos’, and their employees’, access to the office space leased by Procera US’s branch in the United Arab Emirates and providing the NewCos and their employees with the authority to use and to access any assets owned by Procera US’s United Arab Emirates branch at Closing (if any) prior to the assignment of such assets to the NewCos; (iii) services necessary to transfer the employment of the Delayed Transfer Employees, including facilitating all employment related documentation for the Delayed Transfer Employees to work in Dubai, United Arab Emirates; and (iv) other services that may be agreed upon between the OldCos and the NewCos, with the consent of the Monitor. The provision of the Employee Transition Services will support the transfer of the Delayed Transfer Employees to the NewCos.

11. In exchange for the Employee Transition Services, the applicable Purchaser will pay the reasonable and documented direct costs, fees, expenses and charges paid or payable by Procera

US, during the Employee Transition Services Period, that are reasonably necessary in connection with the performance of the Employee Transition Services by Procera US.

SWORN REMOTELY by Jeffrey A. Kupp at the City of Dallas, in the State of Texas of the United States of America, before me at the City of Vancouver, in the Province of British Columbia on January 28, 2025, in accordance with O. Reg 431/20, Administering Oath or Declaration Remotely

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Commissioner for Taking Affidavits
(or as may be)

MAYA CHURILOV
LSO# 87190A



Jeffrey A. Kupp

This is Exhibit "A" referred to in the Affidavit of JEFFREY A. KUPP sworn by JEFFREY A. KUPP of the City of Dallas, in the State of Texas of the United States of America, before me at the City of Vancouver, in the Province of British Columbia on January 28, 2025 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

MAYA CHURILOV

LSO# 87190A

TRANSITION SERVICES AGREEMENT

THIS TRANSITION SERVICES AGREEMENT (this “**Agreement**”) is dated as of [●], 2025 (the “**Effective Date**”).

BETWEEN:

[_____], a corporation formed under the laws of any jurisdiction in Canada in accordance with the Implementation Steps (the “**Canadian NewCo**”)

AND:

[_____], a Delaware limited liability company formed in accordance with the Implementation Steps (the “**New OpCo I**”)

AND:

[_____], a Delaware limited liability company formed in accordance with the Implementation Steps (the “**New OpCo II**” and together with the Canadian NewCo and the New OpCo I, the “**NewCos**”)

AND:

SANDVINE CORPORATION, a corporation governed by the laws of British Columbia (the “**CA OldCo**”)

AND:

PROCERA NETWORKS, INC., a corporation governed by the laws of Delaware (the “**US OldCo**” and together with the CA OldCo, the “**OldCos**”)

(collectively, the “**Parties**”, and each a “**Party**”)

WHEREAS:

- A. the OldCos, directly and indirectly through their wholly-owned subsidiaries and Affiliates (collectively, the “**Company Parties**” and each, a “**Company Party**”), carry on the business, taken as a whole, consisting of (i) the development and production of software and hardware application and network intelligence solutions, (ii) the provision of support in respect thereof globally, and (iii) the ownership and licensing of certain intellectual property that is owned by, licensed to, or used by the Company Parties;
- B. certain of the Company Parties entered into a restructuring support agreement with Existing Loan Lenders holding 97% of the Existing Loans whereby they agreed to the principal aspects of a transaction, to be implemented through a sale and investment solicitation process (the “**SISP**”) under the *Companies’ Creditors Arrangement Act* (Canada) (as amended, the “**CCA**”);
- C. on November 7, 2024 (the “**Petition Date**”), the OldCos and certain of their Affiliates (the “**Applicants**” and together with Procera II LP, a Cayman Islands exempted limited

partnership, the “**Sandvine Entities**”) commenced proceedings under the CCAA (the “**CCAA Proceedings**”) before the Ontario Superior Court of Justice (Commercial List) (the “**CCAA Court**”) to seek an initial order (as may be amended and restated from time to time, the “**Initial Order**”);

- D. pursuant to the Initial Order, the CCAA court appointed KSV Restructuring Inc., a licensed insolvency trustee, as the monitor in the CCAA Proceedings (in such capacity, the “**Monitor**”);
- E. on the Petition Date, CA OldCo, in its capacity as foreign representative of the Applicants, commenced ancillary insolvency recognition proceedings in the United States Bankruptcy Court for the Northern District of Texas (Dallas Division) (the “**Chapter 15 Court**”) under Chapter 15 of Title 11 of the United States Code (the “**Bankruptcy Code**”, and the resulting proceedings, the “**Chapter 15 Proceedings**”);
- F. on December 3, 2024, the Chapter 15 Court entered an order recognizing the CCAA Proceedings as “foreign main proceedings” as defined in the Bankruptcy Code;
- G. on November 15, 2024, the CCAA Court granted an order (the “**SISP Approval Order**”) which, among other things, (i) approved the SISP; (ii) authorized the Sandvine Entities, GLC Advisors & Co., LLC and GLC Securities, LLC (in their capacity as financial advisor to the Sandvine Entities) to implement the SISP to solicit interest in, and opportunities for: (a) one or more sale(s) or partial sale(s) of all, substantially all, or certain portions of the rights, title and interests in property, assets and undertakings of the Sandvine Entities and/or the business of the Sandvine Entities (the “**Business**”); and/or (b) for an investment in, restructuring, recapitalization, refinancing or other form of reorganization of all or some of the Sandvine Entities or all or part of the Business; and (ii) authorized and empowered the Sandvine Entities to enter into a transaction agreement with the Consenting Stakeholders (or their designees) on substantially the same economic terms as set out in the Restructuring Term Sheet and the Restructuring Support Agreement (each as defined in the SISP Approval Order), to serve as the “stalking horse” agreement in the SISP;
- H. in connection with the CCAA Proceedings and the Chapter 15 Proceedings, the Sandvine Entities pursued the SISP with a view to implementing a transaction that would allow the continuation of the Business as a going concern;
- I. in accordance with the SISP Approval Order and the SISP, a transaction agreement dated December 18, 2024 was entered into by and between Dune Parent LLC, as “NewCo Parent”, the OldCos, as “Sellers”, and Sandvine Holdings UK Limited, a private limited company incorporated under the laws of England and Wales (as may be amended and restated from time to time, the “**Transaction Agreement**”);
- J. on December 18, 2024, following the conclusion of the Phase 1 Bid Deadline (as defined in the SISP Approval Order), the Transaction Agreement was deemed the “Successful Bid” pursuant to and in accordance with the SISP;
- K. pursuant to Transaction Agreement, and in order to support the Transition Customers (as defined below) with discontinuing the use of solutions currently provided under the Transition Contracts (as defined below) in an orderly manner, the Parties have agreed that

- (i) during a Transition Period (as defined below), the NewCos shall provide or cause the Transition Services (as defined below) to be provided to the OldCos, and (ii) during an Ongoing Monitoring Services Period (as defined below), the NewCos shall provide or cause the Ongoing Monitoring Services (as defined below) to be provided to the OldCos, each in accordance with the terms and conditions herein;
- L. the OldCos have agreed to perform certain OldCos Transition Services (as defined below) for the NewCos during the OldCos Transition Period (as defined below);
- M. in order to support the transfer of the Delayed Transfer Employees to NewCos, the Parties have agreed that during the Employee Transition Services Period, the OldCos shall provide or cause the Employee Transition Services (as defined below) to be provided to the NewCos in accordance with the terms and conditions herein; and
- N. at Closing, pursuant to the Transaction Agreement, the NewCos and the OldCos shall execute and deliver a transition services agreement in substantially the form of this Agreement.

THEREFORE, IN CONSIDERATION of the foregoing and the mutual agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties represent, warrant, covenant and agree as follows:

ARTICLE 1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Transaction Agreement; *provided that*, the following words shall have the following meanings:

“**Direct Costs**” of an OldCo in respect of a Transition Period, means all reasonable costs, fees, expenses and charges paid (subject to Section 3.6) by an OldCo for the Transition Period that are reasonably necessary in connection with the performance of the Transition Contracts by the OldCo, including any charges of any third persons (including the Monitor and its counsel and advisors);

“**Disclosure Letter**” means the confidential disclosure letter to be delivered by the OldCos to the NewCos, with a copy to the Monitor;

“**Employee Transition Services**” means, collectively, all of the professional services, support and maintenance services, and other services as more particularly described in Schedule “D” attached hereto, in each case, to be provided by the OldCos or the Delayed Transfer Employees, as applicable, to the NewCos;

“**Employee Transition Services Costs**” means the reasonable and documented direct costs, fees, expenses and charges paid or payable by US OldCo, during the Employee Transition Services Period, that are reasonably necessary in connection with the

performance of the Employee Transition Services by US OldCo, including any charges of any third persons (including the Monitor and its counsel and advisors);

“Employee Transition Services Period” means the date that is six months from the Effective Date, or such later date as the Parties may mutually agree in writing from time to time, pursuant to this Agreement;

“Exit Date” means the “Exit Date” set out in the applicable Exit Letter, or as otherwise agreed to between the Transition Customer and the applicable OldCo;

“Exit Letter” means, with respect to each Transition Customer, the letter that the Company Parties (or any of them) sent to the Transition Customer providing, among other things, that as of the Exit Date: (a) such Transition Customer’s agreement(s) with the applicable Company Party would terminate, (b) the applicable Company Party would not accept new orders for its products and services from such Transition Customer, and (c) the applicable Company Parties will stop providing professional services or support and maintenance services, if applicable;

“OldCos Revenue Share” in respect of a Transition Period, means the Direct Costs of the OldCos for the Transition Period plus a mark-up of 10% or such other percentage agreed by the NewCos and OldCos, with the consent of the Monitor, *provided that* the OldCos Revenue Share cannot exceed the Transition Customer Revenue for a Transition Period;

“OldCos Transition Period” means the date that is six months from the Effective Date, or such later date as the Parties may mutually agree in writing from time to time with the consent of the Monitor, pursuant to this Agreement;

“OldCos Transition Services” means the services described in Schedule “C” attached hereto, and such other services to be provided by the OldCos to the NewCos, as the Parties may mutually agree in writing from time to time with the consent of the Monitor, pursuant to this Agreement;

“OldCos Transition Services Costs” means the reasonable and documented direct costs, fees, expenses and charges paid or payable by an OldCo for the OldCos Transition Period that are reasonably necessary in connection with the performance of the OldCos Transition Services by the OldCos, including any charges of any third persons (including the Monitor and its counsel and advisors);

“Ongoing Monitoring Services” means the ongoing monitoring services as more particularly described in Schedule “B” attached hereto;

“Ongoing Monitoring Services Period” means, with respect to any Transition Customer, the period from the date of this Agreement to the earlier of (a) December 31, 2026, and (b) the date on which the Parties mutually determine that Ongoing Monitoring Services are not required for such Transition Customer;

“Transition Contract” means all Contracts with Transition Customers that are not Assigned Contracts;

“Transition Customer” means any of the Company Parties’ customers set forth in Schedule “1” of the Disclosure Letter, as may be updated or amended from time to time by agreement among the Parties in writing;

“Transition Customer Revenue” means an amount equal to the cash received by the OldCos for services provided or to be provided by the OldCos to the Transition Customers under the Transition Contracts or in connection with the OldCos’ support of the discontinuance of the use of the solutions currently provided under the Transition Contracts by the Transition Customers;

“Transition Period” means, with respect to any Transition Customer, the period from the date of this Agreement to the earlier of (a) December 31, 2025, and (b) the Exit Date set out in such Transition Customer’s Exit Letter;

“Transition Services” means, collectively, all of the professional services, support and maintenance services, and other services as more particularly described in Schedule “A” attached hereto, in each case to be provided by the NewCos to the OldCos to facilitate the OldCos’ performance under the Transition Contracts or to otherwise support the discontinuance of the use of the solutions currently provided under the Transition Contracts by the Transition Customers, and such other services to be provided by the NewCos to the OldCos for the benefit of the Transition Customers, as the Parties may mutually agree in writing from time to time, pursuant to this Agreement; and

“Transition Services Pre-Payment Amount” means an amount equal to the cash received by the OldCos, prior to Closing, for the services to be performed by the OldCos under the Transition Contracts allocable to the Transition Period and Ongoing Monitoring Services Period.

1.2 Other Definitions

Term	Defined in Section
“Agreement”	Preamble herein
“Additional Amount”	Section 3.8 herein
“Applicants”	Recitals herein
“Books and Records”	Section 3.2(b) herein
“Business”	Recitals herein
“Canadian NewCo”	Preamble herein
“CA OldCo”	Preamble herein
“CCAA”	Recitals herein
“CCAA Court”	Recitals herein
“CCAA Proceedings”	Recitals herein
“CCAA Reserves”	Section 3.6(a) herein
“Company Parties” or “Company Party”	Recitals herein
“Effective Date”	Preamble herein
“Employee Transition Service Fees”	Section 3.1(c) herein
“Initial Order”	Recitals herein
“Licensed Names”	Section 2.3(a) herein

“Losses”	Section 2.10(a) herein
“Monitor”	Recitals herein
“NewCos”	Recitals herein
“OldCos”	Recitals herein
“OldCos Transition Services Payment”	Section 3.1(b) herein
“Party or Parties”	Preamble herein
“Representatives”	Section 2.10(a) herein
“Sales Taxes”	Section 3.8(a) herein
“Sandvine Entities”	Recitals herein
“Service Coordinators”	Section 2.13 herein
“SISP”	Recitals herein
“Transaction Agreement”	Recitals herein
“Transaction Documents”	Section 1.4 herein
“Transition Service Fees”	Section 3.1(a) herein
“New OpCo I”	Preamble herein
“New OpCo II”	Preamble herein

1.3 Interpretation

In this Agreement:

- (a) **Consent** – Whenever a provision of this Agreement requires an approval or consent and the approval or consent is not delivered within the applicable time limit, then, unless otherwise specified, the Party whose consent or approval is required shall be conclusively deemed to have withheld such approval or consent.
- (b) **Headings** – Headings of Articles and Sections are inserted for convenience of reference only and shall not affect the construction or interpretation of this Agreement.
- (c) **Including** – The word “including” or any variation thereof means “including, without limitation” and shall not be construed to limit any general statement that it follows to the specific or similar items or matters immediately following it. .
- (d) **No Strict Construction** – The language used in this Agreement is the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Party.
- (e) **Number and Gender** – Unless the context requires otherwise, words importing the singular include the plural and *vice versa* and words importing one gender include all genders.
- (f) **Severability** – If, in any jurisdiction, any provision of this Agreement or its application to any Party or circumstance is restricted, prohibited, or unenforceable, that provision shall, as to that jurisdiction, be ineffective only to the extent of the restriction, prohibition, or unenforceability without invalidating the remaining provisions of or the entirety of this Agreement and without affecting the validity or

enforceability of such provision or the entire Agreement in any other jurisdiction, or without affecting its application to other parties or circumstances.

