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*Counsel to the Foreign Representative*

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

\_\_\_\_\_)  
In re: ) Chapter 15  
)  
SANDVINE CORPORATION, *et al.*,<sup>1</sup>) Case No. 24-33617 (SGJ)  
)  
Debtors in a Foreign Proceeding. ) Jointly Administered  
)  
\_\_\_\_\_)

**FOREIGN REPRESENTATIVE’S MOTION FOR ENTRY OF  
AN ORDER (I) RECOGNIZING AND ENFORCING THE CCAA  
APPROVAL AND VESTING ORDER, (II) APPROVING THE SALE  
OF SUBSTANTIALLY ALL OF THE DEBTORS’ ASSETS FREE AND CLEAR OF  
LIENS, CLAIMS, AND ENCUMBRANCES, AND (III) GRANTING RELATED RELIEF**

**IF YOU OBJECT TO THE RELIEF REQUESTED, YOU MUST RESPOND IN WRITING. UNLESS OTHERWISE DIRECTED BY THE COURT, YOU MUST FILE YOUR RESPONSE ELECTRONICALLY AT [HTTPS://ECF.TXNB.USCOURTS.GOV](https://ecf.txnb.uscourts.gov)/ NO MORE THAN TWENTY-FOUR (24) DAYS AFTER THE DATE THIS MOTION WAS FILED. IF YOU DO NOT HAVE ELECTRONIC FILING PRIVILEGES, YOU MUST FILE A WRITTEN OBJECTION THAT IS ACTUALLY RECEIVED BY THE CLERK AND FILED ON THE DOCKET NO MORE THAN TWENTY-FOUR (24) DAYS AFTER THE DATE THIS MOTION WAS FILED. OTHERWISE, THE COURT MAY TREAT THE PLEADING AS UNOPPOSED AND GRANT THE RELIEF REQUESTED.**

**A HEARING WILL BE CONDUCTED ON THIS MATTER ON FEBRUARY 24, 2025, AT 9:30 A.M. PREVAILING CENTRAL TIME IN COURTROOM 1, 14TH FLOOR, EARLE CABELL FEDERAL**

<sup>1</sup> The Debtors in these chapter 15 cases, along with the Debtors’ unique identifiers, are: Sandvine Corporation (Business No.: 885025916), New Procera GP Company (Company Registration No.: WC-7044), Sandvine Holdings UK Limited (Company No.: 10533653), Sandvine OP (UK) Ltd. (Company No.: 10791762), Procera Networks, Inc. (EIN: 33-0974674), and Procera Holding, Inc. (EIN: 47-4070338). The location of the Debtors’ service address for purposes of these chapter 15 cases is: 410 Albert St Suite 201, Waterloo, ON N2L 3V3, Canada. Copies of materials filed with the applicable court in the CCAA proceedings and these chapter 15 cases are available on the website of the CCAA monitor: <https://www.ksvadvisory.com/experience/case/sandvine>.

**BUILDING, 1100 COMMERCE STREET, DALLAS, TEXAS, 75242. YOU MAY PARTICIPATE IN THE HEARING EITHER IN PERSON OR BY AN AUDIO AND VIDEO CONNECTION.**

**AUDIO COMMUNICATION WILL BE BY USE OF THE COURT'S DIAL-IN FACILITY. YOU MAY ACCESS THE FACILITY AT 1.650.479.3207. MEETING ID: 2304 154 2638. VIDEO COMMUNICATION WILL BE BY USE OF THE CISCO WEBEX PLATFORM. CONNECT VIA THE CISCO WEBEX APPLICATION OR CLICK THE LINK ON JUDGE JERNIGAN'S HOME PAGE. CLICK THE SETTINGS ICON IN THE UPPER RIGHT CORNER AND ENTER YOUR NAME UNDER THE PERSONAL INFORMATION SETTING.**

**HEARING APPEARANCES MUST BE MADE ELECTRONICALLY IN ADVANCE OF ELECTRONIC HEARINGS. TO MAKE YOUR APPEARANCE, CLICK THE "ELECTRONIC APPEARANCE" LINK ON JUDGE JERNIGAN'S HOME PAGE. SELECT THE CASE NAME, COMPLETE THE REQUIRED FIELDS AND CLICK "SUBMIT" TO COMPLETE YOUR APPEARANCE.**

Sandvine Corporation ("Sandvine Canada," together with the other above-captioned debtors, the "Debtors," together with the partnership Procera II LP, the "Sandvine Entities," and, collectively, with certain non-filing affiliates, "Sandvine" or the "Company"), in its capacity as the authorized foreign representative (the "Foreign Representative") of the Debtors, each of which is the subject of proceedings (the "CCAA Proceedings") commenced under the Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36 (as amended, the "CCAA") currently pending before the Ontario Superior Court of Justice (Commercial List) (the "Canadian Court"), (A) relies upon and incorporates by reference (i) the *Declaration of Jeffrey A. Kupp in Support of the Foreign Representative's Motion for (A) Entry of an Order (I) Recognizing and Enforcing the CCAA Approval and Vesting Order, (II) Approving the Sale of Substantially All of the Debtors' Assets Free and Clear of Liens, Claims, and Encumbrances, and (III) Granting Related Relief and (B) Entry of an Order (I) Recognizing and Enforcing the Canadian Order Expanding the Monitor's Powers and (II) Granting Related Relief* (the "Kupp Declaration"), and (ii) the *Declaration of Michael J. Sellinger in Support of the Foreign Representative's Motion for Entry of an Order (I) Recognizing and Enforcing the CCAA Approval and Vesting Order, (II) Approving the Sale of Substantially All of the Debtors' Assets Free and Clear of Liens, Claims, and Encumbrances, and (III) Granting Related Relief* (the "Sellinger Declaration"), each filed

contemporaneously herewith, and (B) respectfully states as follows in support of this motion (this “Motion”):

**Relief Requested**<sup>2</sup>

1. By this Motion, the Foreign Representative seeks entry of an order (the “Sale Approval Order”), substantially in the form attached hereto as **Exhibit A**:

- a. recognizing and enforcing, pursuant to sections 1501, 1507, 1520, 1521, 1525, and 1527 of title 11 of the United States Code (the “Bankruptcy Code”), Rules 2002, 6004, 6006, and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”), and Section E of the *Procedures for Complex Cases in the Northern District of Texas* (the “Complex Case Procedures”), the Canadian Court’s *Assignment, Approval and Vesting Order* (the “CCAA Approval and Vesting Order”) attached to the Sale Approval Order as Exhibit 1,<sup>3</sup>
- b. authorizing the Debtors’ entry into, and approving, pursuant to sections 105, 363, and 365 of the Bankruptcy Code, that certain Transaction Agreement dated December 18, 2024 (as may be amended, the “Transaction Agreement,” attached to the Sale Approval Order as Exhibit 2) entered into by and among Sandvine Canada and Procera Networks, Inc. (“Procera US,” and, together with Sandvine Canada, the “Sellers”), Sandvine Holdings UK Limited (“Sandvine UK,” and together with the Sellers, the “Seller Parties”), and Dune Parent LLC (“NewCo Parent”) on behalf of companies to be formed in accordance with the Implementation Steps (as defined in the Transaction Agreement and attached as Exhibit “A” thereto) (collectively, the “Purchaser Parties,” and together with the Seller Parties, the “Parties.” For the avoidance of doubt, the term “Purchasers” shall have the definition ascribed to it in the Transaction Agreement), and the transactions contemplated therein, including the Implementation Steps and the Transition Services Agreement (as defined below) (collectively, the “Transactions”);
- c. authorizing and approving, pursuant to and in accordance with sections 105, 363, and 365 of the Bankruptcy Code, the Existing Loan Lender Credit Bid and Release and the DDTL/DIP Lender Credit Bid and Release, free and clear of all liens, claims, encumbrances, and other interests (other than the

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<sup>2</sup> Capitalized terms used but not defined herein have the definitions ascribed to them in the Kupp Declaration.

<sup>3</sup> Exhibit 1 to the Sale Approval Order contains the form CCAA Approval and Vesting Order served by the Debtors in the Canadian Proceedings on January 16, 2025. The Foreign Representative will file on the docket of these Chapter 15 Cases the as-entered CCAA Approval and Vesting Order following the Canadian Court’s entry of such order.

Permitted Encumbrances (as defined in the Transaction Agreement)) in accordance with the Transaction Agreement;

- d. authorizing and empowering the Seller Parties to perform their respective obligations under the Transaction Agreement and the Transition Services Agreement and authorizing and empowering the Seller Parties and the Monitor to complete the Transactions and for the seller parties to provide the Transition Services (as defined in the Transition Services Agreement); and
- e. granting related relief.

### **Preliminary Statement**

2. As set forth in greater detail in the Verified Petition (as defined below), the Debtors commenced these Chapter 15 Cases as the final step in a nearly year-long effort to restructure their business, which efforts were triggered by the addition of certain of the Debtors to BIS' Entity List and the corresponding immediate and negative impact to the Company's revenue caused by such Entity List designation. The CCAA Proceedings and these Chapter 15 Cases (together, the "Proceedings") provided the Debtors with the breathing spell needed to stabilize their business and to pursue a value maximizing restructuring transaction. The Debtors successfully pursued a court-approved and supervised sale and investment solicitation process (the "SISP") in the CCAA Proceedings to obtain the highest or best offer for their assets and to preserve their operations as a going concern. The SISP has now concluded and the Debtors have selected the stalking horse transaction agreement (the "Stalking Horse Transaction Agreement" or "Transaction Agreement"), submitted on behalf of the Consenting Stakeholders, as the highest and best offer for their assets.<sup>4</sup> The Foreign Representative now requests that this Court (as defined below) approve of, and authorize, the Seller Parties' entry into the Transaction Agreement, and

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<sup>4</sup> The Stalking Horse Transaction Agreement was the only bid submitted in the SISP.

recognize and enforce in the United States the Canadian Court's CCAA Approval and Vesting Order.

3. The immediate approval of the Transactions and the recognition and enforcement of the CCAA Approval and Vesting Order in the United States is critical to the Debtors' restructuring efforts. The Transaction Agreement is subject to a number of conditions precedent, including conditions providing that the CCAA Approval and Vesting Order and the Sale Approval Order shall have been granted and become final orders. The Transaction Agreement also provides that the Purchasers may terminate the Transaction Agreement if the closing of the Transactions has not occurred on or before March 21, 2025. As explained in greater detail below, the Debtors are seeking a final order from the Canadian Court approving the CCAA Approval and Vesting Order on January 30, 2025. The Parties aim to consummate the Transactions set forth in the Transaction Agreement by no later than February 28, 2025.

4. The Foreign Representative believes that the sale of the assets (the "Purchased Assets") in accordance with the terms and conditions of the Transaction Agreement, the CCAA Approval and Vesting Order, and the Sale Approval Order will maximize value for the Debtors' creditors and other stakeholders. This Court's recognition and enforcement of the CCAA Approval and Vesting Order in the United States and approval of the Transaction Agreement are necessary to preserve the Debtors' going concern enterprise and to maximize the Debtors' value, in each case without disruption and in a timely and efficient manner. Absent the relief requested herein, the Debtors, their employees, their creditors, and other stakeholders may potentially suffer significant, if not irreparable, harm due to the Debtors' inability to pursue a going concern transaction.