1.4 Entire Agreement

This Agreement, the Transaction Agreement, and the agreements and other documents required to be delivered pursuant to this Agreement and the Transaction Agreement (collectively, the “**Transaction Documents**”) constitute the entire agreement between the Parties and set out all the rights, covenants, promises, warranties, representations, conditions, and agreements between the Parties in connection with the subject matter of the Transaction Documents and supersede all prior agreements, understandings, negotiations, and discussions, whether oral or written, pre-contractual, or otherwise. There are no rights, covenants, promises, warranties, representations, conditions, or other agreements, whether oral or written, pre-contractual or otherwise, express, implied, or collateral, whether statutory or otherwise, between the Parties in connection with the subject matter of the Transaction Documents except as specifically set forth in Transaction Documents. In the event of any inconsistency between the terms of this Agreement and the Transaction Agreement, the terms of the Transaction Agreement shall control. For greater certainty, this Agreement shall not derogate or detract from the Parties’ respective obligations as set forth in the Transaction Agreement.

1.5 Schedules

- (a) The following Schedules are attached to and form part of this Agreement:

<u>Schedule</u>	<u>Description</u>
“A”	Transition Services
“B”	Ongoing Monitoring Services
“C”	OldCos Transition Services
“D”	Employee Transition Services

- (b) The Disclosure Letter and all schedules thereto form an integral part of this Agreement.

ARTICLE 2 SERVICES TO BE PROVIDED

2.1 Transition Services, Ongoing Monitoring Services and OldCos Transition Services

- (a) The NewCos shall provide, or cause to be provided, (i) the Transition Services to the OldCos during the Transition Period, and (ii) the Ongoing Monitoring Services to the OldCos during the Ongoing Monitoring Services Period, each in accordance with, and subject to, the terms and conditions herein.
- (b) The OldCos shall provide, or cause to be provided, the OldCos Transition Services to the NewCos during the OldCos Transition Period, in accordance with, and subject to, the terms and conditions herein.

- (c) The OldCos shall provide, or cause to be provided, the Employee Transition Services to the NewCos in accordance with, and subject to, the terms and conditions herein.

2.2 Changes in Services Each OldCo will have the right, upon written notice to the NewCos and the Monitor, to request reasonable changes and/or modifications to the manner in which the Transition Services and Ongoing Monitoring Services, if applicable, are performed by the NewCos to the OldCos (e.g., frequency, schedule, delivery methods). The NewCos will have the right, upon written notice, to request reasonable changes and/or modifications to the manner in which the Employee Transition Services are performed by the OldCos to the NewCos (e.g., frequency, schedule, delivery methods). Each Party agrees that it will not unreasonably withhold its consent to any such requests for reasonable changes and/or modifications. To the extent the Transition Customers and the Parties mutually agree on the scope and applicable terms of any such changes and/or modifications, the Parties will implement such reasonable changes and/or modifications as agreed (and if the implementation timeline is not explicitly agreed, the Parties shall use commercially reasonable efforts to implement such changes and/or modifications in a timely manner).

- (b) Each NewCo will have the right, upon written notice to the OldCos and the Monitor, to request reasonable changes and/or modifications to the manner in which the OldCos Transition Services are performed by the OldCos to the NewCos (e.g., frequency, schedule, delivery methods). Each Party agrees that it will not unreasonably withhold its consent to any such requests for reasonable changes and/or modifications. To the extent the Parties mutually agree on the scope and applicable terms of any such changes and/or modifications, the Parties will implement such reasonable changes and/or modifications as agreed (and if the implementation timeline is not explicitly agreed, the Parties shall use commercially reasonable efforts to implement such changes and/or modifications in a timely manner).

2.3 Intellectual Property; Licenses

- (a) The NewCos hereby grant to the OldCos a limited, non-exclusive, royalty-free license to use any names belonging to the NewCos, including “Sandvine” and “Procera” (the “**Licensed Names**”), solely for purposes of (i) providing products and performing services for the Transition Customers under the Transition Contracts during term of this Agreement and solely as, to the extent, and in the form and manner as used as of the Effective Date, (ii) commencing or continuing any proceeding(s) under the CCAA or the Bankruptcy Code, as applicable, solely during the term of such proceeding(s), and (iii) providing the OldCos Transition Services. Any use of the Licensed Names by the OldCos and all goodwill arising therefrom, shall inure to the benefit of the NewCos. None of the OldCos shall contest the ownership or validity of any rights of the NewCos in or to the Licensed Names, nor shall any of the OldCos use or register the Licensed Names or any name or mark containing such Licensed Names, derivative thereof or confusingly similar thereto other than as expressly permitted in this Section 2.3(a).

- (b) The NewCos shall retain all right, title and interest in and to all Intellectual Property owned, controlled, invented, developed, created or reduced to practice by them prior to or at any time during the term of this Agreement (including all Intellectual Property in the Sandvine products and/or arising in the performance of the Transition Services and Ongoing Monitoring Services, if applicable) and all updates, improvements and other modifications thereto. Nothing in this Agreement shall be deemed to grant to the OldCos any right, title or interest therein; provided, however, that the NewCos hereby grant to the OldCos a limited, nonexclusive, nontransferable, nonsublicensable (other than to Transition Customers for use of Sandvine products and services under and in accordance with the Transition Contracts), royalty-free (subject to the payment of the Transition Service Fees hereunder) right and license to use the Intellectual Property (other than trademarks) owned by the NewCos for the term of this Agreement solely for the purpose of, and only to the extent necessary for, the receipt of the Transition Services and Ongoing Monitoring Services and provision of the OldCos Transition Services (in each case, if applicable) and performance under the Transition Contracts; and provided, further, that all Intellectual Property invented, created, developed or reduced to practice (i) by the OldCos in connection with such receipt of the Transition Services and Ongoing Monitoring Services and provision of the OldCos Transition Services, and (ii) by any Delayed Transfer Employees shall be the sole and exclusive property of NewCos. To the extent any right, title or interest in any such Intellectual Property vests in any of the OldCos or Delayed Transfer Employees by operation of law or otherwise in contravention of the foregoing, each of the OldCos hereby assign to the NewCos all of its right, title and interest in such Intellectual Property and agrees to, and to cause any Delayed Transfer Employees to, provide such assistance and execute such documents as the NewCos may reasonably request to vest in the NewCos and evidence their ownership of all right, title and interest in such Intellectual Property. The foregoing grant of a license and right to use the Intellectual Property shall be non-assignable, non-transferable, and non-sublicensable. Any attempt by the OldCos (or any one of them, or any of their successors or assigns, including, but not limited to, a trustee or receiver) to assign such license or right to use the Intellectual Property shall automatically terminate such license or right to use such Intellectual Property.

2.4 Ownership of Data

Subject to Section 2.3 herein, the Parties acknowledge and agree that, as between the Parties all information related to the Business (including as may be generated in the OldCos Transition Services), the Transition Services, or the Ongoing Monitoring Services, is and shall remain the exclusive property of the NewCos and NewCos shall be provided full access to all information generated by or otherwise related to the OldCos Transition Services.

2.5 Cooperation and Oversight

- (a) The OldCos shall cooperate fully and provide such assistance as is reasonably necessary for the NewCos to provide the Transition Services and Ongoing Monitoring Services, if applicable, in the manner required by this Agreement, including providing, as expeditiously as possible, any services or information to the

NewCos as may be reasonably necessary for NewCos to provide the Transition Services and Ongoing Monitoring Services, if applicable.

- (b) The NewCos shall cooperate fully and provide such assistance as is reasonably necessary for the OldCos to provide the OldCos Transition Services in the manner required by this Agreement, including providing, as expeditiously as possible, any services or information to the OldCos as may be reasonably necessary for OldCos to provide the OldCos Transition Services.
- (c) The Parties shall cooperate fully and provide such assistance as is reasonably necessary for the OldCos to provide the Employee Transition Services in the manner required by this Agreement, including providing, as expeditiously as possible, any services or information to the respective Party as may be reasonably necessary for such Party to provide the Employee Transition Services.
- (d) The NewCos and the OldCos acknowledge that the Monitor will continue to act as monitor of the OldCos in the CCAA Proceedings during the Transition Period, Ongoing Monitoring Services Period, if applicable, and OldCos Transition Period; *provided however* that, it is understood that the Monitor will not be an actual or deemed director, officer or otherwise act as a responsible person of any of the OldCos during the Transition Period, Ongoing Monitoring Services Period, if applicable, and OldCos Transition Period, or otherwise, and any expanded powers of the Monitor approved by the CCAA Court's order will expressly provide that the Monitor shall not be an actual or deemed director, officer or otherwise act as a responsible person in respect of the OldCos during the Transition Period, Ongoing Monitoring Services Period and OldCos Transition Period or otherwise or have any independent decision-making authority with respect to the OldCos during the Transition Period, Ongoing Monitoring Services Period, if applicable, and OldCos Transition Period.

2.6 [Reserved]

2.7 Control

Notwithstanding anything herein to the contrary, the NewCos shall have exclusive control of the Business at all times. No provision in this Agreement shall be deemed to grant to the OldCos any right or authority with respect to the Business, or to place upon the OldCos any duty or responsibility with respect to the Business. Any and all action taken with respect to a Transition Customer shall be deemed to be taken by or on behalf of the OldCos and not on or on behalf of the NewCos.

2.8 Services Subject to Legal Requirements and Commercial Reasonableness

Nothing herein shall be construed to require any Party to provide the Transition Services, Ongoing Monitoring Services, if applicable, and OldCos Transition Services in a manner which is commercially unreasonable in the circumstances, or in violation of any Law to which such Party is subject, nor to require any Person to violate or breach any contract or agreement to which such Person is subject, including, for the avoidance of doubt, any commitments to, or agreements with, the United States Government in connection with, related to, or as a result of, the removal of the

OldCos from the United States Department of Commerce Bureau of Industry and Security's Entity List.

2.9 Limitation of Liability

Except as arises as a direct result of the gross negligence, wilful misconduct, or fraud by a Party:

- (a) neither Party shall have any liability for any lost or prospective profits or any other special, punitive, exemplary, consequential, incidental, or indirect losses or damages (in tort, contract or otherwise), under or in respect of this Agreement or for any failure of performance related hereto howsoever caused;
- (b) the aggregate liability of the NewCos, in respect of the Transition Services and Ongoing Monitoring Services, if applicable, shall not exceed the aggregate compensation payable to them for such Transition Services and Ongoing Monitoring Services, if applicable, under this Agreement; and
- (c) the aggregate liability of the OldCos, in respect of the OldCos Transition Services shall not exceed the aggregate compensation payable to them for such OldCos Transition Services under this Agreement.

2.10 Indemnification

- (a) Each OldCo will, at its sole cost and expense, defend, indemnify, and hold harmless each NewCo, each of their Affiliates, and each of their respective directors, officers, members, managers, partners, employees, advisors, agents, and other representatives (collectively, the "**Representatives**") from and against any losses, expenses, liabilities, costs (including reasonable attorneys' fees), penalties, or damages of every kind and nature ("**Losses**") incurred by them, their Affiliates, their respective Representatives, or any third-party providers arising out of or related to (i) any action, claim or proceeding instituted by such third-party in connection with each NewCo's and/or its Affiliates' provision of Transition Services and Ongoing Monitoring Services, if applicable, hereunder, (ii) any action or failure to act by the personnel of any OldCo or its Affiliate or its and their respective Representatives in connection with this Agreement, (iii) any OldCo's breach of this Agreement, or (iv) the negligent act, omission, or willful misconduct by any OldCo or its Affiliate or its and their respective Representatives in using any Transition Services and Ongoing Monitoring Services, if applicable, rendered pursuant to this Agreement except to the extent such Losses are found by a final judgment of a court of competent jurisdiction to be caused by (x) a breach of any provision of this Agreement by any NewCo or (y) the gross negligence or willful misconduct of any NewCo or its Affiliate in the performance of any such Transition Service and Ongoing Monitoring Service, if applicable.
- (b) Each NewCo will, at its sole cost and expense, defend, indemnify, and hold harmless each OldCo and the Monitor, each of their Affiliates, and each of their respective Representatives from and against any Losses incurred by them, their Affiliates, their respective Representatives, or any third-party providers arising out of or related to any action, claim or proceeding instituted by such third-party in

connection with each OldCo's and/or its Affiliates' provision of OldCos Transition Services and Employee Transition Services hereunder, except (A) in the case of the OldCos and their respective Affiliates and Representatives, to the extent such Losses are found by a final judgment of a court of competent jurisdiction to be caused by (i) a breach of any provision of this Agreement by any OldCo or (ii) any gross negligence or willful misconduct of any OldCo or its Affiliate in the performance of any such OldCos Transition Services and Employee Transition Services and (B) in the case of the Monitor and its Affiliates and Representatives, to the extent such Losses are found by a final judgment of a court of competent jurisdiction to be caused by any gross negligence or willful misconduct of the Monitor.

2.11 Warranty Disclaimer

- (a) THE NEWCOS DO NOT MAKE, AND THE OLDCOS EXPRESSLY DISCLAIM, ANY AND ALL REPRESENTATIONS OR WARRANTIES WHATSOEVER, WHETHER EXPRESS, IMPLIED OR STATUTORY, WITH RESPECT TO THE SERVICES TO BE PROVIDED UNDER THIS AGREEMENT, INCLUDING WARRANTIES WITH RESPECT TO MERCHANTABILITY, OR SUITABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT OF ANY SOFTWARE OR HARDWARE PROVIDED HEREUNDER, AND ANY WARRANTIES ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE OR TRADE USAGE.
- (b) THE OLDCOS DO NOT MAKE, AND THE NEWCOS EXPRESSLY DISCLAIM, ANY AND ALL REPRESENTATIONS OR WARRANTIES WHATSOEVER, WHETHER EXPRESS, IMPLIED OR STATUTORY, WITH RESPECT TO THE SERVICES TO BE PROVIDED UNDER THIS AGREEMENT, INCLUDING WARRANTIES WITH RESPECT TO MERCHANTABILITY, OR SUITABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT OF ANY SOFTWARE OR HARDWARE PROVIDED HEREUNDER, AND ANY WARRANTIES ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE OR TRADE USAGE.

2.12 Confidentiality

The obligations set out in Section 10.4 of the Transaction Agreement shall apply *mutatis mutandis* to the obligations of the Parties under this Agreement.

2.13 Service Coordinator

The NewCos and the OldCos shall each provide the other with a list of primary and secondary contact persons (the "**Service Coordinators**"). Unless otherwise agreed upon by the Parties, all communications relating to the Transition Services, Ongoing Monitoring Services, if applicable, and OldCos Transition Services provided hereunder shall be directed to and through the Service Coordinators.

2.14 Force Majeure

If any Party is rendered unable, wholly or in part, by force majeure to carry out their obligations to provide Transition Services, Ongoing Monitoring Services, OldCos Transition Services or Employee Transition Services, as applicable, under this Agreement, such Party shall give the other Parties prompt written notice of the force majeure with reasonably detailed particulars. Following the delivery of such notice, the obligation of the Party that had delivered such notice to provide the Transition Services, Ongoing Monitoring Services, OldCos Transition Services or Employee Transition Services, as applicable, so far as it is affected by force majeure, shall be suspended during, but no longer than, the continuance of the force majeure. The Parties will use commercially reasonable efforts to remove the force majeure situation; *provided, however*, that the Parties shall not be required to hire additional personnel or contract workers, or to settle strikes, lockouts, or other labor difficulties. The term “force majeure” as used herein shall mean an act of God, strike, lockout, or other industrial disturbance, act of the public enemy, war, cyber-attack or incident, blockade, insurrection, public riot, epidemic, pandemic, landslide, lightning, fire, storm, flood, explosion, governmental action, governmental delay, restraint or inaction, and any other cause, whether of the kind specifically enumerated above or otherwise, which is beyond the reasonable control of the Party claiming suspension.

2.15 Equipment and Network Access; Bank Accounts

- (a) The Parties agree that, if any equipment owned or operated by any of the OldCos will remain connected to the NewCos’ networks, systems or other technology, or if any personnel of the OldCos or their Affiliates will maintain or be provided access to any such networks, systems or other technology during the term of this Agreement, then the use of, and access related to, such networks, systems and other technology shall be subject to all applicable security and acceptable use policies and other requirements of the NewCos. The OldCos will take necessary and appropriate measures to assure that their and their Affiliates’ personnel utilize such access: (a) in good faith and in compliance with all applicable laws; and (b) consistent with the restrictions placed on their individual network access account. The OldCos also agree to immediately (and in any event, within 24 hours) notify the NewCos, and reasonably cooperate with any investigation by the NewCos, of any suspected or detected breach of security, incident of misuse or other disruption of such networks, technology or other systems.
- (b) The OldCos hereby agree that the Chief Financial Officer of each of the NewCos (or any such other officer or employee designated by the applicable NewCos) shall be designated by the OldCos as an authorized signatory for the bank accounts of the OldCos solely to the extent needed in connection with the provision of the Transition Services, the Ongoing Monitoring Services, the OldCos Transition Services and the Employee Transition Services, as applicable.

2.16 Additional Resources

Notwithstanding anything to the contrary in this Agreement, in providing the Transition Services and Ongoing Monitoring Services, as applicable, no NewCo shall be obligated to hire any additional employees, including without limitation, in the event of a departure of any employee or employees of such applicable NewCo. In the event that the applicable NewCo is unable to perform

the Transition Services as a result of any such departure of an employee or employees, the Transition Services provided by such NewCo shall be suspended during, but no longer than, the period in which such NewCo is unable to perform such Transition Services as a result of such departure.

ARTICLE 3 COMPENSATION AND PAYMENT TERMS

3.1 Compensation

- (a) The NewCos will provide the Transition Services and Ongoing Monitoring Services, if applicable, to the OldCos in exchange for an amount equal to (i) the Transition Customer Revenues minus (ii) the OldCos Revenue Share (the “**Transition Service Fees**”).
- (b) The OldCos will provide the OldCos Transition Services to the NewCos in exchange for an amount equal to the OldCos Transition Services Costs (the “**OldCos Transition Services Payment**”).
- (c) The OldCos will provide the Employee Transition Services in exchange for an amount equal to the Employee Transition Services Costs (the “**Employee Transition Service Fees**”).

3.2 Reporting and Audit Rights

- (a) Within two (2) Business Days following the end of each week, the OldCos shall report to the NewCos the amount of Transition Customer Revenue they have received and the Direct Costs that are payable for such week.
- (b) During the term of this Agreement, the OldCos shall maintain all books, records, documents, and other evidence related to the Transition Customers, the Transition Services, the Ongoing Monitoring Services, the Transition Contracts, the Transition Customer Revenue received, the OldCos Transition Services, the OldCos Transition Services Costs, the Employee Transition Services and the Employee Transition Services Costs (the “**Books and Records**”). The Books and Records shall be delivered and handed over to the NewCos, at the NewCos’ expense, following the termination of this Agreement. So long as such Books and Records are retained by the OldCos pursuant to this Agreement, the NewCos will have the reasonable right to verify, audit, inspect, or make copies (at their own expense) of the Books and Records, upon reasonable request during normal business hours and upon reasonable notice for any proper purpose and without undue interference to the business operations of the OldCos; *provided that*, the OldCos will have the right to have their Representatives present during any such inspection.

3.3 Payment of Transition Service Consideration and Employee Transition Service Consideration

- (a) The NewCos will invoice the OldCos for the Transition Service Fees payable on a bi-weekly basis, which invoice shall set forth each NewCo’s determination of the

appropriate portion of such Transition Service Fee that is allocable to it (which allocation shall be based on the portion of the services provided by such NewCo) and the appropriate portion of the Transition Service Fees (if any) that is attributable to services rendered by New OpCo I and New OpCo II in Canada for purposes of the Tax Act.

- (b) The OldCos shall pay to the NewCos, on the Closing Date, the Transition Services Pre-Payment Amount to an account(s) and in a manner directed by the NewCos. The Transition Services Pre-Payment Amount shall be earned by the NewCos on a rolling basis as and when the Transition Services are performed by the NewCos as set out on the bi-weekly invoices. Notwithstanding anything to the contrary contained herein, in no event shall the OldCos or any other Person be entitled to request any of the NewCos to return any portion of the Transition Services Pre-Payment Amount or be able to assert any Claims against any of the NewCos in connection with, related to, or as a result of, the Transition Services Pre-Payment Amount.
- (c) The OldCos shall pay any Transition Service Fees in respect of any additional Transition Customer Revenue received during the Transition Period to the applicable NewCo the amounts so invoiced no later than five (5) Business Days after receipt of the invoice. All amounts due and payable by the OldCos shall accrue interest at a rate equal to 12% per annum from the first day on which such amounts are overdue hereunder until the date payment is received by the NewCos.
- (d) The NewCos shall notify the OldCos of amounts owed in connection with the Transition Services and Ongoing Monitoring Services, if applicable, provided hereunder, accompanied by reasonably detailed supporting documentation.
- (e) The OldCos will invoice the NewCos for the Employee Transition Service Fees payable on a bi-weekly basis, which invoice shall set forth each OldCo's determination of the appropriate portion of such Employee Transition Service Fee that is allocable to it (which allocation shall be based on the portion of the services provided by such OldCo).
- (f) The NewCos shall promptly pay to the OldCos the Employee Transition Services Fee to an account(s) and in a manner directed by the OldCos.
- (g) The OldCos shall notify the NewCos of amounts owed in connection with the Employee Transition Services provided hereunder, accompanied by reasonably detailed supporting documentation.

3.4 Payment of OldCos Transition Service Payment and Employee Transition Services Fees

- (a) The OldCos will invoice the NewCos for the OldCos Transition Services Payment payable on a bi-weekly basis, which invoice shall set forth each OldCo's determination of the appropriate portion of such OldCos Transition Services Payment that is allocable to it (which allocation shall be based on the portion of the OldCos Transition Services Costs incurred by such OldCo) and the appropriate

portion of the OldCos Transition Services Payment (if any) that is attributable to the OldCos Transition Services Costs incurred by US OldCo in Canada for purposes of the Tax Act. All amounts due and payable by the NewCos shall accrue interest at a rate equal to 12% per annum from the first day on which such amounts are overdue hereunder until the date payment is received by the OldCos.

- (b) The US OldCo will invoice the NewCos for the Employee Transition Services Fees payable on a bi-weekly basis. All amounts due and payable by the NewCos shall accrue interest at a rate equal to 12% per annum from the first day on which such amounts are overdue hereunder until the date payment is received by the US OldCo.
- (c) The OldCos shall notify the NewCos of amounts owed in connection with the OldCos Transition Services and Employee Transition Services provided hereunder, accompanied by reasonably detailed supporting documentation.

3.5 Payment Disputes

- (a) In the event that any of the OldCos in good faith disputes any invoice, or any portion thereof, from any of the NewCos issued pursuant to Section 3.3(a) of this Agreement, the OldCos shall pay the undisputed portion of the invoice and provide the NewCos written notice of the disputed amounts, together with a statement of the particulars of the dispute and support therefor, including the calculations with respect to any errors or inaccuracies claimed.
- (b) In the event that any of the NewCos in good faith disputes any invoice, or any portion thereof, from any of the OldCos issued pursuant to Section 3.3(e) of this Agreement, the NewCos shall pay the undisputed portion of the invoice and provide the OldCos written notice of the disputed amounts, together with a statement of the particulars of the dispute and support therefor, including the calculations with respect to any errors or inaccuracies claimed.

3.6 CCAA Reserves

- (a) Notwithstanding anything in this Agreement, to the extent that any amount payable by any of the NewCos under this Agreement are payable from the Transition Services Fees Reserve, the Administrative Expense Reserve or the Priority Payments / Disputed Cure Costs / CCAA Charges Reserve (collectively, the “**CCAA Reserves**”), such amount shall be paid from such CCAA Reserve and the NewCos will not have any obligation hereunder to pay such amounts.
- (b) In the event that any OldCos are required to pay Direct Costs that are not payable from any CCAA Reserve, the NewCos shall pay such Direct Costs; *provided that*, the OldCos Revenue Share shall be reduced by the amount of such Direct Costs paid by the NewCos (or any of them).

3.7 No Right of Offset

Neither Party shall have a right to offset, deduct, or withhold any monies from any amounts due under this Agreement based on any amounts owed or claimed to be owed to them by the other Party, unless otherwise agreed by the other Party.

3.8 Taxes

- (a) All Transition Service Fees payable shall be exclusive of any applicable sales, goods and services, value-added, multi-staged or similar Tax imposed by any applicable federal, state provincial, territorial or local law in connection with the Transition Services and Ongoing Monitoring Services, if applicable, provided under this Agreement (“**Sales Taxes**”). The OldCos shall be liable for and shall pay to the NewCos an amount equal to any such Sales Taxes payable by the OldCos and collectible by the NewCos (including GST/HST under the *Excise Tax Act* (Canada)) or payable by the NewCos or any of their Affiliates. Each of the NewCos agrees to clearly reference their applicable tax registration numbers on all invoices issued to any of the OldCos.
- (b) All OldCos Transition Services Payment and Employee Transition Service Fees payable shall be exclusive of Sales Taxes. The NewCos shall be liable for and shall pay to the OldCos an amount equal to any such Sales Taxes payable by the NewCos and collectible by the OldCos (including GST/HST under the *Excise Tax Act* (Canada)) or payable by the OldCos or any of their Affiliates. Each of the OldCos agrees to clearly reference their applicable tax registration numbers on all invoices issued to any of the NewCos.
- (c) Each Party shall be entitled to deduct and withhold, or cause to be deducted or withheld, from any amounts payable or any consideration deliverable pursuant to this Agreement, such amounts as required to be deducted and withheld therefrom under any applicable federal, state, provincial, local or other law. To the extent that amounts are required to be so deducted or withheld, the payor shall (i) make such deduction or withholding as required by applicable law, (ii) timely pay the full amount deducted or withheld to the applicable Governmental Entity, (iii) provide the payee with a receipt or other documentation evidencing such payment, including the amount paid and the applicable Governmental Entity and (iv) pay the payee such additional amounts to the extent necessary to ensure that, after the making of any such deduction or withholding (including deductions applicable to additional sums payable under this Section 3.8(c)), such payee receives an amount equal to the sum it would have received had no such deductions been made (each such additional amount being an “**Additional Amount**”); *provided that*, no such Additional Amounts will be required to be paid with respect to any such deduction or withholding that could have been reduced or avoided by providing any applicable certification, identification, documentation, or other information reasonably requested by the applicable payee. If a payee receives a refund of tax (or credit or reimbursement for overpayment of tax) in respect of tax withheld or deducted by the payor and for which an Additional Amount under this Section was paid to a payee, the payee shall pay the amount of such refund (or credit or reimbursement) to the payor no later than five (5) Business Days after receipt of

the refund (or confirmation of the credit or reimbursement) and any such amount shall accrue interest at a rate equal to 12% per annum from the first day on which such amounts are overdue hereunder until the date payment is received by the payor. Any payee who receives an Additional Amount under this Section shall use commercially reasonable efforts to pursue and obtain any available refund (or credit or reimbursement) of any of tax deducted or withheld with respect to any payment hereunder. The Parties agree to provide each other with such information as may be reasonably requested by the other in order to comply with applicable law, and to make reasonable commercial efforts to minimize any Sales Taxes or the amount of Taxes required to be withheld under applicable law, including without limiting the generality of the forgoing and as applicable, (A) New OpCo I and New OpCo II providing, to the extent legally able to do so, NR300 series forms certifying they are entitled to the benefits of the *Canada-United States Convention with Respect to Taxes on Income and on Capital* with respect to the Transition Service Fees payable to them pursuant to this Agreement; and (B) US OldCo providing, to the extent legally able to do so, NR300 series forms certifying that it is entitled to the benefits of the *Canada-United States Convention with Respect to Taxes on Income and on Capital* with respect to the OldCos Transition Service Payment payable to it pursuant to this Agreement.