### **Jurisdiction and Venue**

5. The United States Bankruptcy Court for the Northern District of Texas (the “Court”) has jurisdiction over this matter pursuant to 28 U.S.C. § 1334, and this is a core matter pursuant to 28 U.S.C. § 157(b)(2)(P).

6. These Chapter 15 Cases have been properly commenced pursuant to section 1504 of the Bankruptcy Code, by the filing of petitions for recognition of the CCAA Proceedings under section 1515 of the Bankruptcy Code.

7. Venue is proper pursuant to 28 U.S.C. § 1410.

### **Background**

#### **I. Overview**

8. The Debtors are a Canadian application and network optimization company headquartered in Waterloo, Ontario. Sandvine provides quality of experience (“QoE”) analysis and performance optimization software applications to its customers, the majority of which are telecommunications service providers located around the world. Sandvine’s technology generates metadata (*i.e.*, information about data) about its customer’s end-users, including information about the types of applications, application categories, and content categories with which an end-user engages. Sandvine’s customers use this metadata to classify network traffic, enhance network connectivity, counter threats to network security, and to optimize the QoE for an application. Sandvine’s technologies are used to facilitate and optimize internet access for millions of people around the world.

9. Additional information regarding the Debtors, their business, and the facts and circumstances surrounding the Proceedings is set forth in the (a) *Verified Petition for Entry of an Order (I) Recognizing Foreign Main Proceedings, or in the Alternative, Foreign Nonmain Proceedings, (II) Recognizing the Foreign Representative, and (III) Granting Related Relief*

[Docket No. 9] (the “Verified Petition”); (b) *Declaration of Jeffrey A. Kupp in Support of (A) Verified Petition for Entry of an Order (I) Recognizing Foreign Main Proceedings, or in the Alternative, Foreign Nonmain Proceedings, (II) Recognizing the Foreign Representative, and (III) Granting Related Relief*; and (B) *Debtors’ Emergency Motion for Provisional Relief Under Chapter 15 of the Bankruptcy Code* [Docket No. 10]; and (c) *Declaration of Karin Sachar as Canadian Counsel in Support of the Verified Petition for Entry of an Order (I) Recognizing Foreign Main Proceedings, or in the Alternative, Foreign Nonmain Proceedings, (II) Recognizing the Foreign Representative, and (III) Granting Related Relief* [Docket No. 11], each of which is incorporated by reference as if fully set forth herein.

10. On the Petition Date, the Debtors commenced the CCAA Proceedings, and the Canadian Court issued the Initial Order. Later on the Petition Date, the Foreign Representative properly commenced these Chapter 15 Cases under sections 1504 and 1509 of the Bankruptcy Code by filing petitions for recognition of the CCAA Proceedings under section 1515 of the Bankruptcy Code. Following a first day hearing held on the Petition Date, this Court entered orders authorizing, among other things, the joint administration and procedural consolidation of these Chapter 15 Cases pursuant to Bankruptcy Rule 1015(b) and rule 1015-1(a) of the Local Bankruptcy Rules of the United States Bankruptcy Court for the Northern District of Texas (the “Local Rules”) [Docket No. 23].

11. On December 3, 2024, this Court entered the *Order (I) Recognizing Foreign Main Proceedings, or in the Alternative, Foreign Nonmain Proceedings, (II) Recognizing the Foreign Representative, and (III) Granting Related Relief* [Docket No. 64] (the “Recognition Order”), which granted recognition of the CCAA Proceedings as “foreign main proceedings” pursuant to chapter 15 of the Bankruptcy Code (“Chapter 15”). The Recognition Order found, among other

things, that the Debtors had satisfied the applicable requirements for the application of sections 101(23), 101(24), 1502(4), 1504, 1509, 1515, 1517, 1520, 1521, and 1522 of the Bankruptcy Code with respect to the relief granted therein.

12. A description of the Debtors' restructuring efforts from the Petition Date through entry of the Recognition Order, the terms of and relief authorized by the amended and restated Initial Order (the "A&R Initial Order") issued in the CCAA Proceedings, and an overview of the SISP relief contained in the SISP Order are set forth in (a) the *Supplement to the Verified Petition for Entry of an Order (I) Recognizing Foreign Main Proceedings, or in the Alternative, Foreign Nonmain Proceedings, (II) Recognizing the Foreign Representative, and (III) Granting Related Relief* [Docket No. 62] and (b) the *Supplemental Declaration of Jeffrey A. Kupp in Support of (A) Verified Petition for Entry of an Order (I) Recognizing Foreign Main Proceedings, or in the Alternative, Foreign Nonmain Proceedings, (II) Recognizing the Foreign Representative, and (III) Granting Related Relief* [Docket No. 60].

## **II. The Sale and Investment Solicitation Process**

13. In the SISP Order, the Canadian Court, among other things: (a) approved the SISP and related procedures in the CCAA Proceedings, and the implementation thereof; (b) authorized the Debtors' entry into the Stalking Horse Transaction Agreement with the Consenting Stakeholders (or with such purchaser entities as may be formed pursuant to their instructions), on economic terms consistent with those set forth in the restructuring term sheet attached to the RSA; and (c) granted certain other relief, as set forth therein.

14. The SISP, among other things, described (a) the assets of the Debtors that would be available for sale (collectively, the "Assets"), (b) the manner in which prospective bidders could gain access to due diligence materials concerning the Assets and the SISP, (c) the manner in which bidders and bids could become qualified parties and qualified bids, respectively, (d) the guidelines



and processes for the ultimate selection of the successful bidder and the successful bid, and (e) the process for obtaining approval (including Canadian Court approval) of any sale resulting from the SISP, as may be necessary or appropriate in respect of a successful bid.

15. The SISP was designed as a 2-phase process run by the Debtors and their financial advisor, GLC Advisors & Co., LLC and GLC Securities, LLC (together, “GLC”), under the supervision and oversight of KSV Restructuring Inc., in its capacity as the court-appointed monitor in the CCAA Proceedings (the “Monitor”). The SISP provided the framework pursuant to which the Debtors could solicit bids in connection with (a) a sale of substantially all of, or parts of, the Assets, or (b) an investment in, restructuring, recapitalization, refinancing, or other form of reorganization, of all or some of Sandvine or its business.

16. The SISP required parties that executed a non-disclosure agreement (“NDA”) to submit a letter of intent (each, an “LOI”) indicating such party’s intent to purchase the Debtors’ Assets or otherwise participate in the Debtors’ reorganization by December 18, 2024 (the “Phase 1 Bid Deadline”). SISP Order, Sch. A at ¶ 9. Pursuant to the SISP, each LOI was required to (a) identify the potential purchaser and provide a general description of the Assets and/or business(es) of Sandvine that would be the subject of the bid, (b) provide for the payment of the Minimum Transaction Value (as defined in the SISP), including the provision of required transition services, (c) reflect a reasonable prospect of culminating in a Qualified Bid,<sup>5</sup> as determined by Sandvine in consultation with GLC and the Monitor, and (d) be received by 5:00 p.m. (prevailing Eastern Time) on the Phase 1 Bid Deadline. *Id.* at ¶ 12.

17. The SISP further provided that, following the Phase 1 Bid Deadline, Sandvine and GLC, in consultation with the Monitor, would determine whether any LOI satisfied the

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<sup>5</sup> The requirements for a Qualified Bid mirror the LOI requirements. SISP Order, Sch. A ¶ 12.

requirements set forth above such that it would constitute a “Phase 1 Qualified Bid.” A bidder that submitted a Phase 1 Qualified Bid (each, a “Phase 1 Qualified Bidder”) would be invited to participate in Phase 2 of the SISP, which would require such Phase 1 Qualified Bidder to submit a binding offer (a “Phase 2 Bid”) meeting the additional requirements for a “Qualified Bid,” as set out in the SISP by January 27, 2025 (the “Qualified Bid Deadline”). *Id.* at ¶ 18. The SISP provided that Sandvine and GLC, in consultation with the Monitor, would determine whether any Phase 2 Bids constituted Qualified Bids; if any Phase 2 Bids constituted Qualified Bids, then, pursuant to the SISP, Sandvine and GLC, in consultation with the Monitor, could, before or after electing to proceed with an auction, select one or more bid(s) as the “Successful Bid.” *Id.* at ¶¶ 21-22.

18. Finally, the SISP provided that if the Debtors did not receive either a Phase 1 Qualified Bid on or before the Phase 1 Bid Deadline, or a Qualified Bid (other than the bid provided in the Stalking Horse Transaction Agreement) on or before the Qualified Bid Deadline, the SISP could be terminated, and, subject to approval by the Canadian Court, the transactions contemplated in the Stalking Horse Transaction Agreement would be deemed the Successful Bid. *Id.* at ¶ 24.

19. In accordance with the terms of the SISP, GLC prepared a list of potential bidders with the assistance of the Debtors and in consultation with the Monitor, through:

- a. research on industry participants, consisting of both financial and strategic parties;
- b. discussions with the Debtors’ management; and
- c. inbound inquiries received directly and through the Monitor during the CCAA Proceedings.

(Seller Decl. at ¶ 11)

20. In accordance with the SISP and related procedures, the Monitor published the SISP Order on its website on November 15, 2024. *Id.* at ¶ 12. GLC launched the SISP on

November 18, 2024, by distributing a teaser letter and NDA. *Id.* The teaser letter communicated the Phase 1 Qualified Bid Deadline of December 18, 2024, to its list of potential bidders. *Id.*

21. GLC contacted approximately 110 potential bidders during the Phase 1 of the SISP. *Id.* 41 potentially interested parties affirmatively communicated to GLC, via phone call or email, their desire to abstain from participating in the SISP. *Id.* at ¶ 17. Between the SISP's launch and the Phase 1 Qualified Bid Deadline (the "Solicitation Period"), GLC (a) followed up with those potential bidders that had not responded to GLC's initial outreach, and (b) conducted phone calls with 20 potential bidders. *Id.* at ¶ 13. Ultimately, 13 potential bidders executed NDAs. *Id.* Those potential bidders who executed NDAs: (a) received access to the virtual data room ("VDR"), which was periodically updated; and (b) were given the opportunity to request additional information from Sandvine and/or GLC as part of their due diligence on the Company. *Id.* ¶

22. Throughout the Solicitation Period, GLC, in coordination with Sandvine and the Monitor, responded to diligence request inquiries from parties engaged in the SISP. *Id.* at ¶ 13-14. Such requests typically centered around the Company's existing capitalization, regulatory standing, and go-forward business plan. *Id.* at ¶ 13. GLC, with the assistance of Sandvine and the Monitor, considered and responded to the diligence inquiries of parties actively engaged in the SISP. *Id.* Additionally, on November 19, 2024, GLC uploaded a confidential information presentation to the VDR, which presentation included a summary of the Debtors' operations, business, and assets, thereby making this information available to all potential bidders that had executed an NDA. *Id.*

23. On December 9, 2024, in accordance with the SISP Order, GLC posted to the VDR a copy of the substantially final draft of the Stalking Horse Transaction Agreement, which included the terms of the transition services to be provided to the Sellers. *Id.* at ¶ 15.