ARTICLE 4 TERM AND TERMINATION

4.1 Term

This Agreement shall become effective as of the Closing. Subject to its prior termination with respect to any Transition Services, Ongoing Monitoring Services, if applicable, or OldCos Transition Services in accordance with Section 4.2, Section 2.1 of this Agreement shall be in effect (a) with respect to each Transition Service until (and shall terminate with respect thereto upon) the end of the Transition Period for each Transition Contract, (b) with respect to each Ongoing Monitoring Service until (and shall terminate with respect thereto upon) the end of the Ongoing Monitoring Service Period for each Transition Contract, (c) with respect to each OldCos Transition Services until (and shall terminate with respect thereto upon) the end of the OldCos Transition Period, and (d) the Employee Transition Services until (and shall terminate with respect thereto upon) the end of the Employee Transition Services Period for each Delayed Transfer Employee.

4.2 Termination

This Agreement is to terminate on any of the following events:

- (a) mutual written agreement by the Parties;
- (b) the failure of the OldCos to pay any amount due hereunder and the OldCos fails to pay such amount for a period of seven days following written demand by the NewCos;
- (c) in respect of OldCos Transition Services and the Employee Transition Services only, the failure of the NewCos to pay any amount due hereunder and the NewCos

fails to pay such amount for a period of seven days following written demand by the OldCos;

- (d) upon 30 days' written notice of the applicable NewCo to the applicable OldCos;
- (e) unless terminated at an earlier time pursuant to this Section 4.2, this Agreement shall automatically terminate with respect to each Transition Customer on the later of (i) such Transition Customer's Exit Date, unless the provision of the Transition Service is extended in writing beyond the Exit Date, and (ii) at the end of such Transition Customer's Ongoing Monitoring Services Period, unless the provision of the Ongoing Monitoring Service is extended in writing beyond the Ongoing Monitoring Services Period; or
- (f) unless terminated at an earlier time pursuant to this Section 4.2, this Agreement shall automatically terminate with respect to each OldCos Transition Service upon expiry of the OldCos Transition Period.

4.3 Effect of Termination

Upon termination of this Agreement in accordance with Section 4.2 the Parties will be released from all further obligations to each other hereunder. Notwithstanding the foregoing, the provisions of each of Article 1, Sections 2.3, 2.4, 2.9, 2.10, Article 3, Section 4.3 and Article 5 shall remain in full force and effect and survive the termination of this Agreement. Termination of this Agreement (either as a whole or with respect to any Transition Service, any Ongoing Monitoring Service, any OldCos Transition Service or with respect to any Party) for any reason by any Party shall not relieve the Parties of any obligation which accrued prior to such termination.

ARTICLE 5 MISCELLANEOUS

5.1 Disclaimer

The Transition Services, the Ongoing Monitoring Services, if applicable, the OldCos Transition Services and all other facilities, equipment, and services provided under this Agreement, are provided by the Parties on an "as is" and "where is" basis, without any representations or warranties, express or implied, including any implied representation or warranty as to the condition, merchantability, non-infringement, sufficiency, suitability or fitness for a particular purpose.

5.2 Dispute Resolution

All disputes under this Agreement are to be resolved in accordance with the Transaction Agreement.

5.3 No Agency

Nothing in this Agreement shall constitute or be deemed to constitute a partnership or joint venture between the Parties or constitute or be deemed to constitute either Party the agent or employee of the other for any purpose whatsoever, and neither Party shall have authority or power to bind the

other or to contract in the name of, or create a liability against, the other in any way or for any purpose.

5.4 Notices

All notices, requests and other communications given or made pursuant hereto shall be in writing and shall be sufficiently given if delivered or transmitted in accordance with the Transaction Agreement.

5.5 Amendments

No amendment, supplement, modification or waiver or termination of this Agreement and, unless otherwise specified, no consent or approval by any Party, is binding unless executed in writing by the Party to be bound.

5.6 Assignment

No Party may assign this Agreement or any of the benefits, rights, or obligations under this Agreement without the prior written consent of each of the other Party. No assignment shall relieve either Party of its responsibility for the performance of any obligation that such Party has accrued hereunder as of the date of such assignment. Any purported assignment in violation of the terms of this Section 5.6 shall be null and void, and of no force and effect.

For the avoidance of doubt, the NewCos (or any of them) may, in their sole and absolute discretion, determine not to consent to the assignment of any of the benefits, rights, or obligations under this Agreement.

5.7 Non-Assumption

Subject to the Transaction Agreement in all respects, no NewCo's execution of this Agreement shall be deemed to effect any assumption or assignment of any contract (and/or any claims, liabilities, or obligations arising thereunder) between any OldCo and a third-party.

5.8 Release

Each of the Parties acknowledge and agree that the OldCos shall seek, or support the Monitor in seeking, as part of the Order of the CCAA Court terminating the CCAA Proceedings following the end of the Transition Period, Ongoing Monitoring Services Period, if applicable, and OldCos Transition Period, a release and discharge in favour of the Monitor, each NewCo and their respective Affiliates and each of their respective directors, officers, employees, advisors and representatives, and the directors, officers, employees, advisors and representatives of the OldCos, of and from, and hereby unconditionally and irrevocably waives, any and all present and future Claims (including, without limitation, Claims for contribution or indemnity), liabilities, indebtedness, demands, actions, causes of action, counterclaims, suits, damages, judgments, executions, recoupments, debts, sums of money, expenses, accounts, liens, taxes, recoveries, and obligations of any nature or kind whatsoever (whether direct or indirect, known or unknown, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, matured or unmatured or due or not yet due, in law or equity and whether based in statute or otherwise) based in whole or in part on any act or omission, transaction, offer, investment proposal, dealing, or other fact, matter,

occurrence or thing existing or taking place, or undertaken or completed in connection with or pursuant to the terms of this Agreement, in respect of, relating to, or arising out of (i) the NewCos' business, operations, assets, property and affairs related to the Transition Services, Ongoing Monitoring Services, if applicable, OldCos Transition Services and Employee Transition Services, (ii) the OldCos' business, operations, assets, property and affairs related to the Transition Services, Ongoing Monitoring Services, if applicable, OldCos Transition Services and Employee Transition Services, (iii) the administration and/or management of the NewCos and the OldCos, or (iv) this Agreement and any other document, agreement, instrument, matter, or transaction involving the NewCos and the OldCos in connection with the Transition Services, Ongoing Monitoring Services, if applicable, OldCos Transition Services and Employee Transition Services.

5.9 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein, and the Parties hereby attorn to the Court in the CCAA Proceedings for the adjudication of all matters arising out of this Agreement.

5.10 Enurement

This Agreement enures to the benefit of and is binding upon the Parties and their respective successors (including any trustee in bankruptcy of any Party) and permitted assigns.

There are no third party beneficiaries of this Agreement and nothing in this Agreement, express or implied, is intended to confer on any person other than the parties hereto (and their respective successors and permitted assigns), any rights, remedies, obligations or liabilities.

5.11 Counterparts

This Agreement may be executed by the Parties in counterparts and the counterparts may be executed and delivered by electronic means, with all counterparts together constituting one agreement.

5.12 No Waiver

No delay or omission on the part of either Party to this Agreement in requiring performance by the other Party or in exercising any right hereunder shall operate as a waiver of any provision hereof or of any right or rights hereunder; and the waiver, omission or delay in requiring performance or exercising any right hereunder on any one occasion shall not be construed as a bar to or waiver of such performance or right, or of any right or remedy under this Agreement, on any future occasion.

5.13 Fulfillment of Obligations

Any obligation of either Party to the other Party under this Agreement, which obligation is performed, satisfied or fulfilled completely by an Affiliate of such Party, shall be deemed to have been performed, satisfied or fulfilled by such Party.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

CANADIAN NEWCO

By: _____
Name:
Title:

NEW OPCO I

By: _____
Name:
Title:

NEW OPCO II

By: _____
Name:
Title:

SANDVINE CORPORATION

By: _____
Name:
Title:

PROCERA NETWORKS, INC.

By: _____
Name:
Title:

SCHEDULE "A"

TRANSITION SERVICES

Transition Services to be provided to the OldCos include:

- Services necessary to perform under Transition Contracts and to provide ongoing licensing services, including (i) facilitating delivery of product, including through providing access to software and product documentation download sites (subject to compliance with applicable End User License Agreements); (ii) software subscription services; (iii) software support, patches and downloads, signature and license key updates; (iv) hardware support, including hardware integration, delivery and support, including providing fixes and repairs via the RMA (Return Material Authorization) process; (v) license server access, updates to licenses and security certificates;
- Financial transaction support, order management and processing, including (i) use of SalesForce, SAP and other tools to record customer transactions (such as purchase, support, professional services project implementation, billing, invoicing and collections), (ii) customary accounting, revenue recognition, billing, accounts receivable, collections, audit and similar services, (iii) banking support, and (iv) legal support;
- Services to enable the OldCos to perform under End User License Agreements that are Transition Contracts, including, without limiting the generality of the services under the first bullet, (i) maintaining customer support through access to support portal and software and product documentation download sites (subject to compliance with applicable End User License Agreements); and (ii) responding to support tickets;
- Project deployment professional services and training services, including (i) project management and technical work needed to install, configure, integrate; test and deploy Sandvine products; and (ii) e-learning and instructor lead training on Sandvine products;
- Value-added services, including (i) updating and customizing the signatures which identify consumer applications; (ii) daily operation, change management and customer assistance using the product; or (iii) customer success manager as a single point of contact for all post-sales support work for a customer; and
- Other services, notwithstanding anything herein or in the Agreement to the contrary, in addition to the aforementioned services, the NewCos may provide certain other transition services. The provision, if any, of such other services shall be on the terms and conditions mutually agreed upon between the NewCos and the OldCos, with the consent of the Monitor.

SCHEDULE “B”

ONGOING MONITORING SERVICES

Ongoing Monitoring Services to be provided to the OldCos include:

- Provision of a license validation service that is owned and maintained by the NewCos. This system allows termination of licenses should any of the Transition Customers violate the applicable End User License Agreements. In that event, the NewCos may invalidate the license on behalf of the OldCos by changing its configuration in the licensing service for that Transition Customer;
- Limited support should there be technical issues with the licensing service or the underlying licenses; and
- For the avoidance of doubt, the NewCos will not provide any software updates, customer support, or signature updates during the Ongoing Monitoring Services Period. The Ongoing Monitoring Services are purely and solely being provided to retain control of the customer licenses in the event of misuse and violation of the applicable End User License Agreements.

SCHEDULE “C”

OLDCOS TRANSITION SERVICES

OldCos Transition Services to be provided to the NewCos include:

- Utilization of OldCos’ bank accounts, banking automation system and other programs and systems for (x) payment of vendor invoices payable by NewCo and (y) payroll and benefits;
- Utilization of payroll processing systems for NewCo employee and contractor payments;
- Providing, and maintaining on behalf of the NewCos, the same Employee Plan coverage and benefits including, but not limited to, medical, dental, and life insurance, for Employees and any related administration and maintenance services;
- Providing the same coverage and benefits for each Employee Plan that is (x) qualified within the meaning of Section 401(a) of the Code (e.g., a 401(k) plan) and (y) is a Registered Retirement Savings Plan or Deferred Profit Sharing Plan within the meaning of the Tax Act;
- Providing services related to Employee-related tax filings and documentation;
- Utilization of the OldCos’ credit cards to make payments on behalf of NewCos;
- Utilization of OldCos programs, systems and related data for the cancellation of outstanding quotes issued to NewCo customers by OldCos prior to Closing;
- Redirecting payment of vendor invoices incorrectly addressed to the OldCos;
- Redirecting payments received from customers into the OldCos’ bank accounts; and
- Redirecting purchase orders addressed to the OldCos.

SCHEDULE “D”

EMPLOYEE TRANSITION SERVICES

- Services necessary to transfer employment of Delayed Transfer Employees, including facilitating all employment related documentation for the Delayed Transfer Employees to work in Dubai, United Arab Emirates;
- Services necessary to facilitate continuity of services, including facilitating NewCos’, and their employees’, access to the office space leased by the US OldCo’s branch in the United Arab Emirates and providing NewCos and their employees with the authority to use and to access any assets owned by the US OldCo’s United Arab Emirates branch at Closing (if any) prior to the assignment of such assets to the NewCos;
- Other Services to NewCos, regarding Assigned Contracts, sales, product implementation and customer support, including, but not limited to: (i) facilitating delivery of product, including through providing access to software and product documentation download sites (subject to compliance with applicable End User License Agreements); (ii) software subscription services; (iii) software support, patches and downloads, signature and license key updates; (iv) hardware support, including hardware integration, delivery and support, including providing fixes and repairs via the RMA (Return Material Authorization) process; and (v) license server access, updates to licenses and security certificates; and
- Other services, notwithstanding anything herein or in the Agreement to the contrary, in addition to the aforementioned services, the OldCos may provide certain other employee transition services. The provision, if any, of such other services shall be on the terms and conditions mutually agreed upon between the OldCos and the NewCos, with the consent of the Monitor.

This is Exhibit "B" referred to in the Affidavit of JEFFREY A. KUPP sworn by JEFFREY A. KUPP of the City of Dallas, in the State of Texas of the United States of America, before me at the City of Vancouver, in the Province of British Columbia on January 28, 2025 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

MAYA CHURILOV

LSO# 87190A

TRANSITION SERVICES AGREEMENT

THIS TRANSITION SERVICES AGREEMENT (this “Agreement”) is dated as of [●], 2025 (the “Effective Date”).