24. During the Solicitation Period, GLC requested, on several occasions, that the non-Debtor NDA counterparties submit an LOI that satisfied the requirements set out in Schedule “A” to the SISP Order. *Id.* at ¶ 16. No LOIs were received by the Phase 1 Bid Deadline. *Id.* at ¶ 17. As no LOI was received by the Phase 1 Bid Deadline, after consultation with their advisors and the Monitor, the Debtors deemed the SISP terminated, and the transactions set forth in the Stalking Horse Transaction Agreement were declared the Successful Bid, in accordance with paragraph 16 of the SISP. *Id.*

25. The SISP was a public, transparent, comprehensive, robust, and thorough process implemented in accordance with its court-approved terms and under the supervision and oversight of the Canadian Court and the court-appointed Monitor. Kupp Decl. at ¶ 12-13. The SISP achieved the best transaction available in the circumstances. *Id.* at ¶ 33; Sellinger Decl. at ¶ 27. Extending the timelines in the SISP would not have improved the chances for, or resulted in, a reasonable prospect of another Qualified Bid being received. Kupp Decl. at ¶ 31. Instead, doing so would have only resulted in uncertainty and extra costs to the Debtors. *Id.* The Monitor was actively involved in and consulted throughout the SISP. *See* Sellinger Decl. at ¶¶ 13, 14, 17, 20. In sum, the Transaction Agreement represents the best transaction terms the Debtors could achieve in the circumstances based on a competitive SISP. *Id.* at ¶ 25.

### **III. The Transaction Agreement**

26. The key economic terms of the RSA (as discussed in greater detail in the Verified Petition), included:<sup>6</sup>

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<sup>6</sup> Capitalized terms used in this section but not otherwise defined herein have the meanings provided to them in the applicable RSA or the Transaction Agreement, as applicable.

- a. the outstanding DDTL Tranche A Loans and DIP Loans (up to \$50 million in the aggregate *plus* any accrued interest) and DDTL Tranche B Loans (\$75 million in the aggregate *plus* any accrued interest) will be converted into and exchanged for up to \$125 million *plus* any accrued interest in exit facility term loans on a dollar-for-dollar and *pari passu* basis);
- b. the DDTL Tranche A Commitment Parties (or their designees) shall receive the DDTL Commitment Fee; and
- c. The \$337 million in Legacy Loans remaining will be exchanged for 50% of the NewCo Common Equity, subject to dilution by the management incentive plan.

27. The Transaction Agreement implements these key economic terms. Through the Transaction Agreement, the Purchasers will acquire substantially all of the Assets, including the equity interests of Sandvine UK and the non-Debtor “rest-of-world” subsidiaries, and will assume certain of the Sellers’ liabilities. The Transaction Agreement provides that all priority and cure payments (if any) will be paid by the Purchasers on the Closing Date (as defined therein) from the cash portion of the Purchase Price and the Debtors’ cash on hand or assumed by the Purchasers. The Administrative Expense Reserve of US \$3 million will be used by the Monitor to administer the Excluded Assets and the Excluded Liabilities, and to otherwise wind-up the Debtors’ estates. Any unused portion of the Administrative Expense Reserve will be transferred by the Monitor to the Purchasers following the wind-up of the Debtors’ estates.

28. The Purchased Assets will be acquired in accordance with the Transaction Agreement and the Implementation Steps pursuant to which the Consenting Stakeholders will, among other things, direct a credit bid and exchange and release of (a) \$337 million in Existing Term Loans, and (b) all outstanding DDTL/DIP Loans (up to \$125 million) for (i) together with the DDTL Commitment Fee payable in equity, the equity of the parent of the Purchasers (subject to dilution by the management incentive plan, if any (the “MIP”)), and (ii) Exit Term Loans in an amount equal to the outstanding DDTL/DIP Loans.

Transaction Agreement, § 3.1.

29. The consideration for the holders of Existing Term Loans (the “Existing Loan Claimholders”) and the DDTL/DIP Loans (“DDTL/DIP Claimholders”) consists of the following:

- a. The Existing Loan Claimholders shall receive, in the aggregate, 50% of the NewCo Parent Equity (subject to dilution by the MIP, if any) (the “Existing Loan Claimholders Consideration”) in exchange for, directly or indirectly, the settlement and extinguishment of the Existing Loan Claims, and such NewCo Parent Equity shall be allocated to each Existing Loan Claimholder on a pro rata basis to the Existing Loan Claims held by each such Existing Loan Claimholder in proportion to the Existing Loan Claims held by all Existing Loan Claimholders, which shall be effectuated through the Existing Loan Lender Credit Bid and Release;
- b. The DDTL/DIP Claimholders shall receive the Exit Term Loans (the “DDTL/DIP Claimholders Consideration”), in exchange for, directly or indirectly, the settlement and extinguishment of the DDTL Tranche A Loan Claims, DDTL Tranche B Loan Claims, and DIP Loan Claims on a pro rata and dollar-for-dollar basis, which shall be effectuated through the DDTL/DIP Lender Credit Bid and Release; and
- c. the DDTL Tranche A Commitment Parties shall receive, in aggregate, 50% of the NewCo Parent Equity (subject to dilution by the MIP, if any) in satisfaction of the DDTL Commitment Fee, and such New Parent Equity shall be allocated to each DDTL Tranche A Commitment Party on a pro rata basis to the DDTL Tranche A Commitment Amount of such DDTL Tranche A Commitment Party in proportion to the aggregate DDTL Tranche A Commitment Amounts of all DDTL Tranche A Commitment Parties. NewCo Parent will separately issue the 50% of NewCo Parent Equity received in satisfaction of the DDTL Commitment Fee to the DDTL Commitment Parties.

Transaction Agreement, § 3.2.

30. The below chart summarizes the material terms of the Transaction Agreement, as required by Section E (17) of the Complex Case Procedures:<sup>7</sup>

Relevant Complex Case Procedure	Summary
<b>Parties</b> Complex Case Procedures ¶ 17	<p><b>Purchaser Parties:</b> The Consenting Stakeholders, through a representative, formed a Delaware limited liability company, NewCo Parent to sign the Transaction Agreement.</p> <ul style="list-style-type: none"> <li>• Prior to closing, NewCo Parent will form various U.S., Canadian, and United Kingdom-based subsidiaries that will join the Transaction Agreement as Purchasers.</li> </ul> <p><b>Seller Parties:</b> Procera US and Sandvine Canada are the Sellers party to the Transaction Agreement, and Sandvine Holdings UK Limited is also party to the Transaction Agreement.</p>
<b>Consideration</b> Complex Case Procedures ¶ 17	<p>The aggregate purchase price payable by the Purchasers to the Sellers in exchange for the Purchased Assets is to be satisfied by: (a) the assumption of the Assumed Liabilities by the Purchasers, and (b) the transfer of, in aggregate, 50% of the New Parent Equity (or, if applicable, the Excess Value Debt) and the Exit Term Loans, in each case, by the applicable Purchaser to the applicable Seller, in each case, in accordance with the Implementation Steps.</p>
<b>Transaction Structure</b>	<p>On or prior to the Closing Date, the Parties shall (and shall cause their respective affiliates to) undertake the Implementation Steps described in Exhibit “A” to the Stalking Horse Transaction Agreement, including the Pre-Closing Internal Reorganization.<sup>8</sup></p> <p>On the Closing Date, after the effectuation of the Pre-Closing Internal Reorganization, each Seller shall sell, convey, assign, and transfer and deliver to the applicable Purchaser, and each applicable Purchaser shall purchase, acquire, and accept from each Seller, free and clear of all Encumbrances other than the Permitted Encumbrances, the Purchased Assets pursuant to the CCAA Approval and Vesting Order and the Implementation Steps.</p> <p>After the Closing Date, Procera US shall eventually liquidate and dissolve.</p>
<b>Purchased Assets</b> Complex Case Procedures ¶ 17	<p>In accordance with the AVO and the Implementation Steps, the Purchasers shall purchase from the Applicants, free and clear of all Encumbrances, other than the Assumed Liabilities and the Permitted Encumbrances, all of the Sellers’ right, title, and interests at the time specified in the Implementation Steps in, to and under, or relating to, the assets, property and undertaking, owned, used or held by it in connection with the Business other than the Excluded Assets (the “<u>Purchased Assets</u>”), which include:</p>

<sup>7</sup> This summary is qualified in its entirety by reference to the provisions of the documents referenced. In the event of any inconsistencies between this summary and such documents, the terms of the applicable document(s) shall control. Capitalized terms used in this summary but not defined herein have the definitions ascribed to them in the Transaction Agreement.

<sup>8</sup> “Pre-Closing Internal Reorganization” means (i) Sandvine UK’s transfer of intellectual property to Sandvine OP (UK) Ltd., a private limited company incorporated under the laws of England and Wales, (ii) Sandvine UK’s transfer of all equity interest it holds in Acquired Subsidiaries to Sandvine, and (iii) Procera Holding, Inc.’s transfer of assets it owns that would constitute Purchased Assets if it were a Seller (if any) to Procera, in each case, prior to Closing in accordance with the Implementation Steps.

Relevant Complex Case Procedure	Summary
	<ul style="list-style-type: none"> <li>• all cash (including any unused portion of the amounts used to fund the Administrative Expense Reserve, Priority Payments/Disputed Cures Costs/ CCAA Charges Reserve, and the Transition Services Fees Reserve), accounts receivable, prepaid expenses, trade and book debts, Purchased Intercompany Receivables, any asset-backed commercial paper or other investments, and deposits;</li> <li>• all Inventory and fixed assets and equipment (excluding any equipment owned by other Persons or customers of the Sellers located on the Sellers’ leased premises);</li> <li>• all Personal Property Leases;</li> <li>• the Assigned Contracts;</li> <li>• any securities in the Acquired Subsidiaries;<sup>9</sup></li> <li>• any assets transferred to a Seller under the Implementation Steps and any other assets as agreed to between the Sellers and NewCo Parent prior to the Closing Date;</li> <li>• all rights, titles and interests in all intellectual property;</li> <li>• all software and documentation therefor owned by the Sellers related to the Business or the Purchased Assets;</li> <li>• the goodwill of the Business and relating to the Purchased Assets, and information and documents relevant thereto, and the exclusive right of the applicable Purchaser to represent itself as carrying on the Business in succession to the applicable Seller;</li> <li>• the sponsorship of, and all assets, agreements, funding arrangements, and policies forming part of or relating to any Employee Plan, and all rights, interests and obligations thereunder, unless the applicable NewCo Entities establishes mirror plans;</li> <li>• the Books and Records;</li> <li>• all Permits and Licenses;</li> <li>• the Sellers’ interests in all Contracts of insurance, insurance policies, and insurance plans relating to the Business or the Purchased Assets and any insurance proceeds (net of any deductibles and retention) recovered by the Sellers before the Closing Date and the full benefit of its rights to insurance claims to the extent relating to the Business or the Purchased Assets and amounts recoverable in respect thereof net of any deductible;</li> <li>• all Claims, refunds (including any refundable Taxes or refund of Taxes that are assignable), causes of action, rights of recovery, rights of set- off, and rights of recoupment; and</li> </ul>

<sup>9</sup> With respect to the Acquired Subsidiaries, the CCAA Approval and Vesting Order provides that all Persons shall be deemed to have waived all defaults committed or caused by any Acquired Subsidiary or any noncompliance with respect to a contract between any Person and any Acquired Entity arising from: (a) the insolvency of the Sandvine Entities; (b) the commencement of these CCAA proceedings or the Chapter 15 Proceedings; and (c) the Transaction Agreement, the Transition Services Agreement, the RSA, and/or the consummation of the Transactions.