BETWEEN:

[●], a corporation ~~governed by~~ formed under the laws of [●] ~~(the “CA any jurisdiction in Canada in accordance with the Implementation Steps (the “Canadian NewCo”)~~

AND:

[●], a Delaware limited liability company ~~governed by the laws of [●]~~ formed in accordance with the Implementation Steps (the “New OpCo I”)

AND:

[●], a Delaware limited liability company ~~governed by the laws of [●]~~ formed in accordance with the Implementation Steps (the “New OpCo II” and together with the Canadian NewCo and the New OpCo I, the “NewCos”)

AND:

SANDVINE CORPORATION, a corporation governed by the laws of British Columbia, ~~(the “CA OldCo”)~~

AND:

PROCERA NETWORKS, INC., a corporation governed by the laws of Delaware (the “US OldCo” and together with the CA OldCo, the “OldCos”)

(collectively, the “Parties”, and each a “Party”)

WHEREAS:

- A. the OldCos, directly and indirectly through their wholly-owned subsidiaries and Affiliates (collectively, the “Company Parties” and each, a “Company Party”), carry on the business, taken as a whole, consisting of (i) the development and production of software and hardware application and network intelligence solutions, (ii) the provision of support in respect thereof globally, and (iii) the ownership and licensing of certain intellectual property that is owned by, licensed to, or used by the Company Parties;
- B. certain of the Company Parties entered into a restructuring support agreement with Existing Loan Lenders holding 97% of the Existing Loans whereby they agreed to the principal aspects of a transaction, to be implemented through a sale and investment solicitation process (the “SISP”) under the *Companies’ Creditors Arrangement Act* (Canada) (as amended, the “CCAA”);

- C. on November 7, 2024 (the “**Petition Date**”), the OldCos and certain of their Affiliates (the “**Applicants**” and together with Procera II LP, a Cayman Islands exempted limited partnership, the “**Sandvine Entities**”) commenced proceedings under the CCAA (the “**CCAA Proceedings**”) before the Ontario Superior Court of Justice (Commercial List) (the “**CCAA Court**”) to seek an initial order (as may be amended and restated from time to time, the “**Initial Order**”);
- D. ~~Pursuant~~pursuant to the Initial Order, the CCAA court appointed KSV Restructuring Inc., a licensed insolvency trustee, ~~was appointed~~ as the monitor in the CCAA Proceedings (in such capacity, the “**Monitor**”);
- E. on the Petition Date, CA OldCo, in its capacity as foreign representative of the Applicants, commenced ancillary insolvency recognition proceedings in the United States Bankruptcy Court for the Northern District of Texas (Dallas Division) (the “**Chapter 15 Court**”) under Chapter 15 of Title 11 of the United States Code (the “**Bankruptcy Code**”, and the resulting proceedings, the “Chapter 15 Proceedings”);
- F. on December ~~4~~3, 2024, the Chapter 15 Court entered an order recognizing the CCAA Proceedings as “foreign main proceedings” as defined in the Bankruptcy Code;
- G. on November 15, 2024, the CCAA Court granted an order (the “SISP Approval Order”) which, among other things, (i) approved the SISP; (ii) authorized the Sandvine Entities, GLC Advisors & Co., LLC and GLC Securities, LLC (in their capacity as financial advisor to the Sandvine Entities) to implement the SISP to solicit interest in, and opportunities for: (a) one or more sale(s) or partial sale(s) of all, substantially all, or certain portions of the rights, title and interests in property, assets and undertakings of the Sandvine Entities and/or the business of the Sandvine Entities (the “**Business**”); and/or (b) for an investment in, restructuring, recapitalization, refinancing or other form of reorganization of all or some of the Sandvine Entities or all or part of the Business; and (ii) authorized and empowered the Sandvine Entities to enter into ~~that certain Stalking Horse Transaction Agreement by and between NewCo Parent, the OldCos, and Sandvine Holdings UK Limited, a private limited company incorporated under the laws of England and Wales (the “Stalking Horse Transaction Agreement”)~~a transaction agreement with the Consenting Stakeholders (or their designees) on substantially the same economic terms as set out in the Restructuring Term Sheet and the Restructuring Support Agreement (each as defined in the SISP Approval Order), to serve as the “stalking horse” agreement in the SISP;
- H. in connection with the CCAA Proceedings and the Chapter 15 Proceedings, the Sandvine Entities pursued the SISP with a view to implementing a transaction that would allow the continuation of the Business as a going concern;
- I. in accordance with the SISP, ~~the Stalking Horse~~ Approval Order and the SISP, a transaction agreement dated December 18, 2024 was entered into by and between Dune Parent LLC, as “NewCo Parent”, the OldCos, as “Sellers”, and Sandvine Holdings UK Limited, a private limited company incorporated under the laws of England and Wales (as may be amended and restated from time to time, the “Transaction Agreement ~~was deemed the “Successful Bid” and pursuant to the Stalking Horse Transaction Agreement,~~

~~the NewCos have agreed to perform certain Transition Services for the OldCos during each Transition Period (as defined below).”;~~

~~J. at Closing pursuant to the Stalking Horse Transaction Agreement, the NewCos and the OldCos shall execute and deliver a transition services agreement in substantially the form of this Agreement; and~~

J. on December 18, 2024, following the conclusion of the Phase 1 Bid Deadline (as defined in the SISP Approval Order), the Transaction Agreement was deemed the “Successful Bid” pursuant to and in accordance with the SISP;

K. pursuant to Transaction Agreement, and in order to support the Transition Customers (as defined below) with discontinuing the use of solutions currently provided under the Transition Contracts (as defined below) in an orderly manner, the Parties have agreed that (i) during a Transition Period (as defined below), the NewCos shall provide or cause the Transition Services (as defined below) to be provided to the OldCos, and (ii) during an Ongoing Monitoring Services Period (as defined below), the NewCos shall provide or cause the Ongoing Monitoring Services (as defined below) to be provided to the OldCos, each in accordance with the terms and conditions herein;

L. the OldCos have agreed to perform certain OldCos Transition Services (as defined below) for the NewCos during the OldCos Transition Period (as defined below);

M. in order to support the transfer of the Delayed Transfer Employees to NewCos, the Parties have agreed that during the Employee Transition Services Period, the OldCos shall provide or cause the Employee Transition Services (as defined below) to be provided to the NewCos in accordance with the terms and conditions herein; and

N. at Closing, pursuant to the Transaction Agreement, the NewCos and the OldCos shall execute and deliver a transition services agreement in substantially the form of this Agreement.

THEREFORE, IN CONSIDERATION of the foregoing and the mutual agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties represent, warrant, covenant and agree as follows:

ARTICLE 1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the ~~Stalking Horse~~ Transaction Agreement; *provided that*, the following words shall have the following meanings:

“**Direct Costs**” of an OldCo in respect of a Transition Period, means all reasonable costs, fees, expenses and charges ~~incurred~~ paid (subject to Section 3.6) by an OldCo for the Transition Period that are reasonably necessary in connection with the performance of the Transition Contracts by the OldCo, including any charges of any third persons (including the Monitor and its counsel and advisors);

“**Disclosure Letter**” means the confidential disclosure letter to be delivered by the OldCos to the NewCos, with a copy to the Monitor;

“**Employee Transition Services**” means, collectively, all of the professional services, support and maintenance services, and other services as more particularly described in Schedule “D” attached hereto, in each case, to be provided by the OldCos or the Delayed Transfer Employees, as applicable, to the NewCos;

“**Employee Transition Services Costs**” means the reasonable and documented direct costs, fees, expenses and charges paid or payable by US OldCo, during the Employee Transition Services Period, that are reasonably necessary in connection with the performance of the Employee Transition Services by US OldCo, including any charges of any third persons (including the Monitor and its counsel and advisors);

“**Employee Transition Services Period**” means the date that is six months from the Effective Date, or such later date as the Parties may mutually agree in writing from time to time, pursuant to this Agreement;

“**Exit Date**” means the “Exit Date” set out in the applicable Exit Letter, or as otherwise agreed to between the Transition Customer and the applicable OldCo;

“**Exit Letter**” means, with respect to each Transition Customer, the letter that the Company Parties (or any of them) sent to the Transition Customer providing, among other things, that as of the Exit Date: (a) such Transition Customer’s agreement(s) with the applicable Company Party would terminate, (b) the applicable Company Party would not accept new orders for its products and services from such Transition Customer, and (c) the applicable Company Parties will stop providing professional services or support and maintenance services, if applicable;

“**OldCos Revenue Share**” in respect of a Transition Period, means the Direct Costs of the OldCos for the Transition Period plus a mark-up of ~~10~~% or such other percentage agreed by the NewCos and OldCos, with the consent of the Monitor, provided that the OldCos Revenue Share cannot exceed the Transition Customer Revenue for a Transition Period;

“**OldCos Transition Period**” means the date that is six months from the Effective Date, or such later date as the Parties may mutually agree in writing from time to time with the consent of the Monitor, pursuant to this Agreement;

“**OldCos Transition Services**” means the services described in Schedule “C” attached hereto, and such other services to be provided by the OldCos to the NewCos, as the Parties may mutually agree in writing from time to time with the consent of the Monitor, pursuant to this Agreement;

“**OldCos Transition Services Costs**” means the reasonable and documented direct costs, fees, expenses and charges paid or payable by an OldCo for the OldCos Transition Period that are reasonably necessary in connection with the performance of the OldCos

Transition Services by the OldCos, including any charges of any third persons (including the Monitor and its counsel and advisors);

“Ongoing Monitoring Services” means the ongoing monitoring services as more particularly described in Schedule “B” attached hereto;

“Ongoing Monitoring Services Period” means, with respect to any Transition Customer, the period from the date of this Agreement to the earlier of (a) December 31, 2026, and (b) the date on which the Parties mutually determine that Ongoing Monitoring Services are not required for such Transition Customer;

“Transition Contract” means all Contracts with Transition Customers that are not Assigned Contracts;

“Transition Customer” means any of the Company Parties’ customers set forth in Schedule ~~“A” attached hereto~~ “1” of the Disclosure Letter, as may be updated or amended from time to time by agreement among the Parties in writing;

“Transition Customer Revenue” means an amount equal to the cash received by the OldCos for services provided or to be provided by the OldCos to the Transition Customers under the Transition Contracts or in connection with the OldCos’ support of the discontinuance of the use of the solutions currently provided under the Transition Contracts by the Transition Customers;

“Transition Period” means, with respect to any Transition Customer, the period from the date of this Agreement to the earlier of (a) December 31, 2025, and (b) the Exit Date set out in such Transition Customer’s Exit Letter;

“Transition Services” means, collectively, all of the professional services, support and maintenance services, and other services as more particularly described in Schedule “BA” attached hereto, in each case to be provided by the NewCos to the OldCos to facilitate the OldCos’ performance under the Transition Contracts or to otherwise support the discontinuance of the use of the solutions currently provided under the Transition Contracts by the Transition Customers, and such other services to be provided by the NewCos to the OldCos for the benefit of the Transition Customers, as the Parties may mutually agree in writing from time to time, pursuant to this Agreement; and

“Transition Services Pre-Payment Amount” means an amount equal to the cash received by the OldCos, prior to Closing, for the services to be performed by the OldCos under the Transition Contracts allocable to the Transition Period and Ongoing Monitoring Services Period.

1.2 Other Definitions

Term	Defined in Section
“Agreement”	Preamble herein
“Additional Amount”	Section 3.63.8 <u>3.63.8</u> herein

“Applicants”	Recitals herein
“Books and Records”	Section 3.23 <u>3.2(b)</u> herein
“Business”	Recitals herein
“ CA <u>Canadian</u> NewCo”	Preamble herein
“CA OldCo”	Preamble herein
“CCAA”	Recitals herein
“CCAA Court”	Recitals herein
“CCAA Proceedings”	Recitals herein
“ <u>CCAA Reserves</u> ”	<u>Section 3.6(a) herein</u>
“Company Parties” or “Company Party”	Recitals herein
“Effective Date”	Preamble herein
“ <u>Employee Transition Service Fees</u> ”	<u>Section 3.1(c) herein</u>
“Initial Order”	Recitals herein
“Licensed Name <u>Names</u> ”	Section 2.32 <u>2.3(a)</u> herein
“Losses”	Section 2.10 <u>2.10(a)</u> herein
“Monitor”	Recitals herein
“NewCos”	Preamble <u>Recitals</u> herein
“OldCos”	Preamble <u>Recitals</u> herein
“ <u>OldCos Transition Services Payment</u> ”	<u>Section 3.1(b) herein</u>
“Party or Parties”	Preamble herein
“Representatives”	Section 2.10 <u>2.10(a)</u> herein
“Sales Taxes”	Section 3.6 <u>3.8(a)</u> herein
“Sandvine Entities”	Recitals herein
“Service Coordinators”	Section 2.13 herein
“SISP”	Recitals herein
“ Stalking Horse Transaction Agreement”	Recitals herein
“ Stalking Horse Transaction Documents”	Section 2.13 <u>1.4</u> herein
“Transition Service Fees”	Section 3.13 <u>3.1(a)</u> herein
“New OpCo I”	Preamble herein
“New OpCo II”	Preamble herein

1.3 Interpretation

In this Agreement:

- (a) **Consent** – Whenever a provision of this Agreement requires an approval or consent and the approval or consent is not delivered within the applicable time limit, then, unless otherwise specified, the Party whose consent or approval is

required shall be conclusively deemed to have withheld ~~its~~such approval or consent.

- (b) **Headings** – Headings of Articles and Sections are inserted for convenience of reference only and shall not affect the construction or interpretation of this Agreement.
- (c) **Including** – The word “including” or any variation thereof means “including, without limitation” and shall not be construed to limit any general statement that it follows to the specific or similar items or matters immediately following it. .
- (d) **No Strict Construction** – The language used in this Agreement is the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Party.
- (e) **Number and Gender** – Unless the context requires otherwise, words importing the singular include the plural and *vice versa* and words importing one gender include all genders.
- (f) **Severability** – If, in any jurisdiction, any provision of this Agreement or its application to any Party or circumstance is restricted, prohibited, or unenforceable, that provision shall, as to that jurisdiction, be ineffective only to the extent of the restriction, prohibition, or unenforceability without invalidating the remaining provisions of or the entirety of this Agreement and without affecting the validity or enforceability of such provision or the entire Agreement in any other jurisdiction, or without affecting its application to other parties or circumstances.

1.4 Entire Agreement

This Agreement, the ~~Stalking Horse~~-Transaction Agreement, and the agreements and other documents required to be delivered pursuant to this Agreement and the ~~Stalking Horse~~-Transaction Agreement (collectively, the “~~Stalking Horse~~-Transaction Documents”) constitute the entire agreement between the Parties and set out all the rights, covenants, promises, warranties, representations, conditions, and agreements between the Parties in connection with the subject matter of the ~~Stalking Horse~~-Transaction Documents and supersede all prior agreements, understandings, negotiations, and discussions, whether oral or written, pre-contractual, or otherwise. There are no rights, covenants, promises, warranties, representations, conditions, or other agreements, whether oral or written, pre-contractual or otherwise, express, implied, or collateral, whether statutory or otherwise, between the Parties in connection with the subject matter of the ~~Stalking Horse~~-Transaction Documents except as specifically set forth in ~~Stalking Horse~~-Transaction Documents. In the event of any inconsistency between the terms of this Agreement and the ~~Stalking Horse~~-Transaction Agreement, the terms of the ~~Stalking Horse~~-Transaction Agreement shall control. For greater certainty, this Agreement shall not derogate or detract from the Parties’ respective obligations as set forth in the ~~Stalking Horse~~-Transaction Agreement.

1.5 Schedules

(a) The following Schedules are attached to and form part of this Agreement:

<u>Schedule</u>	<u>Description</u>
"A"	Transition Customers <u>Services</u>
"B"	Transition <u>Ongoing Monitoring</u> Services
<u>"C"</u>	<u>OldCos Transition Services</u>
<u>"D"</u>	<u>Employee Transition Services</u>

(b) The Disclosure Letter and all schedules thereto form an integral part of this Agreement.

ARTICLE 2 SERVICES TO BE PROVIDED

2.1 Transition Services, Ongoing Monitoring Services and OldCos Transition Services

- (a) The NewCos shall provide, or cause to be provided, (i) the Transition Services to the OldCos during the Transition Period, and (ii) the Ongoing Monitoring Services to the OldCos during the Ongoing Monitoring Services Period, each in accordance with, and subject to, the terms and conditions herein.
- (b) The OldCos shall provide, or cause to be provided, the OldCos Transition Services to the NewCos during the OldCos Transition Period, in accordance with, and subject to, the terms and conditions herein.
- (c) The OldCos shall provide, or cause to be provided, the Employee Transition Services to the NewCos in accordance with, and subject to, the terms and conditions herein.

2.2 Changes in Services Each OldCo will have the right, upon written notice to the NewCos and the Monitor, to request reasonable changes and/or modifications to the manner in which the Transition Services and Ongoing Monitoring Services, if applicable, are performed by the NewCos to the OldCos (e.g., frequency, schedule, delivery methods). The NewCos will have the right, upon written notice, to request reasonable changes and/or modifications to the manner in which the ~~Transitions~~Employee Transition Services are performed by the ~~NewCos~~OldCos to the ~~OldCos~~NewCos (e.g., frequency, schedule, delivery methods). Each Party agrees that it will not unreasonably withhold its consent to any such requests for reasonable changes and/or modifications. To the extent the Transition Customers and the Parties mutually agree on the scope and applicable terms of any such changes and/or modifications, the Parties will implement such reasonable changes and/or modifications as agreed (and if the implementation timeline is not explicitly agreed, the Parties shall use commercially reasonable efforts to implement such changes and/or modifications in a timely manner).

(b) Each NewCo will have the right, upon written notice to the OldCos and the Monitor, to request reasonable changes and/or modifications to the manner in which the OldCos Transition Services are performed by the OldCos to the NewCos (e.g., frequency, schedule, delivery methods). Each Party agrees that it will not unreasonably withhold its consent to any such requests for reasonable changes and/or modifications. To the extent the Parties mutually agree on the scope and applicable terms of any such changes and/or modifications, the Parties will implement such reasonable changes and/or modifications as agreed (and if the implementation timeline is not explicitly agreed, the Parties shall use commercially reasonable efforts to implement such changes and/or modifications in a timely manner).

2.3 Intellectual Property; Licenses

(a) The NewCos hereby grant to the OldCos a limited, non-exclusive, royalty-free license to use ~~the name~~any names belonging to the NewCos, including “Sandvine” and “Procera” (the “Licensed NameNames”), solely for purposes of (i) providing products and performing services for the Transition Customers under the Transition Contracts during term of this Agreement and solely as, to the extent, and in the form and manner as used as of the Effective Date, ~~and~~ (ii) commencing or continuing any proceeding(s) under the CCAA or the Bankruptcy Code, as applicable, solely during the term of such proceeding(s), and (iii) providing the OldCos Transition Services. Any use of the Licensed ~~NameNames~~ by the OldCos and all goodwill arising therefrom, shall inure to the benefit of the NewCos. None of the OldCos shall contest the ownership or validity of any rights of the NewCos in or to the Licensed ~~NameNames~~, nor shall any of the OldCos use or register the Licensed ~~NameNames~~ or any name or mark containing such Licensed ~~NameNames~~, derivative thereof or confusingly similar thereto other than as expressly permitted in this Section ~~2.3(a)~~2.3(a).

(b) The NewCos shall retain all right, title and interest in and to all Intellectual Property owned, controlled, invented, developed, created or reduced to practice by them prior to or at any time during the term of this Agreement (including all Intellectual Property in the Sandvine products and/or arising in the performance of

the Transition Services and Ongoing Monitoring Services, if applicable) and all updates, improvements and other modifications thereto. Nothing in this Agreement shall be deemed to grant to the OldCos any right, title or interest therein; provided, however, that the NewCos hereby grant to the OldCos a limited, nonexclusive, nontransferable, nonsublicensable (other than to Transition ~~Customer~~Customers for use of Sandvine products and services under and in accordance with the Transition Contracts), royalty-free (subject to the payment of the Transition Service Fees hereunder) right and license to use the Intellectual Property (other than trademarks) owned by the NewCos for the term of this Agreement solely for the purpose of, and only to the extent necessary for, the receipt of the Transition Services and Ongoing Monitoring Services and provision of the OldCos Transition Services (in each case, if applicable) and performance under the Transition Contracts; and provided, further, that all Intellectual Property invented, created, developed or reduced to practice (i) by the OldCos in connection with such receipt of the Transition Services and Ongoing Monitoring Services and provision of the OldCos Transition Services, and (ii) by any Delayed Transfer Employees shall be the sole and exclusive property of NewCos. To the extent any right, title or interest in any such Intellectual Property vests in any of the OldCos or Delayed Transfer Employees by operation of law or otherwise in contravention of the foregoing, each of the OldCos hereby assign to the NewCos all of its right, title and interest in such Intellectual Property and agrees to, and to cause any Delayed Transfer Employees to, provide such assistance and execute such documents as the NewCos may reasonably request to vest in the NewCos and evidence their ownership of all right, title and interest in such Intellectual Property. The foregoing grant of a license and right to use the Intellectual Property shall be non-assignable, non-transferable, and non-sublicensable. Any attempt by the OldCos (or any one of them, or any of their successors or assigns, including, but not limited to, a trustee or receiver) to assign such license or right to use the Intellectual Property shall automatically terminate such license or right to use such Intellectual Property.

2.4 Ownership of Data

Subject to Section 2.3 herein, the Parties acknowledge and agree that, as between the Parties all information related to the Business ~~or~~(including as may be generated in the OldCos Transition Services), the Transition Services, or the Ongoing Monitoring Services, is and shall remain the exclusive property of the NewCos and NewCos shall be provided full access to all information generated by or otherwise related to the OldCos Transition Services.

2.5 Cooperation and Oversight

- (a) The OldCos shall cooperate fully and provide such assistance as is reasonably necessary for the NewCos to provide the Transition Services and Ongoing Monitoring Services, if applicable, in the manner required by this Agreement, including providing, as expeditiously as possible, any services or information to the NewCos as may be reasonably necessary for NewCos to provide the Transition Services ~~- and Ongoing Monitoring Services, if applicable.~~

- (b) The NewCos shall cooperate fully and provide such assistance as is reasonably necessary for the OldCos to provide the OldCos Transition Services in the manner required by this Agreement, including providing, as expeditiously as possible, any services or information to the OldCos as may be reasonably necessary for OldCos to provide the OldCos Transition Services.
- (c) The Parties shall cooperate fully and provide such assistance as is reasonably necessary for the OldCos to provide the Employee Transition Services in the manner required by this Agreement, including providing, as expeditiously as possible, any services or information to the respective Party as may be reasonably necessary for such Party to provide the Employee Transition Services.
- (d) The NewCos and the OldCos acknowledge that the Monitor will continue to act as monitor of the OldCos in the CCAA Proceedings during the Transition Period, Ongoing Monitoring Services Period, if applicable, and OldCos Transition Period; provided however that, it is understood that the Monitor will not be an actual or deemed director, officer or otherwise act as a responsible person of any of the OldCos during the Transition Period, Ongoing Monitoring Services Period, if applicable, and OldCos Transition Period, or otherwise, and any expanded powers of the Monitor approved by the CCAA Court's order will expressly provide that the Monitor shall not be an actual or deemed director, officer or otherwise act as a responsible person in respect of the OldCos during the Transition Period, Ongoing Monitoring Services Period and OldCos Transition Period or otherwise or have any independent decision-making authority with respect to the OldCos during the Transition Period, Ongoing Monitoring Services Period, if applicable, and OldCos Transition Period.

2.6 [Reserved]

2.7 Control

Notwithstanding anything herein to the contrary, the NewCos shall have exclusive control of the Business at all times. No provision in this Agreement shall be deemed to grant to the OldCos any right or authority with respect to the Business, or to place upon the OldCos any duty or responsibility with respect to the Business. Any and all action taken with respect to a Transition Customer shall be deemed to be taken by or on behalf of the OldCos and not on or on behalf of the NewCos.

2.8 Services Subject to Legal Requirements and Commercial Reasonableness

Nothing herein shall be construed to require any Party to provide the Transition Services, Ongoing Monitoring Services, if applicable, and OldCos Transition Services in a manner which is commercially unreasonable in the circumstances, or in violation of any Law to which such Party is subject, nor to require any Person to violate or breach any contract or agreement to which such Person is subject, including, for the avoidance of doubt, any commitments to, or agreements with, the U.S. United States Government in connection with, related to, or as a result of, the removal of the OldCos from the U.S. United States Department of ~~Commercee's~~ Commerce Bureau of Industry and Security's Entity List.

2.9 Limitation of Liability

Except as arises as a direct result of the gross negligence, wilful misconduct, or fraud by a Party:

- (a) neither Party shall have any liability for any lost or prospective profits or any other special, punitive, exemplary, consequential, incidental, or indirect losses or damages (in tort, ~~contact~~contract or otherwise), under or in respect of this Agreement or for any failure of performance related hereto howsoever caused; ~~and~~
- (b) the aggregate liability of the NewCos, in respect of the Transition Services and Ongoing Monitoring Services, if applicable, shall not exceed the aggregate compensation payable to them for such Transition Services and Ongoing Monitoring Services, if applicable, under this Agreement; and
- (c) the aggregate liability of the OldCos, in respect of the OldCos Transition Services shall not exceed the aggregate compensation payable to them for such OldCos Transition Services under this Agreement.

2.10 Indemnification ~~by OldCos~~

- (a) Each OldCo will, at its sole cost and expense, defend, indemnify, and hold harmless each NewCo, each of ~~its~~their Affiliates, and each of their respective directors, officers, members, managers, partners, employees, advisors, agents, and other representatives (collectively, the “Representatives”) from and against any losses, expenses, liabilities, costs (including reasonable attorneys’ fees), penalties, or damages of every kind and nature (“**Losses**”) incurred by them, their Affiliates, their respective Representatives, or any third-party providers arising out of or related to (i) any action, claim or proceeding instituted by such third-party in connection with each NewCo’s and/or its Affiliates’ provision of Transition Services and Ongoing Monitoring Services, if applicable, hereunder, (ii) any action or failure to act by the personnel of any OldCo or its Affiliate or its and their respective Representatives in connection with this Agreement, (iii) any OldCo’s breach of this ~~agreement~~Agreement, or (iv) the negligent act, omission, or willful misconduct by any OldCo or its Affiliate or its and their respective Representatives in using any Transition Services and Ongoing Monitoring Services, if applicable, rendered pursuant to this Agreement except to the extent such Losses are found by a final judgment of a court of competent jurisdiction to be caused by (~~ix~~) a breach of any provision of this Agreement by any NewCo or (~~iiy~~) any~~the~~ gross negligence or willful misconduct of any NewCo or its Affiliate in the performance of any such Transition Service and Ongoing Monitoring Service, if applicable.
- (b) Each NewCo will, at its sole cost and expense, defend, indemnify, and hold harmless each OldCo and the Monitor, each of their Affiliates, and each of their respective Representatives from and against any Losses incurred by them, their Affiliates, their respective Representatives, or any third-party providers arising out of or related to any action, claim or proceeding instituted by such third-party in connection with each OldCo’s and/or its Affiliates’ provision of OldCos

Transition Services and Employee Transition Services hereunder, except (A) in the case of the OldCos and their respective Affiliates and Representatives, to the extent such Losses are found by a final judgment of a court of competent jurisdiction to be caused by (i) a breach of any provision of this Agreement by any OldCo or (ii) any gross negligence or willful misconduct of any OldCo or its Affiliate in the performance of any such OldCos Transition Services and Employee Transition Services and (B) in the case of the Monitor and its Affiliates and Representatives, to the extent such Losses are found by a final judgment of a court of competent jurisdiction to be caused by any gross negligence or willful misconduct of the Monitor.

2.11 Warranty Disclaimer

- (a) THE NEWCOS DO NOT MAKE, AND THE OLDCOS EXPRESSLY DISCLAIM, ANY AND ALL REPRESENTATIONS OR WARRANTIES WHATSOEVER, WHETHER EXPRESS, IMPLIED OR STATUTORY, WITH RESPECT TO THE SERVICES TO BE PROVIDED UNDER THIS AGREEMENT, INCLUDING WARRANTIES WITH RESPECT TO MERCHANTABILITY, OR SUITABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT OF ANY SOFTWARE OR HARDWARE PROVIDED HEREUNDER, AND ANY WARRANTIES ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE OR TRADE USAGE.
- (b) THE OLDCOS DO NOT MAKE, AND THE NEWCOS EXPRESSLY DISCLAIM, ANY AND ALL REPRESENTATIONS OR WARRANTIES WHATSOEVER, WHETHER EXPRESS, IMPLIED OR STATUTORY, WITH RESPECT TO THE SERVICES TO BE PROVIDED UNDER THIS AGREEMENT, INCLUDING WARRANTIES WITH RESPECT TO MERCHANTABILITY, OR SUITABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT OF ANY SOFTWARE OR HARDWARE PROVIDED HEREUNDER, AND ANY WARRANTIES ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE OR TRADE USAGE.