Relevant Complex Case Procedure	Summary
	<ul style="list-style-type: none"> <li>all warranty rights against manufacturers, builders, contractors or suppliers relating to any of the Purchased Assets.</li> </ul>
<b>Assigned Contracts</b>	<p>Each Seller agrees to assign to the applicable Purchaser all of its rights, benefits and interests in, to and under the Assigned Contracts.</p> <p>As discussed further below, the Transaction Agreement provides that if any necessary consents to assign the Assigned Contracts cannot be obtained, the Sellers and the Monitor may elect to, or upon the request of NewCo Parent, shall apply for and use commercially reasonable efforts to obtain an Order from the CCAA Court assigning such contracts prior to the Closing Date.</p>
<b>Excluded Assets</b> Complex Case Procedures ¶ 17	<p>The Purchased Assets shall not include any of the “<u>Excluded Assets</u>” of each Seller, which shall remain the property of such Seller. The Excluded Assets include the following:</p> <ul style="list-style-type: none"> <li>Excluded Contracts, and all cash (received following Closing), Claims, accounts receivable and amounts receivable by the Sellers, in each case arising following Closing, on account of the Excluded Contracts;</li> <li>the Transition Services Pre-Payment Amount, <i>provided, however</i>, that such Transition Services Pre-Payment Amount is transferred to NewCo Entities on the Closing Date pursuant to the Transition Services Agreement;</li> <li>tax refunds that are not legally assignable to a Purchaser;</li> <li>any loans or debts due to Sellers prior to the Closing Date (other than any Assumed Intercompany Debt or Purchased Intercompany Receivable);</li> <li>corporate records that the Sellers are prohibited from disclosing or transferring under applicable law;</li> <li>consideration received under the Transaction Agreement;</li> <li>each Seller’s rights under the Stalking Horse Transaction Agreement, the Closing Deliverables and the Transaction;</li> <li>all properties, assets and rights solely held by any non-Seller Company Party other than properties, assets and rights transferred to a Seller under the Implementation Steps;</li> <li>securities held by the Sellers other than those securities transferred to a Purchaser under the Implementation Steps;</li> <li>insurance rights that are not related to the Business or the Purchased Assets, which, for greater certainty, shall not include the directors’ and officers’ insurance policies;</li> <li>any asset of the Sellers that would otherwise constitute a Purchased Asset but for the fact that it is conveyed, leased, or otherwise disposed of in the ordinary course of the Business before closing;</li> <li>all rights in respect of any retainers paid by the Sellers to professional service providers or the Monitor and its counsel; and</li> <li>all records of communications between the Sellers and their professional service providers.</li> </ul>

Relevant Complex Case Procedure	Summary
<p><b>Assumed Liabilities</b></p> <p>Complex Case Procedures ¶ 17</p>	<p>The “<u>Assumed Liabilities</u>” consist of:</p> <ul style="list-style-type: none"> <li>• All liabilities and obligations arising under or in respect of the Personal Property Leases, Employee Plans, Permits and Licenses, and the Assigned Contracts, including any Cure Costs;</li> <li>• Assumed Intercompany Debts;</li> <li>• all employee liabilities and obligations (pursuant to Section 5.7 of the Transaction Agreement);</li> <li>• all Post-Filing Trade Amounts;</li> <li>• all Pre-Filing Trade Amounts; and</li> <li>• all liabilities relating to the ownership or use of the Purchased Assets and the operation of the Business from and after the Closing Date.</li> </ul>
<p><b>Excluded Liabilities</b></p> <p>Complex Case Procedures ¶ 17</p>	<p>All liabilities that are not Assumed Liabilities are “<u>Excluded Liabilities</u>,” These include:</p> <ul style="list-style-type: none"> <li>• any intercompany debt that is not Assumed Intercompany Debt;</li> <li>• any claims for infringement of any intellectual property rights of any third party prior to the Closing Date;</li> <li>• all liabilities and obligations relating to the Excluded Assets;</li> <li>• all liabilities and obligations under any Contracts related to the debt described in Schedule “I” of the Stalking Horse Transaction Agreement, which may be updated no later than ten days prior to the hearing for the CCAA Approval and Vesting Order, including all accrued and accruing interest, fees, costs and expenses thereunder;</li> <li>• all liabilities for Taxes of a Seller; and</li> <li>• any Claims arising from or in relation to any facts, circumstances, events or occurrences existing or arising prior to the Closing Time, except as specifically included as an Assumed Liability.</li> </ul>
<p><b>Employees / Independent Contractors</b></p>	<p>For all Employees other than the Delayed Transfer Employees, ten Business Days prior to Closing, the applicable Purchaser will either (i) continue to employ such Employee, to the extent employment continues by operation of Applicable Law, or (ii) offer employment to such Employee, to the extent employment does not continue by operation of Applicable Law, in all cases, on terms and conditions that are no less favorable as those enjoyed by the Employees immediately prior to closing. All of the Employees who accept or continue employment with any Purchaser will be “<u>Assumed Employees</u>.”</p> <p>All Delayed Transfer Employees will remain employees of the applicable Seller during the Employee TSA Period and until terminated in accordance with the Transaction Agreement or otherwise. Immediately following the Delayed Transfer Employee Termination Date, the applicable Purchaser will provide, or cause its applicable Affiliate to provide, an Offer of Employment to each Delayed Transfer Employee on terms on terms and conditions that are no less favorable as those enjoyed by the Employees immediately prior to closing.</p>

Relevant Complex Case Procedure	Summary
	<p>The applicable Purchaser will indemnify and hold the Sellers harmless from and against all Claims, incurred or asserted by a Delayed Transfer Employee for the period from the Closing Date to the Delayed Transfer Employee Termination Date.</p> <p>At least ten business days prior to Closing, the Sellers shall automatically assign any arrangements related to the engagement of Independent Contractors to the Purchasers. To the extent applicable law prohibits the assignment of any such engagement agreement, the Purchasers shall make an offer of engagement on terms and conditions that are no less favorable as those enjoyed by the Independent Contractor immediately prior to Closing.</p> <p>Transaction Agreement, § 5.7</p>
<p><b>Administrative Expense Matters</b></p>	<p>On the Closing Date:</p> <ul style="list-style-type: none"> <li>• the Administrative Expense Reserve<sup>10</sup> in the amount of US \$3 million will be paid to the Monitor and such funds will be held in trust by the Monitor;</li> <li>• the Priority Payments/Disputed Cure Costs/CCAA Charges Reserve<sup>11</sup> will be established and the Transition Services Fees Reserve will be paid to the Monitor, and such funds will be held in trust by the Monitor; and</li> <li>• all funded by cash paid by the Sellers and other Company Parties.</li> </ul> <p>If there is an excess amount in any reserve, then such excess amount will be paid back to the Purchasers as a Purchased Asset.</p> <p>If either the Administrative Expense Reserve or the Transition Services Fees Reserve are fully spent, then the Monitor may use the funds from the other reserve to provide additional funds to the deficient reserve. If there is a shortfall in both the Administrative Expense Reserve and the Transition Services Fees Reserve, then the NewCo Entities shall fund such a deficiency up to a maximum amount of US \$3 million.</p>
<p><b>Conditions Precedent to Closing</b></p> <p>Complex Case Procedures ¶ 17(e)</p>	<p>The <u>conditions precedent to closing</u> of the Transactions include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• approval of the CCAA Approval and Vesting Order by the Canadian Court;</li> <li>• this Court’s recognition of the CCAA Approval and Vesting Order;</li> <li>• the issuance of the Exit Term Loans and NewCo Parent equity;</li> <li>• The Purchasers and the Seller Parties, as applicable, obtaining all necessary governmental authorizations (including any necessary merger control and FDI approvals); and</li> <li>• other customary closing conditions.</li> </ul> <p>The Closing Date is expected to occur on or before February 28, 2025.</p>

<sup>10</sup> A reserve of US \$3 million to cover the reasonable and documented fees and costs of the Monitor and its professional advisors and the professional advisors of the Applicants for services relating directly or indirectly to the CCAA Proceedings, the Chapter 15 Proceedings or the Transaction Agreement, including costs required to wind down the Debtors (but excluding any services in relation to the Transition Services Agreement).

<sup>11</sup> A reserve of no less than US \$1.5 million to cover the costs and expenses of the services related to the Transition Services Agreement and related CCAA costs of the Monitor and its professional advisors.

<p><b>Sale to Insider</b> Complex Case Procedures ¶ 17(a)</p>	<p>As disclosed in the RSA and the restructuring term sheet attached thereto, as well as the Verified Petition, the Company and the Consenting Stakeholders, in their capacity as secured lenders, executed the RSA, which anticipated that the Transactions would be consummated in accordance with the terms of the restructuring term sheet (attached to the RSA).</p> <p>In connection with the June 2024 Restructuring, the Existing Loan Lenders (or their predecessors in interest) acquired 100% of New Procera GP Company’s and Procera II LP’s equity interests and are the current ultimate equity owners of the Debtors. The Consenting Stakeholders own more than a majority of the equity interests in New Procera GP Company’s and Procera II LP. Post-closing of the Transaction Agreement, New Procera GP Company and Procera II LP are expected to be dissolved, liquidated, or similarly administered, and it is expected that no distributions will be made to their interest holders.</p>
<p><b>Agreements with Management</b> Complex Case Procedures ¶ 17(b)</p>	<p>The Purchasers are authorized to continue to employ, or make written offers of employment to, the Debtors’ Employees, including members of the Debtors’ management team and key employees, on terms and conditions that are no less favorable as those enjoyed by the Employees immediately prior to Closing.</p> <p>Transaction Agreement, § 5.7</p>
<p><b>Releases, Exculpations, and Indemnifications</b> Complex Case Procedures ¶ 17(c)</p>	<p>The sale of the Purchased Assets to Purchasers will be free and clear of Encumbrances, and other interests other than the Assumed Liabilities and Permitted Encumbrances.</p> <p>The CCAA Approval and Vesting Order will provide that the Sellers and their Affiliates will grant releases in favor of the Purchasers, the Monitor and their respective Affiliates, and each of their respective successors and assigns, and all current and former officers, directors, managers, partners, members, shareholders, limited partners, employees, agents, financial and legal advisors of each of them.</p> <p>The applicable Purchaser will indemnify and hold the Sellers harmless from and against all Claims, incurred or asserted by a Delayed Transfer Employee for the period from the Closing Date to the Delayed Transfer Employee Termination Date.</p> <p>Transaction Agreement, §§ 2.1, 3.3, 5.7(e), 5.12</p>
<p><b>Private Sale/No Competitive Bidding</b> Complex Case Procedures ¶ 17(d)</p>	<p>The sale of the Purchased Assets results from a marketing process and a court-approved SISP conducted by the Debtors in the CCAA Proceedings.</p> <p>Through this Motion, the Foreign Representative seeks recognition from this Court of the of the CCAA Approval and Vesting Order, by which order the Canadian Court will approve the Transactions on or around January 30, 2025.</p>
<p><b>Good Faith Deposit</b> Complex Case Procedures ¶ 17(g)</p>	<p>N/A</p>
<p><b>Interim Arrangements with Proposed Buyer</b> Complex Case Procedures ¶ 17(g)</p>	<p>N/A</p> <p>In accordance with the Transition Services Agreement, after the Effective Date, certain Purchasers will provide the Sellers with Transition Services to enable the Sellers to comply with their obligations to Exit Customers under the applicable contracts, among other obligations.</p>