2.12 Confidentiality

The obligations set out in Section ~~[10.4]~~ of the ~~Stalking Horse~~-Transaction Agreement shall apply *mutatis mutandis* to the obligations of the Parties under this Agreement.

2.13 Service Coordinator

The NewCos and the OldCos ~~hereby nominate (a) [●] to act as the~~ shall each provide the other with a list of primary ~~contact person for the OldCos (email: [●] and telephone: [●]) and [●] to act as the~~ and secondary contact ~~person for the OldCos (email: [●] and telephone: [●]) and (b) [●] to act as the primary contact person for the NewCos (email: [●] and telephone: [●]) and [●] to act as the secondary contact person for the NewCos (email: [●] and telephone: [●])~~ persons (the “**Service Coordinators**”). Unless otherwise agreed upon by the Parties, all communications relating to the Transition Services, Ongoing Monitoring Services, if applicable, and OldCos

Transition Services provided hereunder shall be directed to and through the Service Coordinators.

2.14 Force Majeure

If ~~the NewCos are~~ any Party is rendered unable, wholly or in part, by force majeure to carry out their obligations to provide Transition Services, Ongoing Monitoring Services, OldCos Transition Services or Employee Transition Services, as applicable, under this Agreement, ~~the NewCos~~ such Party shall give the ~~OldCos~~ other Parties prompt written notice of the force majeure with reasonably detailed particulars. Following the delivery of such notice, the obligation of the ~~NewCos~~ Party that had delivered such notice to provide the Transition Services, Ongoing Monitoring Services, OldCos Transition Services or Employee Transition Services, as applicable, so far as it is affected by force majeure, shall be suspended during, but no longer than, the continuance of the force majeure. The ~~NewCos~~ Parties will use commercially reasonable efforts to remove the force majeure situation; *provided, however*, that the ~~NewCos~~ Parties shall not be required to hire additional personnel or contract workers, or to settle strikes, lockouts, or other labor difficulties, ~~and the handling of such difficulties shall be entirely within the discretion of the NewCos.~~ The term “force majeure” as used herein shall mean an act of God, strike, lockout, or other industrial disturbance, act of the public enemy, war, cyber-attack or incident, blockade, insurrection, public riot, epidemic, pandemic, landslide, lightning, fire, storm, flood, explosion, governmental action, governmental delay, restraint or inaction, and any other cause, whether of the kind specifically enumerated above or otherwise, which is beyond the reasonable control of the Party claiming suspension.

2.15 Equipment and Network Access; Bank Accounts

(a) The Parties agree that, if any equipment owned or operated by any of the OldCos will remain connected to the NewCos’ networks, systems or other technology, or if any personnel of the OldCos or their Affiliates will maintain or be provided access to any such networks, systems or other technology during the term of this Agreement, then the use of, and access related to, such networks, systems and other technology shall be subject to all applicable security and acceptable use policies and other requirements of the NewCos. The OldCos will take necessary and appropriate measures to assure that ~~its~~ their and ~~its~~ their Affiliates’ personnel utilize such access: (a) in good faith and in compliance with all applicable laws; and (b) consistent with the restrictions placed on their individual network access account. The OldCos also agree to immediately (and in any event, within 24 hours) notify the NewCos, and reasonably cooperate with any investigation by the NewCos, of any suspected or detected breach of security, incident of misuse or other disruption of such networks, technology or other systems.

(b) The OldCos hereby agree that the Chief Financial Officer of each of the NewCos (or any such other officer or employee designated by the applicable NewCos) shall be designated by the OldCos as an authorized signatory for the bank accounts of the OldCos solely to the extent needed in connection with the provision of the Transition Services, the Ongoing Monitoring Services, the OldCos Transition Services and the Employee Transition Services, as applicable.

2.16 Additional Resources

Notwithstanding anything to the contrary in this Agreement, in providing the Transition Services and Ongoing Monitoring Services, as applicable, no NewCo shall be obligated to hire any additional employees, including without limitation, in the event of a departure of any employee or employees of such applicable NewCo. In the event that the applicable NewCo is unable to perform the Transition Services as a result of any such departure of an employee or employees, the Transition Services provided by such NewCo shall be suspended during, but no longer than, the period in which such NewCo is unable to perform such Transition Services as a result of such departure.

ARTICLE 3 COMPENSATION AND PAYMENT TERMS

3.1 Compensation

- (a) The NewCos will provide the Transition Services and Ongoing Monitoring Services, if applicable, to the OldCos in exchange for an amount equal to ~~(ai)~~ the Transition Customer Revenues minus ~~(bii)~~ the OldCos Revenue Share (the “**Transition Service Fees**”).
- (b) The OldCos will provide the OldCos Transition Services to the NewCos in exchange for an amount equal to the OldCos Transition Services Costs (the “**OldCos Transition Services Payment**”).
- (c) The OldCos will provide the Employee Transition Services in exchange for an amount equal to the Employee Transition Services Costs (the “**Employee Transition Service Fees**”).

3.2 Reporting and Audit Rights

- (a) Within two (2) Business Days following the end of each week, the OldCos shall report to the NewCos the amount of Transition Customer Revenue they have received and the Direct Costs ~~they have incurred~~ that are payable for such week.
- (b) During the term of this Agreement, the OldCos shall maintain all books, records, documents, and other evidence related to the Transition Customers, the Transition Services, the Ongoing Monitoring Services, the Transition Contracts, ~~and~~ the Transition Customer Revenue received, the OldCos Transition Services, the OldCos Transition Services Costs, the Employee Transition Services and the Employee Transition Services Costs (the “**Books and Records**”). The Books and Records shall be delivered and handed over to the NewCos, at the NewCos’ expense, following the termination of this Agreement. So long as such Books and Records are retained by the OldCos pursuant to this Agreement, the NewCos will have the reasonable right to verify, audit, inspect, or make copies (at their own expense) of the Books and Records, upon reasonable request during normal business hours and upon reasonable notice for any proper purpose and without undue interference to the business operations of the OldCos; *provided that*, the

OldCos will have the right to have their ~~representatives~~Representatives present during any such inspection.

3.3 Payment of Transition Service Consideration and Employee Transition Service Consideration

- (a) The NewCos will invoice the OldCos for the Transition Service Fees payable on a bi-weekly basis, which invoice shall set forth each NewCo's determination of the appropriate portion of such Transition Service Fee that is allocable to it (which allocation shall be based on the portion of the services provided by such NewCo) and the appropriate portion of the Transition Service Fees (if any) that is attributable to services rendered by New OpCo I and New OpCo II in Canada for purposes of the Tax Act.
- (b) The OldCos shall pay to the NewCos, on the Closing Date, the Transition Services Pre-Payment Amount to an account(s) and in a manner directed by the NewCos. The Transition Services Pre-Payment Amount shall be earned by the NewCos on a rolling basis as and when the Transition Services are performed by the NewCos as set out on the bi-weekly invoices. Notwithstanding anything to the contrary contained herein, in no event shall the OldCos or any other Person be entitled to request any of the NewCos to return any portion of the Transition Services Pre-Payment Amount or be able to assert any Claims against any of the NewCos in connection with, related to, or as a result of, the Transition Services Pre-Payment Amount.
- (c) The OldCos shall pay any Transition Service Fees in respect of any additional Transition Customer Revenue ~~incurred~~received during the Transition Period to the applicable NewCo the amounts so invoiced no later than five (5) Business Days after receipt of the invoice. All amounts due and payable by the OldCos shall accrue interest at a rate equal to ~~{~~12% per annum from the first day on which such amounts are overdue hereunder until the date payment is received by the NewCos.
- (d) The NewCos shall notify the OldCos of amounts owed in connection with the Transition Services and Ongoing Monitoring Services, if applicable, provided hereunder, accompanied by reasonably detailed supporting documentation.
- (e) The OldCos will invoice the NewCos for the Employee Transition Service Fees payable on a bi-weekly basis, which invoice shall set forth each OldCo's determination of the appropriate portion of such Employee Transition Service Fee that is allocable to it (which allocation shall be based on the portion of the services provided by such OldCo).
- (f) The NewCos shall promptly pay to the OldCos the Employee Transition Services Fee to an account(s) and in a manner directed by the OldCos.

- (g) The OldCos shall notify the NewCos of amounts owed in connection with the Employee Transition Services provided hereunder, accompanied by reasonably detailed supporting documentation.

3.4 Payment of OldCos Transition Service Payment and Employee Transition Services Fees

- (a) The OldCos will invoice the NewCos for the OldCos Transition Services Payment payable on a bi-weekly basis, which invoice shall set forth each OldCo's determination of the appropriate portion of such OldCos Transition Services Payment that is allocable to it (which allocation shall be based on the portion of the OldCos Transition Services Costs incurred by such OldCo) and the appropriate portion of the OldCos Transition Services Payment (if any) that is attributable to the OldCos Transition Services Costs incurred by US OldCo in Canada for purposes of the Tax Act. All amounts due and payable by the NewCos shall accrue interest at a rate equal to 12% per annum from the first day on which such amounts are overdue hereunder until the date payment is received by the OldCos.
- (b) The US OldCo will invoice the NewCos for the Employee Transition Services Fees payable on a bi-weekly basis. All amounts due and payable by the NewCos shall accrue interest at a rate equal to 12% per annum from the first day on which such amounts are overdue hereunder until the date payment is received by the US OldCo.
- (c) The OldCos shall notify the NewCos of amounts owed in connection with the OldCos Transition Services and Employee Transition Services provided hereunder, accompanied by reasonably detailed supporting documentation.

3.5 ~~3.4~~ **Payment Disputes**

- (a) In the event that any of the OldCos in good faith disputes any invoice, or any portion thereof, from any of the NewCos issued pursuant to Section 3.3(a) of this Agreement, the OldCos shall pay the undisputed portion of the invoice and provide the NewCos written notice of the disputed amounts, together with a statement of the particulars of the dispute and support therefor, including the calculations with respect to any errors or inaccuracies claimed.
- (b) In the event that any of the NewCos in good faith disputes any invoice, or any portion thereof, from any of the OldCos issued pursuant to Section 3.3(e) of this Agreement, the NewCos shall pay the undisputed portion of the invoice and provide the OldCos written notice of the disputed amounts, together with a statement of the particulars of the dispute and support therefor, including the calculations with respect to any errors or inaccuracies claimed.

3.6 CCAA Reserves

- (a) Notwithstanding anything in this Agreement, to the extent that any amount payable by any of the NewCos under this Agreement are payable from the

Transition Services Fees Reserve, the Administrative Expense Reserve or the Priority Payments / Disputed Cure Costs / CCAA Charges Reserve (collectively, the “CCAA Reserves”), such amount shall be paid from such CCAA Reserve and the NewCos will not have any obligation hereunder to pay such amounts.

- (b) In the event that any OldCos are required to pay Direct Costs that are not payable from any CCAA Reserve, the NewCos shall pay such Direct Costs; provided that, the OldCos Revenue Share shall be reduced by the amount of such Direct Costs paid by the NewCos (or any of them).

3.7 ~~3.5~~ **No Right of Offset**

Neither Party shall have a right to offset, deduct, or withhold any monies from any amounts due under this Agreement based on any amounts owed or claimed to be owed to them by the other Party, unless otherwise agreed by the other Party.

3.8 ~~3.6~~ **Taxes**

- (a) All Transition Service Fees payable shall be exclusive of any applicable sales, goods and services, value-added, multi-staged or similar Tax imposed by any applicable federal, state provincial, territorial or local law in connection with the Transition Services and Ongoing Monitoring Services, if applicable, provided under this Agreement (“**Sales Taxes**”). The OldCos shall be liable for and shall pay to the NewCos an amount equal to any such Sales Taxes payable by the OldCos and collectible by the NewCos (including GST/HST under the *Excise Tax Act* (Canada)) or payable by the NewCos or any of their Affiliates. Each of the NewCos agrees to clearly reference their applicable tax registration numbers on all invoices issued to any of the OldCos.
- (b) All OldCos Transition Services Payment and Employee Transition Service Fees payable shall be exclusive of Sales Taxes. The NewCos shall be liable for and shall pay to the OldCos an amount equal to any such Sales Taxes payable by the NewCos and collectible by the OldCos (including GST/HST under the *Excise Tax Act* (Canada)) or payable by the OldCos or any of their Affiliates. Each of the OldCos agrees to clearly reference their applicable tax registration numbers on all invoices issued to any of the NewCos.
- (c) ~~(b)~~ Each Party shall be entitled to deduct and withhold, or cause to be deducted or withheld, from any amounts payable or any consideration deliverable pursuant to this Agreement, such amounts as required to be deducted and withheld therefrom under any applicable federal, state, provincial, local or other law. To the extent that amounts are required to be so deducted or withheld, the payor shall (i) make such deduction or withholding as required by applicable law, (ii) timely pay the full amount deducted or withheld to the applicable Governmental Entity, (iii) provide the payee with a receipt or other documentation evidencing such payment, including the amount paid and the applicable Governmental Entity and (iv) pay the payee such additional amounts to the extent necessary to ensure that, after the making of any such deduction or withholding (including deductions applicable to additional sums payable under this Section ~~3.6(b)~~3.8(c)), such payee

receives an amount equal to the sum it would have received had no such deductions been made (each such additional amount being an “**Additional Amount**”); *provided that*, no such Additional Amounts will be required to be paid with respect to any such deduction or withholding that could have been reduced or avoided by providing any applicable certification, identification, documentation, or other information reasonably requested by the applicable payee. If a payee receives a refund of tax (or credit or reimbursement for overpayment of tax) in respect of tax withheld or deducted by the payor and for which an Additional Amount under this Section was paid to a payee, the payee shall pay the amount of such refund (or credit or reimbursement) to the payor no later than five (5) Business Days after receipt of the refund (or confirmation of the credit or reimbursement) and any such amount shall accrue interest at a rate equal to ~~{•}~~12% per annum from the first day on which such amounts are overdue hereunder until the date payment is received by the payor. Any payee who receives an Additional Amount under this Section shall use commercially reasonable efforts to pursue and obtain any available refund (or credit or reimbursement) of any of tax deducted or withheld with respect to any payment hereunder. The Parties agree to provide each other with such information as may be reasonably requested by the other in order to comply with applicable law, and to make reasonable commercial efforts to minimize any Sales Taxes or the amount of Taxes required to be withheld under applicable law, including without limiting the generality of the forgoing and as applicable, (A) New OpCo I and New OpCo II providing, to the extent legally able to do so, NR300 series forms certifying they are entitled to the benefits of the *Canada-United States Convention with Respect to Taxes on Income and on Capital* with respect to the Transition Service Fees payable to them pursuant to this Agreement; and (B) US OldCo providing, to the extent legally able to do so, NR300 series forms certifying that it is entitled to the benefits of the *Canada-United States Convention with Respect to Taxes on Income and on Capital* with respect to the OldCos Transition Service Payment payable to it pursuant to this Agreement.

ARTICLE 4 TERM AND TERMINATION

4.1 Term

This Agreement shall become effective as of the Closing. Subject to its prior termination with respect to any Transition Services, Ongoing Monitoring Services, if applicable, or OldCos Transition Services in accordance with Section 4.2, Section 2.1 of this Agreement shall be in effect (a) with respect to each Transition Service until (and shall terminate with respect thereto upon) the end of the Transition Period for each Transition Contract; (b) with respect to each Ongoing Monitoring Service until (and shall terminate with respect thereto upon) the end of the Ongoing Monitoring Service Period for each Transition Contract; (c) with respect to each OldCos Transition Services until (and shall terminate with respect thereto upon) the end of the OldCos Transition Period; and (d) the Employee Transition Services until (and shall terminate with respect thereto upon) the end of the Employee Transition Services Period for each Delayed Transfer Employee.

4.2 Termination

This Agreement is to terminate on any of the following events:

- (a) mutual written agreement by the Parties;
- (b) the failure of the OldCos to pay any amount due hereunder and the OldCos fails to pay such amount for a period of seven days following written demand by the NewCos;
- (c) in respect of OldCos Transition Services and the Employee Transition Services only, the failure of the NewCos to pay any amount due hereunder and the NewCos fails to pay such amount for a period of seven days following written demand by the OldCos;
- (d) ~~(e)~~ upon 30 days' written notice of the applicable NewCo to the applicable OldCos; ~~or~~
- (e) ~~(d)~~ Unless terminated at an earlier time pursuant to this Section 4.2, this Agreement shall automatically terminate with respect to each Transition Customer on the later of (i) such Transition Customer's Exit Date, unless the provision of the Transition Service is extended in writing beyond the Exit Date, and (ii) at the end of such Transition Customer's Ongoing Monitoring Services Period, unless the provision of the Ongoing Monitoring Service is extended in writing beyond the Ongoing Monitoring Services Period; or
- (f) unless terminated at an earlier time pursuant to this Section 4.2, this Agreement shall automatically terminate with respect to each OldCos Transition Service upon expiry of the OldCos Transition Period.

4.3 Effect of Termination

Upon termination of this Agreement in accordance with Section 4.2 the Parties will be released from all further obligations to each other hereunder. Notwithstanding the foregoing, the provisions of each of Article 1, Sections 2.3, 2.4, 2.9, 2.10, Article 3, Section 4.3 and Article 5 shall remain in full force and effect and survive the termination of this Agreement. Termination of this Agreement (either as a whole or with respect to any Transition Service, any Ongoing Monitoring Service, any OldCos Transition Service or with respect to any Party) for any reason by any Party shall not relieve the Parties of any obligation which accrued prior to such termination.

ARTICLE 5 MISCELLANEOUS

5.1 Disclaimer

The Transition Services, the Ongoing Monitoring Services, if applicable, the OldCos Transition Services and all other facilities, equipment, and services provided under this Agreement, are provided by the Parties on an "as is" and "where is" basis, without any representations or warranties, express or implied, including any implied representation or warranty as to the

condition, merchantability, non-infringement, sufficiency, suitability or fitness for a particular purpose.

5.2 Dispute Resolution

All disputes under this Agreement are to be resolved in accordance with the ~~Stalking Horse~~ Transaction Agreement.

5.3 No Agency

Nothing in this Agreement shall constitute or be deemed to constitute a partnership or joint venture between the Parties or constitute or be deemed to constitute either Party the agent or employee of the other for any purpose whatsoever, and neither Party shall have authority or power to bind the other or to contract in the name of, or create a liability against, the other in any way or for any purpose.

5.4 Notices

All notices, requests and other communications given or made pursuant hereto shall be in writing and shall be sufficiently given if delivered or transmitted in accordance with the ~~Stalking Horse~~ Transaction Agreement.

5.5 Amendments

No amendment, supplement, modification or waiver or termination of this Agreement and, unless otherwise specified, no consent or approval by any Party, is binding unless executed in writing by the Party to be bound.

5.6 Assignment

No Party may assign this Agreement or any of the benefits, rights, or obligations under this Agreement without the prior written consent of each of the other Party. No assignment shall relieve either Party of its responsibility for the performance of any obligation that such Party has accrued hereunder as of the date of such assignment. Any purported assignment in violation of the terms of this Section ~~5.6~~5.6 shall be null and void, and of no force and effect.

For the avoidance of doubt, the NewCos (or any of them) may, in their sole and absolute discretion, determine not to consent to the assignment of any of the benefits, rights, or obligations under this Agreement.

5.7 Non-Assumption

Subject to the ~~Stalking Horse~~ Transaction Agreement in all respects, no NewCo's execution of this Agreement shall be deemed to effect any assumption or assignment of any contract (and/or any claims, liabilities, or obligations arising thereunder) between any OldCo and a third-party.

5.8 Release

Each of the Parties acknowledge and agree that the OldCos shall seek, or support the Monitor in seeking, as part of the Order of the CCAA Court terminating the CCAA Proceedings following the end of the Transition Period, Ongoing Monitoring Services Period, if applicable, and OldCos Transition Period, a release and discharge in favour of the Monitor, each NewCo and their respective Affiliates and each of their respective directors, officers, employees, advisors and representatives, and the directors, officers, employees, advisors and representatives of the OldCos, of and from, and hereby unconditionally and irrevocably waives, any and all present and future Claims (including, without limitation, Claims for contribution or indemnity), liabilities, indebtedness, demands, actions, causes of action, counterclaims, suits, damages, judgments, executions, recoupments, debts, sums of money, expenses, accounts, liens, taxes, recoveries, and obligations of any nature or kind whatsoever (whether direct or indirect, known or unknown, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, matured or unmatured or due or not yet due, in law or equity and whether based in statute or otherwise) based in whole or in part on any act or omission, transaction, offer, investment proposal, dealing, or other fact, matter, occurrence or thing existing or taking place, or undertaken or completed in connection with or pursuant to the terms of this Agreement, in respect of, relating to, or arising out of (i) the NewCos' business, operations, assets, property and affairs related to the Transition Services, Ongoing Monitoring Services, if applicable, OldCos Transition Services and Employee Transition Services, (ii) the OldCos' business, operations, assets, property and affairs related to the Transition Services, Ongoing Monitoring Services, if applicable, OldCos Transition Services and Employee Transition Services, (iii) the administration and/or management of the NewCos and the OldCos, or (iv) this Agreement and any other document, agreement, instrument, matter, or transaction involving the NewCos and the OldCos in connection with the Transition Services, Ongoing Monitoring Services, if applicable, OldCos Transition Services and Employee Transition Services.

5.9 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein, and the Parties hereby attorn to the Court in the CCAA Proceedings for the adjudication of all matters arising out of this Agreement.

5.10 Enurement

This Agreement enures to the benefit of and is binding upon the Parties and their respective successors (including any trustee in bankruptcy of any Party) and permitted assigns.

There are no third party beneficiaries of this Agreement and nothing in this Agreement, express or implied, is intended to confer on any person other than the parties hereto (and their respective successors and permitted assigns), any rights, remedies, obligations or liabilities.

5.11 Counterparts

This Agreement may be executed by the Parties in counterparts and the counterparts may be executed and delivered by electronic means, with all counterparts together constituting one agreement.

5.12 No Waiver

No delay or omission on the part of either Party to this Agreement in requiring performance by the other Party or in exercising any right hereunder shall operate as a waiver of any provision hereof or of any right or rights hereunder; and the waiver, omission or delay in requiring performance or exercising any right hereunder on any one occasion shall not be construed as a bar to or waiver of such performance or right, or of any right or remedy under this Agreement, on any future occasion.

5.13 Fulfillment of Obligations

Any obligation of either Party to the other Party under this Agreement, which obligation is performed, satisfied or fulfilled completely by an Affiliate of such Party, shall be deemed to have been performed, satisfied or fulfilled by such Party.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the Effective Date.

~~C~~ CANADIAN NEWCO

By: _____
Name:
Title:

NEW OPCO I

By: _____
Name:
Title:

NEW OPCO II

By: _____
Name:
Title:

SANDVINE CORPORATION

By: _____
Name:
Title:

PROCERA NETWORKS, INC.

By: _____
Name:
Title:

SCHEDULE "A"

TRANSITION ~~CUSTOMERS~~ SERVICES

~~(To come)~~

SCHEDULE "B"

TRANSITION SERVICES

Transition Services to be provided to the OldCos include:

- Services necessary to perform under Transition Contracts and to provide ongoing licensing services, including (i) facilitating delivery of product, including through providing access to software and product documentation download sites (subject to compliance with applicable End User License Agreements); (ii) software subscription services; (iii) software support, patches and downloads, signature and license key updates; (iv) hardware support, including hardware integration, delivery and support, including providing fixes and repairs via the RMA (Return Material Authorization) process; (v) license server access, updates to licenses and security certificates;
- Financial transaction support, order management and processing, including (i) use of Salesforce, SAP and other tools to record customer transactions (such as purchase, support, professional services project implementation, billing, invoicing and collections), (ii) customary accounting, revenue recognition, billing, accounts receivable, collections, audit and similar services, (iii) banking support, and (iv) legal support;
- Services to enable the OldCos to perform under End User License Agreements that are Transition Contracts, including, without limiting the generality of the services under the first bullet, (i) maintaining customer support through access to support portal and software and product documentation download sites (subject to compliance with applicable End User License Agreements); and (ii) responding to support tickets;
- Project deployment professional services and training services, including (i) project management and technical work needed to install, configure, integrate; test and deploy Sandvine products; and (ii) e-learning and instructor lead training on Sandvine products;
- Value-added services, including (i) updating and customizing the signatures which identify consumer applications; (ii) daily operation, change management and customer assistance using the product; or (iii) customer success manager as a single point of contact for all post-sales support work for a customer; and
- Other services, notwithstanding anything herein or in the Agreement to the contrary, in addition to the aforementioned services, the NewCos may provide certain other transition services. The provision, if any, of such other services shall be on the terms and conditions mutually agreed upon between the NewCos and the OldCos, with the consent of the Monitor.

SCHEDULE "B"

ONGOING MONITORING SERVICES

Ongoing Monitoring Services to be provided to the OldCos include:

- Provision of a license validation service that is owned and maintained by the NewCos. This system allows termination of licenses should any of the Transition Customers violate the applicable End User License Agreements. In that event, the NewCos may invalidate the license on behalf of the OldCos by changing its configuration in the licensing service for that Transition Customer;
- Limited support should there be technical issues with the licensing service or the underlying licenses; and
- For the avoidance of doubt, the NewCos will not provide any software updates, customer support, or signature updates during the Ongoing Monitoring Services Period. The Ongoing Monitoring Services are purely and solely being provided to retain control of the customer licenses in the event of misuse and violation of the applicable End User License Agreements.

SCHEDULE "C"

OLDCOS TRANSITION SERVICES

OldCos Transition Services to be provided to the NewCos include:

- Utilization of OldCos' bank accounts, banking automation system and other programs and systems for (x) payment of vendor invoices payable by NewCo and (y) payroll and benefits;
- Utilization of payroll processing systems for NewCo employee and contractor payments;
- Providing, and maintaining on behalf of the NewCos, the same Employee Plan coverage and benefits including, but not limited to, medical, dental, and life insurance, for Employees and any related administration and maintenance services;
- Providing the same coverage and benefits for each Employee Plan that is (x) qualified within the meaning of Section 401(a) of the Code (e.g., a 401(k) plan) and (y) is a Registered Retirement Savings Plan or Deferred Profit Sharing Plan within the meaning of the Tax Act;
- Providing services related to Employee-related tax filings and documentation;
- Utilization of the OldCos' credit cards to make payments on behalf of NewCos;
- Utilization of OldCos programs, systems and related data for the cancellation of outstanding quotes issued to NewCo customers by OldCos prior to Closing;
- Redirecting payment of vendor invoices incorrectly addressed to the OldCos;
- Redirecting payments received from customers into the OldCos' bank accounts; and
- Redirecting purchase orders addressed to the OldCos.

SCHEDULE "D"

EMPLOYEE TRANSITION SERVICES

- Services necessary to transfer employment of Delayed Transfer Employees, including facilitating all employment related documentation for the Delayed Transfer Employees to work in Dubai, United Arab Emirates;
- Services necessary to facilitate continuity of services, including facilitating NewCos', and their employees', access to the office space leased by the US OldCo's branch in the United Arab Emirates and providing NewCos and their employees with the authority to use and to access any assets owned by the US OldCo's United Arab Emirates branch at Closing (if any) prior to the assignment of such assets to the NewCos;
- Other Services to NewCos, regarding Assigned Contracts, sales, product implementation and customer support, including, but not limited to: (i) facilitating delivery of product, including through providing access to software and product documentation download sites (subject to compliance with applicable End User License Agreements); (ii) software subscription services; (iii) software support, patches and downloads, signature and license key updates; (iv) hardware support, including hardware integration, delivery and support, including providing fixes and repairs via the RMA (Return Material Authorization) process; and (v) license server access, updates to licenses and security certificates; and
- Other services, notwithstanding anything herein or in the Agreement to the contrary, in addition to the aforementioned services, the OldCos may provide certain other employee transition services. The provision, if any, of such other services shall be on the terms and conditions mutually agreed upon between the OldCos and the NewCos, with the consent of the Monitor.

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS AMENDED Court File No: CV-24-00730836-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SANDVINE CORPORATION,
SANDVINE HOLDINGS UK LIMITED, PROCERA NETWORKS, INC., PROCERA HOLDING, INC., NEW PROCERA GP COMPANY,
and SANDVINE OP (UK) LTD.

Applicants

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

PROCEEDING COMMENCED AT TORONTO

**AFFIDAVIT OF JEFFREY A. KUPP
(Sworn January 28, 2025)**

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