<p><b>Use of Proceeds</b> Complex Case Procedures ¶ 17(h)</p>	<p>The proceeds of the Transactions will be used in accordance with the terms of the Transaction Agreement.</p>
<p><b>Record Retention</b> Complex Case Procedures ¶ 17(i)</p>	<p>The Purchasers will make transferred Books and Records, or copies thereof, available to the Debtors and the Monitor for purposes of the CCAA Proceedings or these Chapter 15 Cases in accordance with applicable law.</p>
<p><b>Sale of Avoidance Actions</b> Complex Case Procedures ¶ 17(j)</p>	<p>The Purchasers will acquire all of the Sellers' Claims.</p>
<p><b>Requested Findings as to Successor Liability</b> Complex Case Procedures ¶ 17(k)</p>	<p>The CCAA Approval and Vesting Order transfers the Purchased Assets free and clear of any Claims, including successor liability claims.</p>
<p><b>Sale Free and Clear of Unexpired Leases</b> Complex Case Procedures ¶ 17(l)</p>	<p>N/A</p>
<p><b>Credit Bid</b> Complex Case Procedures ¶ 17(m)</p>	<p>In accordance with the RSA and the restructuring term sheet, the Transaction Agreement (and the Implementation Steps) would effectuate a credit bid on behalf of all Existing Loan Lenders and DDTL/DIP Lenders.</p>
<p><b>Relief from Rule 6004(h)</b> Complex Case Procedures ¶ 17(n)</p>	<p>The Foreign Representative seeks a waiver of the 14-day stay under Bankruptcy Rule 6004(h).</p>

31. Upon consummation of the Transactions, the Company's business will emerge from the Proceedings on a substantially de-levered going concern basis without the burden of the Excluded Liabilities, the Excluded Contracts, and the Excluded Assets (each as defined in the Transaction Agreement). The Debtors' remaining estates will wind-down in accordance with the Wind-Down Budget and applicable insolvency law.

32. Pursuant to the Transaction Agreement, the Parties will enter into a transition services agreement (the “Transition Services Agreement”),<sup>12</sup> pursuant to which the Purchasers will provide to the Sellers the various professional, support, and maintenance services necessary to facilitate the Sellers’ performance under the Transition Contracts, for the benefit of the Transition Customers, which services may include:

- a. the services necessary to perform under the Transition Contracts and to provide ongoing licensing services;
- b. those services necessary for financial transaction support, order management, and processing;
- c. the services necessary to enable the Sellers to perform under the End User License Agreements that are Transition Contracts;
- d. project deployment professional services and training services;
- e. value-added services; and
- f. other services on terms and conditions mutually agreed upon between the parties to the Transition Services Agreement.

Transaction Agreement, Schedule G.

33. The parties to the Transition Services Agreement may mutually agree to terminate such agreement at any time, and the agreement terminates with respect to Exit Customers upon the respective exit dates set forth in the exit letters provided to the Exit Customers. Kupp Decl. at ¶ 28. The Transition Services Agreement provides requires the applicable Seller to pay the applicable Purchaser the revenues from the applicable Transition Services Customer, *minus* the reasonable costs, fees, expenses, and charges such Seller incurs in connection with its performance under the applicable Transition Contract, including any charges of any third persons (including the Monitor and its counsel and advisors). *Id.* The Sellers will also, at their sole cost and expense,

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<sup>12</sup> A copy of the form Transition Services Agreement is attached as Schedule “G” to the Transaction Agreement.

defend, indemnify, and hold harmless the Purchasers, each of their affiliates, and each of their respective representatives from any claim arising from or related to the Transitions Services Agreement and the provision of services thereunder. *Id.*

#### IV. The CCAA Approval and Vesting Order<sup>13</sup>

34. On January 16, 2025, the Debtors served a notice of motion (the “Canadian Approval Motion”)<sup>14</sup> in the CCAA Proceedings. Through the Canadian Approval Motion, the Debtors seek the issuance of (a) the CCAA Approval and Vesting Order authorizing the applicable Debtors’ entry into the Transaction Agreement, approving the Transactions thereunder (including the Implementation Steps), and granting related relief and (b) a *Post-Closing Administration Order* expanding the Monitor’s powers and extending the stay of proceedings in the CCAA Proceedings through June 30, 2025.<sup>15</sup> *Id.* at ¶ 18. The Canadian Court scheduled a hearing on January 30, 2025, at 9:00 a.m. (prevailing Central Time) to consider the Canadian Approval Motion and the relief requested therein. Parties in interest are being noticed regarding the hearing in accordance with the CCAA’s procedures and will have an opportunity to be heard at such hearing.

35. A copy of the proposed CCAA Approval and Vesting Order is attached to the Sale Approval Order as Exhibit 1. If entered as requested, the CCAA Approval and Vesting Order will, among other things:

- a. approve the Transaction Agreement, the Transition Services Agreement, and the Transactions (including the Implementation Steps) and authorize

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<sup>13</sup> Capitalized terms used in section but not otherwise defined have the meanings provided to them in the CCAA Approval and Vesting Order or the Transaction Agreement (as applicable).

<sup>14</sup> A copy of the Canadian Approval Motion filed in the CCAA Proceedings is available on the Monitor’s website at: <https://www.ksvadvisory.com/experience/case/sandvine>

<sup>15</sup> The Canadian Approval Motion, through a single pleading, requested the Canadian Court’s issuance of two distinct orders: the CCAA Approval and Vesting Order, and the Post-Closing Administration Order. The Foreign Representative is seeking recognition and approval of the Post-Closing Administration Order in a separate motion—the *Foreign Representative’s Motion for Entry of an Order (I) Recognizing and Enforcing the Canadian Order Expanding the Monitor’s Powers and (II) Granting Related Relief*—filed contemporaneously herewith.

the applicable Debtors to enter into these agreements, and consummate the Transactions contemplated thereunder;

- b. order that at the Effective Time (i) the Sellers' rights, title, and interests in and to the Purchased Assets will vest absolutely in the applicable Purchaser, free and clear of and from any Claims (other than the Assumed Liabilities and Permitted Encumbrances), and (ii) any existing Claims will attach to the net proceeds of the Purchased Assets;
- c. order that at the Effective Time, all of the rights and obligations of each Seller under, and in connection with, an Assigned Contract will be assigned to, and assumed by, the applicable Purchaser, and that such assignment is valid and binding upon all counterparties to the Assigned Contracts, notwithstanding any restriction or prohibition thereto contained therein;
- d. direct the Purchasers to pay any Cure Costs (as defined in the Transaction Agreement), if any, in relation to the Assigned Contracts within fifteen days of the Effective Time; and
- e. order that at the Effective Time and in accordance with the Implementation Steps, Sandvine OP (UK) Ltd. will automatically cease being a debtor in the CCAA Proceedings in all respects.

CCAA Approval and Vesting Order, at ¶¶ 3, 7, 12, 15, 18.

36. The CCAA Approval and Vesting Order also provides the following releases:

- a. **THIS COURT ORDERS** that, at the Effective Time, (a) the current and former directors, managers, officers, advisors, legal counsel or representatives of the Sandvine Entities; (b) the Consenting Stakeholders; (c) each current or former shareholder (or holder of any other Interest (as defined in the Restructuring Support Agreement)) of the Sandvine Entities; (d) each current or former holder of any current or previous funded debt Claim against the Sandvine Entities (including but not limited to the Existing Loan Lenders and the DDTL/DIP Lenders); (e) the Existing Loan Agents and the DDTL/DIP Agents and their respective legal counsel; (f) the Monitor and its legal counsel; (g) the NewCo Entities (including the Purchasers) and any shareholder or member of NewCo Parent (solely in its capacity as such); and (h) with respect to each Person listed or described in any of the foregoing clauses (b) through (g), each such Person's current and former Affiliates (other than the Sandvine Entities), and each such Person's and their current and former Affiliates' current and former directors, managers, officers, employees, consultants, legal counsel, partners and advisors (in such capacities, collectively, the "Released Parties") shall be deemed to be forever irrevocably released by all Persons and discharged from 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 on or prior to the Effective Time, or undertaken or completed in connection with or pursuant to the terms of this Order, in respect of, relating to, or arising out of (i) the Sandvine Entities, the business, operations, assets, property and affairs of the Sandvine Entities wherever or however conducted or governed, the administration and/or management of the Sandvine Entities, these CCAA proceedings and/or the Chapter 15 Proceedings, or (ii) the Transaction Agreement, the Transition Services Agreement, the Restructuring Support Agreement, the Restructuring Term Sheet, and any agreement, document, instrument, matter or transaction involving the Sandvine Entities arising in connection with or pursuant to any of the foregoing, and/or the consummation of the Transactions or any parts thereof (the “Released Claims”), which Released Claims shall be deemed to be fully, finally, irrevocably and forever waived, discharged, released, cancelled and barred as against the Released Parties; *provided* that, nothing in this paragraph shall waive, discharge, release, cancel or bar (w) any claim that is not permitted to be released pursuant to section 5.1(2) of the CCAA, (x) any claim with respect to any act or omission that is determined by final order of a court of competent jurisdiction to have constituted actual fraud, willful misconduct, or gross negligence, or (y) any claim by any Person relating to the right to enforce against any of the Released Parties its post-Effective Time obligations under the Transaction Agreement, the Transition Services Agreement, and any other agreement, document, or instrument executed to implement the Transactions.

- b. **THIS COURT ORDERS** that, notwithstanding anything set out in any of the Orders made by the Court in these CCAA proceedings, any Released Claim asserted against the current or former directors, managers and officers of the Sandvine Entities (collectively, the “Sandvine D&Os”) that is covered by any insurance policy maintained by the Sandvine Entities (each, an “Insured Claim”), but only to the extent of any such available insurance, shall not be compromised, released, discharged, cancelled or barred by this Order, and any person having an Insured Claim shall be irrevocably limited to recovery in respect of such Insured Claim solely from the proceeds of the applicable insurance policies, and persons with Insured Claims shall have no right to, and shall not, directly or indirectly, seek any recoveries in respect thereof from the Sandvine D&Os, other than enforcing such person’s rights to be paid by the applicable insurer(s) from the proceeds of the applicable insurance policies. Nothing herein shall

prejudice, compromise, release or otherwise affect any rights or defences of any insurer with respect to any Insured Claim.

CCAA Approval and Vesting Order, at ¶¶ 26-27.

37. As set forth above, the releases provided in the CCAA Approval and Vesting Order do not release or discharge (a) any claim that is not permitted to be released pursuant to section 5.1(2) of the CCAA,<sup>16</sup> (b) any obligation of any Released Parties under or in connection with the Transaction Agreement, the Definitive Documents and other documents related to the Transactions, or (c) any claim with respect to any act or omission that is determined by a court of competent jurisdiction to have constituted actual fraud, willful misconduct, or gross negligence.

38. The Debtors and the Consenting Stakeholders expect to consummate the Transactions on or before February 28, 2025. The consummation of the Transactions by that date, which is supported by 97% of the Debtors' secured lenders and is critical to preserve the Debtors' going concern value. Kupp Decl. at ¶ 33. The Transactions ensure that the Sellers can comply with their commitments to BIS, which were made in connection with the Debtors' removal from the Entity List. *Id.* at ¶ 29. In addition, the Transactions are structured to maximize efficiencies for the enterprise's go-forward business. Seller Decl. at ¶ 23. Finally, the closing timeline allows the company to emerge from bankruptcy in time to participate in one of the preeminent trade shows in the industry as a de-levered player in the application logic space. Kupp Decl. at ¶ 31. In short, the proposed Transactions are necessary to consummate the best transaction available to the Debtors under the circumstances, and to ensure the Debtors' business

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<sup>16</sup> Section 5.1(2) of the CCAA provides that:

(2) A provision for the compromise of claims against directors may not include claims that

(a) relate to contractual rights of one or more creditors; or

(b) are based on allegations of misrepresentations made by directors to creditors or of wrongful or oppressive conduct by directors.

continues as a going concern. *Id.* at ¶¶ 32, 33. Any other structure that does not enable a timely and efficient closing while achieving these restructuring objectives would undermine the future viability of the business. *Id.* at ¶ 38.

39. The Foreign Representative believes that the Transaction Agreement is fair and reasonable under the circumstances, results from good faith negotiations, and is in the best interests of the Debtors, their creditors, and other stakeholders. *Id.* at ¶¶ 33, 34. It results from an extensive court-approved marketing process undertaken by the Debtors and GLC under the supervision and oversight of the Monitor. *Id.* at ¶ 13. The Debtors also did not enter into the Transaction Agreement for the purpose of hindering, delaying, or defrauding present or future creditors of the Debtors under the Bankruptcy Code or under any other laws of the United States or any state or territory thereof. *Id.* at ¶ 34. The Foreign Representative has no knowledge of any party engaging in any conduct that would cause or permit the Transaction Agreement to be set aside under section 363(n) of the Bankruptcy Code. *Id.*

40. Pursuant to Article 8.1 of the Transaction Agreement, issuance of the CCAA Approval and Vesting Order, and entry of the Sale Approval Order by this Court recognizing and enforcing the CCAA Approval and Vesting Order in these Chapter 15 Cases, is a condition precedent to the closing of the Transaction Agreement. This Court's recognition and enforcement of the CCAA Approval and Vesting Order and approval of the Transactions will enable the applicable Sellers to sell the Purchased Assets as a going concern without disruption and in a timely and efficient manner. Absent the relief requested herein, the Debtors, their creditors, their employees, and other stakeholders may suffer significant, if not irreparable, harm. *Id.* at ¶ 32.

### Basis for Relief

#### **I. The Court Should Grant Comity to, and Recognize and Enforce the CCAA Approval and Vesting Order in, the United States**

41. Congress enacted Chapter 15 to promote cooperation and comity between courts in the United States and foreign jurisdictions, facilitate the reorganization of a debtor's business, and protect the value of a debtor's assets during its foreign reorganization proceedings. *See* 11 U.S.C. § 1501. Central to Chapter 15 is comity and the facilitation of cooperation between multiple nations. *Firefighters' Ret. Sys. v. Citco Grp. Ltd.*, 796 F.3d 520, 525 (5th Cir. 2015) (citing *In re Vitro SAB de CV*, 701 F.3d 1031, 1043 (5th Cir. 2012)). Consistent with this principle, section 1509(b)(3) provides that a court in the United States "shall grant comity or cooperation to the foreign representative" upon recognition of a foreign proceeding as a foreign main proceeding under section 1517 of the Bankruptcy Code.<sup>17</sup> *See* 11 U.S.C. §§ 1509(b)(3); 1517.

42. Courts in the United States apply general principles of comity when deciding whether to recognize and enforce a foreign order. *See, e.g., U.S. Steel Canada Inc.*, 571 B.R. 600, 612 (Bankr. S.D.N.Y. 2017); *In re Rede Energia S.A.*, 515 B.R. 69, 89 (Bankr. S.D.N.Y. 2014). They construe exceptions to comity narrowly, particularly if "the foreign proceeding is in a sister common law jurisdiction with procedures akin to our own, comity should be extended with less hesitation, there being fewer concerns over the procedural safeguards employed in those foreign proceedings." *In re Bd. of Dirs. of Hopewell Intl. Ins. Ltd., Inc.*, 238 B.R. 25, 66 (Bankr.S.D.N.Y.1999), *aff'd*, 275 B.R. 699 (S.D.N.Y.2002) (internal quotation marks and citations omitted).

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<sup>17</sup> The United States Supreme Court defines comity as "the recognition which one nation allows within its territory to the legislative, executive, or judicial acts of another nation, having due regard both to international duty and convenience, and to the rights of its own citizens, or of other persons who are under the protection of its laws." *Hilton v. Guyot*, 159 U.S. 113, 143 (1895).

43. Courts in the United States have repeatedly granted comity to Canadian proceedings. *United Feature Syndicate, Inc. v. Miller Features Syndicate, Inc.*, 216 F. Supp. 2d 198, 212 (S.D.N.Y.2002) (“There is no question that bankruptcy proceedings in Canada—a sister common law jurisdiction with procedures akin to our own—are entitled to comity under appropriate circumstances.”) (internal quotation marks and citations omitted); *Tradewell, Inc. v. American Sensors Elecs., Inc.*, No. 96 Civ. 2474(DAB), 1997 WL 423075, at \*1 n.3 (S.D.N.Y.1997) (“It is well-settled in actions commenced in New York that judgments of the Canadian courts are to be given effect under principles of comity.”) (internal quotation marks and citation omitted); *Cornfeld v. Investors Overseas Servs., Ltd.*, 471 F.Supp. 1255, 1259 (S.D.N.Y.1979) (“The fact that the foreign country involved is Canada is significant. It is well-settled in New York that the judgments of the Canadian courts are to be given effect under principles of comity. Trustees in bankruptcy appointed by Canadian courts have been recognized in actions commenced in the United States. More importantly, Canada is a sister common law jurisdiction with procedures akin to our own, and thus there need be no concern over the adequacy of the procedural safeguards of Canadian proceedings.”) (internal quotation marks and citations omitted).

44. This Court recognized the CCAA Proceedings as foreign main proceedings under section 1517 of the Bankruptcy Code. As a result, Chapter 15 mandates comity. 11 U.S.C. §1509(b)(3) (subject to any limitations consistent with Chapter 15’s policies, “a court in the United States shall grant comity ... to the foreign representative” if it grants recognition under section 1517 of the Bankruptcy Code). The CCAA is similar to chapter 11 of the Bankruptcy Code and promotes the rehabilitation of debtors, providing a “breathing spell” from creditors’ collection efforts, and a centralized process to assert and resolve claims against the debtors in an effort to

maximize estate value. *See, e.g., In re SageCrest II LLC*, 2015 WL 9438369, at \*2 (Bankr. D. Conn., 2015). Accordingly, it is exceedingly common for courts in the United States to extend comity to orders, including sale orders, issued in Canadian insolvency proceedings. *See, e.g., In re Dynamic Technologies Group*, No. 23-41416 (Bankr. N.D. Tex. Jul. 5, 2023) [Docket No. 49]; *In re Just Energy Group*, No. 21-30823 (Bankr. S.D. Tex. Dec. 1, 2022) [Docket No. 222]; *In re Calmena Energy Svcs., Inc.*, No. 15-30786 (Bankr. S.D. Tex. Jun. 2, 2015) [Docket No. 36]; *In re Poseidon Concepts Corp.*, No. 13-15893 (Bankr. D. Colo. Jun. 19, 2013) [Docket No. 119]; *In re GASFRAC Energy Svcs., Inc.*, No. 15-50161 (Bankr. W. D. Tex. Mar. 18, 2014) [Docket No. 85].

45. The Foreign Representative respectfully requests that this Court grant comity to and recognize and enforce the CCAA Approval and Vesting Order in the United States, thereby giving full force and effect to the Canadian Court’s approval of the Transaction Agreement, the Transactions, and the sale of substantially all of the Assets. Such relief is consistent with the regular practice of courts in the United States and is well within this Court’s authority under sections 105 and 1509 of the Bankruptcy Code.

## **II. The Court Should Authorize the Sale of Substantially All of the Debtors’ Assets Pursuant to Sections 105, 363, 1501, 1507, 1520, and 1521 of the Bankruptcy Code**

46. Section 1520 of the Bankruptcy Code provides various forms of relief to the Foreign Representative and the Debtors upon the recognition of the foreign representative and a foreign proceeding as a foreign main proceeding. *See* 11 U.S.C. § 1520. Section 1520(a)(2) of the Bankruptcy Code provides, in relevant part, that “[u]pon recognition of a foreign proceeding that is a foreign main proceeding . . . section[] 363 [of the Bankruptcy Code] appl[ies] to a transfer of an interest of the debtor in property that is within the territorial jurisdiction of the United States to the same extent that the section[] would apply to property of an estate.” 11 U.S.C. § 1520(a)(2). Moreover, section 1520(a)(3) of the Bankruptcy Code provides that, upon recognition of a foreign

main proceeding, “unless the court orders otherwise, the foreign representative may operate the debtor’s business and may exercise the rights and powers of a trustee under and to the extent provided by section[] 363 [of the Bankruptcy Code].” 11 U.S.C. § 1520(a)(3).

47. While the Fifth Circuit has not directly addressed the issue, other courts have held that section 1520(a)(2) requires bankruptcy courts to review sale transactions that are outside the ordinary course in Chapter 15 cases in the same manner as they would in a chapter 11 case. *See, e.g., In re Fairfield Sentry Ltd.*, 768 F.3d 239, 246 (2d Cir. 2014) (“The language of section 1520(a)(2) is plain; the bankruptcy court is required to conduct a section 363 review when the debtor seeks a transfer of an interest in property within the territorial jurisdiction of the United States.”); *see also In re Elpida Memory, Inc.*, 2012 WL 6090194 at \*1 (Bankr. D. Del. Nov. 20, 2012) (holding that section 363 of the Bankruptcy Code applies to transfers of assets located within the United States outside of the ordinary course of business in connection with cases commenced under chapter 15 of the Bankruptcy Code).

48. Section 363(b)(1) of the Bankruptcy Code provides that a debtor, “after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate.” 11 U.S.C. § 363(b)(1). A debtor may sell property outside of the ordinary course of business under this provision if a good business reason exists for doing so. “Great judicial deference is given to the [debtor’s] exercise of business judgment” regarding the sale of estate property. *See, e.g., GBL Holding Co. v. Blackburn/Travis/Cole, Ltd.*, 331 B.R. 251, 254 (Bankr. N.D. Tex. 2005) (citing *In re Continental Air Lines, Inc.*, 780 F.2d 1223, 1226 (5th Cir. 1986)). The business judgment standard in section 363 is flexible and encourages discretion. *In re Acis Cap. Mgmt., L.P.*, 604 B.R. 484, 520 (N.D. Tex. 2019), *aff’d sub nom. Matter of Acis Cap. Mgmt., L.P.*, 850 F. App’x 302 (5th Cir. 2021). Courts have held that “[a]s long as [the sale] appears to

enhance a debtor's estate, court approval of a [Trustee's] decision to [sell] should only be withheld if the [Trustee's] judgment is clearly erroneous, too speculative, or contrary to the provisions of the Bankruptcy Code[.]” *Richmond Leasing Co. v. Capital Bank, N.A.*, 762 F.2d 1303, 1309 (5<sup>th</sup> Cir.1985).

49. Entering into the Transaction Agreement is a sound exercise of the Debtors' business judgment. *First*, the Transactions are the culmination of the Debtors' efforts to restructure over the past 11 months, which efforts included extensive stakeholder negotiations and engagement, entry into and consummation of prior substantial deleveraging transactions, and ultimately, entry into the Transaction Agreement. Kupp Decl. at ¶¶ 5-10, 35. Moreover, the Transactions are the only viable going concern transaction available to the Debtors and would benefit all stakeholders. *Id.* at ¶ 19. As such, recognition of the CCAA Approval and Vesting Order is necessary and appropriate.

50. *Second*, the Transaction Agreement results from good-faith negotiations between the Parties. Sellinger Decl. at ¶ 21. The Debtors submit that each of the Purchaser Parties is a “good faith” purchaser within the meaning of section 363(m) of the Bankruptcy Code. Moreover, considering that (a) the Consenting Stakeholders submitted, through a representative, the Transaction contemplated in the Stalking Horse Transaction Agreement and their bid was subject to higher or otherwise better offers, and (b) the SISP was crafted to ensure that the Assets were sold for the maximum potential price, the Debtors submit that the Transactions and Transaction Agreement have been proposed in good faith.

51. *Third*, the Purchase Price is fair, reasonable, and results from an extensive marketing process. The robust, court-approved and supervised SISP, and resulting “market test,” establishes the fairness and reasonableness of the consideration provided to the Sellers from the



Purchasers. Kupp Decl. at ¶ 35; Sellinger Decl. at ¶ 26. The court-appointed Monitor, an officer of the Canadian Court, has been continuously involved in the CCAA Proceedings, including by supervising the SISP. Kupp Decl. at ¶13. The Monitor and its advisors have reviewed the Transaction Agreement and related documents and the marketing process. *Id.* at ¶ 17; Sellinger Decl. at ¶ 20.

52. *Finally*, sections 1525 and 1527 of the Bankruptcy Code mandate cooperation “to the maximum extent possible with the foreign court or a foreign representative,” which includes, “coordination of the administration and supervision of the debtor’s assets and affairs,” “approval or implementation and supervision of the debtor’s assets and affairs,” and “approval or implementation of agreements concerning the coordination of proceedings.” 11 U.S.C. §§ 1525, 1527. This Court should recognize and give effect to the results of the SISP, recognize and enforce the CCAA Approval and Vesting Order in the United States, and approve the Transaction Agreement and the Transactions set forth therein.

**III. The Form and Manner of Notice of the SISP and the U.S. Sale Hearing Are Reasonable, Adequate, and Appropriate**

53. On January 16, 2025, the Debtors’ Canadian counsel served the Canadian Approval Motion on the notice parties in the CCAA Proceedings in accordance with the CCAA’s service requirements. The Company will also serve notice of the hearing of the CCAA Approval and Vesting Motion on all of the Company’s customers (both in continuing and exiting jurisdictions), and contractual counterparties whose contracts are being assigned. This notice will inform customers of the hearing date and time, and will note the website maintained by the Monitor in the CCAA proceedings through which they can access copies to the relevant materials filed in these Proceedings. In addition, the Foreign Representative will serve or cause to be served this Motion and the CCAA Approval and Vesting Order upon the notice parties in these Chapter 15 Cases

(the “Chapter 15 Notice Parties”). The Foreign Representative will also serve a notice of the hearing on the Sale Approval Order (the “U.S. Sale Hearing”) and this Motion, in substantially the form attached hereto as **Exhibit B** (the “Sale Approval Hearing Notice”), upon all of the Debtors’ known and potential creditors located in the United States and other parties in interest (together, with the Chapter 15 Notice Parties, the “Master Service List”). The Foreign Representative will serve this Motion, the CCAA Approval and Vesting Order (once entered), and the Sale Approval Hearing Notice by electronic mail to the extent email addresses are available and otherwise by overnight United States or Canadian mail, as applicable, within five (5) business days following the filing of this Motion, or entry of the CCAA Approval and Vesting Order, as applicable, or as soon thereafter as is reasonably practicable.

54. The Sale Approval Hearing Notice will (a) notify parties on the Master Service List of the terms and conditions of the Transactions and Transaction Agreement, (b) set forth the time for filing objections to the relief requested in the Motion, (c) set forth the date, time, and place to attend the U.S. Sale Hearing, (d) notify parties on the Master Service List that copies of this Motion are available and may be examined (i) free of charge at the webpage maintained by the Monitor at <https://www.ksvadvisory.com/experience/case/sandvine>, or (ii) for a fee from the Court’s electronic docket at <https://ecf.txnd.uscourts.gov>. As such, this Motion and the Sale Approval Hearing Notice will provide “notice [that is] ‘reasonably calculated, under all the circumstances, to inform interested parties of the pendency’ of a proceeding.” *In re Placid Oil Co.*, 753 F.3d 151, 154 (5th Cir. 2014) (citing *Mullane v. Central Hanover Bank & Trust Co.*, 399 U.S. 306, 314-15 (1950)). Such notice is in addition to the extensive notice provided in the CCAA Proceedings. Accordingly, notice of the Transaction Agreement and the hearing on its approval is sufficient and appropriate.

**IV. The Court Should Authorize and Approve the Sale of the Purchased Assets “Free and Clear” Under Section 363(f) of the Bankruptcy Code**

55. Section 363(f) of the Bankruptcy Code permits a debtor to sell property free and clear of another party’s interest in the property if: (a) applicable non-bankruptcy law permits such a free and clear sale; (b) the holder of the interest consents; (c) the interest is a lien and the sale price of the property exceeds the value of all liens on the property; (d) the interest is subject to a bona fide dispute; or (e) the holder of the interest could be compelled in a legal or equitable proceeding to accept a monetary satisfaction of its interest. *See* 11 U.S.C. § 363(f).

56. Section 363(f) is drafted in the disjunctive. Thus, satisfaction of any of the requirements enumerated therein suffices to warrant the sale of the Purchased Assets free and clear of all interests (which includes all liens, claims, rights, interests, charges, or encumbrances, among other things), except with respect to any claims or interests that may be assumed under the Transaction Agreement. *See, e.g., In re Roman Catholic Diocese of Rockville Centre*, 2024 WL 4816645, at \*9 (Bankr. S.D.N.Y. Nov 18, 2024), (citing *In re Elliot*, 94 B.R. 343, 345 (E.D. Pa. 1988) (noting that section 363(f) is written in the disjunctive, authorizing a trustee to sell property of the estate free and clear of all liens if any of the five conditions of section 363(f) are met)); *In re C-Power Prods., Inc.*, 230 B.R. 800, 803 (Bankr. N.D. Tex. 1998); *In re Nature Leisure Times, LLC*, No. 06-41357, 2007 Bankr. LEXIS 4333, at \*7 (Bankr. E.D. Tex. Dec. 19, 2007) (same).

57. Pursuant to section 363(f) of the Bankruptcy Code, the Debtors have obtained the requisite consent to sell the Purchased Assets free and clear of all liens, claims, interests, or encumbrances (other than the Permitted Encumbrances (as defined in the Transaction Agreement)). Those creditors that may submit such liens, claims, encumbrances, or other interests who did not object to (or who withdrew their objections to) the Motion, the U.S. Sale Hearing, or the sale of the Purchased Assets, should be deemed, subject to the terms of the Sale Approval

Order and the CCAA Approval and Vesting Order, to have consented to such sale free and clear pursuant to section 363(f)(2) of the Bankruptcy Code. The sale of the Purchased Assets free and clear of all interests, other than as provided in the Sale Approval Order and the CCAA Approval and Vesting Order, accordingly, satisfies the statutory prerequisites of section 363(f) of the Bankruptcy Code.

58. The Debtors have requested the Canadian Court approve the Transactions and the sale of the Purchased Assets free and clear of all interests in the CCAA Approval and Vesting Order. A sale of the Purchased Assets to the Purchasers “free and clear” is also consistent with the best interests of the Debtors’ estates and creditors. Kupp Decl. at ¶ 33. Pursuing a sale other than one free and clear of all interests (other than the Permitted Encumbrances) would yield substantially less value for the Debtors and their creditors. *Id.* A sale free and clear of all interests (other than the Permitted Encumbrances) is therefore in the best interests of the Debtors, their creditors, and other parties in interest, and is consistent with the sale anticipated to be approved via the CCAA Approval and Vesting Order.

**V. The Court Should Afford the Purchaser Parties All the Protections of Section 363(m) and (n) of the Bankruptcy Code as They are Good Faith Purchasers**

59. The Purchaser Parties are entitled to the benefits and protections provided by section 363(m) of the Bankruptcy Code, which provides in relevant part:

The reversal or modification on appeal of an authorization under subsection (b) . . . of this section of a sale or lease of property does not affect the validity of a sale or lease under such authorization to an entity that purchased or leased such property in good faith, whether or not such entity knew of the pendency of the appeal, unless such authorization and such sale or lease were stayed pending appeal.

11 U.S.C. § 363(m).

60. Section 363(m) of the Bankruptcy Code protects a purchaser of assets sold pursuant to section 363 of the Bankruptcy Code from the risk that it will lose its interests in the purchased

assets if the order allowing the sale is reversed on appeal, so long as the purchaser purchased the assets in “good faith.” *See* 11 U.S.C. § 363(m). The Bankruptcy Code does not define “good faith,” but the Fifth Circuit has stated that a good faith purchaser is one who (a) “purchases the assets for value, in good faith, and without notice of adverse claims,” and (b) has not conducted itself in a way that “involves fraud, collusion between the purchaser and other bidders or the trustee, or an attempt to take grossly unfair advantage of other bidders.” *In re TMT Procurement Corp.*, 764 F.3d 512, 521 (5th Cir. 2014). Courts generally conclude that a purchaser has acted in good faith as long as the consideration is adequate and reasonable and the terms of the transaction fully disclosed. *See, e.g., In re Sea Oaks Country Club, LLC*, 2020 WL 6588412, at \*2 (Bankr. D. N. J. 2020); *In re Abbotts Dairies of Pennsylvania, Inc.*, 788 F.2d 143, 149-50 (3d Cir. 1986).

61. As described above, the consideration the Debtors will receive under the Transaction Agreement is substantial, fair, and reasonable. There are no indications of fraud or collusion between the Purchaser Parties and other bidders or the Debtors, and there is similarly no indication that the Purchaser Parties attempted to take grossly unfair advantage of other bidders or engaged in any similar conduct that would permit avoidance of the Transactions under section 363(n) of the Bankruptcy Code. Sellinger Decl. at ¶ 18. To the contrary, the Transaction Agreement results from a court-approved and supervised sale process (the SISP) that was carefully structured—and administered under the Monitor’s supervision and oversight—to ensure that the Assets would be sold for the maximum potential price. Ultimately, no other bid providing value for the Assets materialized, other than the Transactions. Accordingly, the Purchasers have satisfied the requirements of section 363(m) of the Bankruptcy Code and have not violated section 363(n) of the Bankruptcy Code and therefore are good-faith purchasers entitled to the protections set forth in section 363(m) of the Bankruptcy Code.

**VI. The Court Should Recognize the Canadian Court’s Authorization to Assign the Assigned Contracts to the Applicable Purchaser Parties or Alternatively, Approve Such Assignment Pursuant to Sections 365, 1501, 1507, 1520, and 1521 of the Bankruptcy Code**

62. The Transaction Agreement provides for, and specifically requires as a condition precedent to Closing, the assignment of the Sellers’ rights, benefits, and interests in, to, and under certain contracts (as defined therein, the “Assigned Contracts”). Likewise, the proposed CCAA Approval and Vesting Order expressly provides that the rights and obligations of the Debtor counterparties under the applicable Assigned Contracts are assigned to the applicable Purchaser, notwithstanding any anti-assignment provision contained therein.

63. For the reasons detailed above and the Sellinger Declaration and the Kupp Declaration, the Sellers appropriately exercised their business judgment when agreeing to assume and assign the Assigned Contracts in accordance with, and pursuant to, the Transaction Agreement. As further explained below, the notice and protections for counterparties set forth in the Canadian orders entered to date and implemented in the CCAA Proceedings, including service of the proposed CCAA Approval and Vesting Order on the service list maintained by the Monitor and service of a notice of hearing on the CCAA Approval and Vesting Order to the Assigned Contract’s non-Sandvine counterparties, are adequate to protect the rights of such counterparties and are consistent with the relief the Bankruptcy Code affords to debtors and buyers under sections 363 and 365. Moreover, the Purchasers, on request, will provide adequate assurance of their ability to perform under the Assigned Contracts, the Debtors are current on their payment obligations under the Assigned Contracts, and are able to satisfy cure obligations (if any) related thereto. Kupp Decl. at ¶ 25. Accordingly, the Foreign Representative requests recognition and enforcement in the United States of the CCAA Approval and Vesting Order specifically with regard to the assignment of the Assigned Contracts under the Transaction Agreement. Granting the requested

relief accords with the United States' public policy, as embodied in the substantially similar Bankruptcy Code provisions for chapter 11 (and other) debtors.

64. Alternatively, and in addition to such recognition, the Foreign Representative requests this Court approve the Sellers' assumption and assignment of the Assigned Contracts pursuant to section 365 of the Bankruptcy Code. Section 365 of the Bankruptcy Code does not automatically apply in Chapter 15 cases upon their recognition. *See* 11 U.S.C. § 1520 (relief automatically applicable on recognition). Section 1521 of the Bankruptcy Code, however, provides in relevant part that “[u]pon recognition of a foreign proceeding, whether main or non-main, where necessary to effectuate the purpose of [chapter 15] and to protect the assets of the debtor or the interests of the creditors, the court may, at the request of the foreign representative, grant any appropriate relief, including granting any . . . relief that may be available to a trustee, except for relief available under sections 522, 544, 545, 547, 548, 550, and 724(a) [of the Bankruptcy Code].” 11 U.S.C. § 1521(a)(7). Section 1507 of the Bankruptcy Code provides that “[s]ubject to specific limitations stated elsewhere in [chapter 15] the court, if recognition is granted, may provide additional assistance to a foreign representative under [chapter 15] or under other laws of the United States.” *Id.* § 1507(a). Finally, this Court has already ruled in the Recognition Order that the provisions of section 365 of the Bankruptcy Court apply to the Debtors' property within the territorial jurisdiction of the United States to the same extent that such sections would apply to property of the estate. *See* Recognition Order at ¶ 6.

65. Section 365 of the Bankruptcy Code, in turn, permits a debtor, “subject to the court's approval, [to] assume or reject any executory contract or unexpired lease of the debtor.” 11 U.S.C. § 365(a). As is the case under section 363 of the Bankruptcy Code with respect to asset sales, the deferential business judgment standard governs a debtor's decision to assume or reject

an executory contract. *See In re Ultra Petroleum Corp.*, 28 F.4th 629, 636 (5th Cir. 2022) (citing *Mission Prod. Holdings, Inc. v. Tempnology, LLC*, 587 U.S. 370, 374 (2019)). Section 365(b) of the Bankruptcy Code requires a debtor seeking to assume and assign a contract to cure existing defaults and provide adequate assurance of future performance of the assigned contract. *See* 11 U.S.C. § 365(b)(1); *See In re Texas Health Enterprises Inc.*, 72 F. App'x 122, 126 (5th Cir. 2003). The phrase “adequate assurance of future performance” is “to be given a practical, pragmatic construction.” *Richmond Leasing Co. v. Cap. Bank, N.A.*, 762 F.2d 1303, 1309 (5th Cir. 1985).

66. In connection with their operations, the Debtors are collectively party to thousands of executory contracts as well as some unexpired leases (collectively, the “Contracts”) which form the core of their business. The Company’s customers primarily consist of telecommunication service providers and corporate groups or enterprises. First Day Decl. at ¶ 16. Its sales are typically executed through “right to use” and end user license agreements. *Id.* at ¶ 17. In addition, the Company relies on third-party software providers for (a) products it embeds into its application of QoE software, and (b) for products used in its internal operations, many of which are critical to its business and its ability to serve customers. *Id.* at ¶ 21. The Contracts are central to the Debtors’ operations, and other than Exit Customer contracts in the Exit Jurisdictions, the Purchasers intend to assume substantially all of the Sellers’ Contracts in accordance with, and as identified in the schedules attached to, the Transaction Agreement. Successful consummation of the Transactions therefore requires the Debtors to assume and assign several Contracts, as set forth in the schedules to the Transaction Agreement. As of the date of filing this Motion, the Debtors are not aware of any monetary defaults on their Contracts, and to the extent any monetary defaults exist with respect to an Assigned Contract, the Sellers will satisfy all cure obligations related thereto. Moreover, the Debtors have or will notice all non-Sandvine counterparties to the Assigned Contracts and provide



such counterparties an opportunity to raise any monetary defaults that may exist in respect of an Assigned Contract with the Monitor. Kupp Decl. at ¶ 25.

67. The assumption and assignment of the Assigned Contracts as part of the Transactions is based on the Debtors' sound business judgment and is in the best interests of the Debtors and their creditors. The Sellers intend to sell substantially all of their Assets in connection with the going concern Transactions and will have no further use for the Assigned Contracts. Moreover, the Assigned Contracts are critical to the Debtors' business operations and their assumption and assignment maximizes the value of the Debtors' estate for the benefit of all stakeholders.

68. The Debtors have requested that the Canadian Court authorize the Sellers to assume and assign the Assigned Contracts. All of the requirements of section 365(b)(1) of the Bankruptcy Code are also met. The Purchasers are assuming any liabilities with respect to the Assigned Contracts and, to the extent an Assigned Contract counterparty has requested it, will or have already provided adequate assurance of future performance under the applicable Assigned Contract. In any event, the Foreign Representative will produce evidence, if requested by a counterparty to an Assigned Contract, prior to the hearing on this Motion, to demonstrate the Purchasers' financial wherewithal and willingness and ability to perform under the Assigned Contracts. Assigned Contract counterparties will therefore have every opportunity to evaluate, and if necessary, challenge the Purchasers' ability to provide adequate assurance of future performance as required under section 365(b)(1)(C) of the Bankruptcy Code.

## **VII. Granting the Requested Relief Will Not Disserve the Public Interest**

69. Recognizing and enforcing the CCAA Approval and Vesting Order and authorizing the Transactions pursuant to the terms of the Transaction Agreement and the applicable provisions of the Bankruptcy Code does not disserve the public interest. To the contrary, granting the relief

requested herein serves the public interest because it facilitates a cross-border restructuring that will provide significant benefits to the Debtors' creditors, employees, and other stakeholders. *See, Rehabworks, Inc. v. Lee (In re Integrated Health Servs., Inc.)*, 281 B.R. 231, 239 (Bankr. D. Del. 2002) ("In the context of a bankruptcy case, promoting a successful reorganization is one of the most important public interests."); *In re Lazarus Burman Assocs.*, 161 B.R. 891, 901 (Bankr. E.D.N.Y. 1993) ("The public interest, in the context of a bankruptcy proceeding, is in promoting a successful reorganization.").

70. In addition, granting the requested relief is in the public interest because it promotes cooperation between jurisdictions in cross-border insolvencies, which is an express purpose of Chapter 15. 11 U.S.C. § 1501(a); *see also In re ABC Learning Centers Ltd.*, 728 F.3d 301, 306 (2013) (emphasizing that chapter 15 serves the "universalism" approach to transnational bankruptcy, preferring that courts in the United States act in aid of foreign proceedings). The Transactions effect a going concern sale of the Debtors assets and business. Maintaining this business is in the "public" interest for the hundreds of millions of internet users that rely on the Debtors' products and services to avoid any risk to the provision of continuous and uninterrupted internet access.

**Waiver of Bankruptcy Rules 6004(a) and 6004(h)**

71. To implement the foregoing successfully, the Debtors request that the Court enter an order providing that notice of the relief requested herein satisfies Bankruptcy Rules 6004(a) and 6006(c) and that the Debtors have established cause to exclude such relief from the 14-day stay period under Bankruptcy Rules 6004(h) and 6006(d).

**Notice**

72. The Foreign Representative will provide notice of this Motion to the following parties or their counsel: (a) all persons or bodies authorized to administer the CCAA Proceedings;

(b) the Office of the United States Trustee for the Northern District of Texas; (c) the Office of the United States Attorney; (d) the Internal Revenue Service; (e) the Office of the United States Attorney General for the State of Texas; (f) all other applicable government agencies to the extent required by the Bankruptcy Rules or Local Rules; (g) the administrative agents to the prepetition secured credit agreements and counsel thereto; (h) the creditors who have the 20 largest unsecured claims against the Debtors on a consolidated basis; (i) all other parties who the Foreign Representative believes to be affected substantively by the relief requested; (j) the contract counterparties that are required under applicable law to receive notice of the motion served in the Canadian Proceedings to approve the CCAA Approval and Vesting Order; and (k) any party that has requested notice pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested, the Foreign Representative submits that no further notice is required.

**Conclusion**

**WHEREFORE**, the Foreign Representative requests the Court enter the proposed Sale Approval Order, substantially in the form attached hereto as **Exhibit A**, granting the relief requested herein and such other and further relief as may be just and proper.

*[Remainder of page intentionally left blank]*

Respectfully submitted this 16th day of January 2025.

**GRAY REED**

By: /s/ Jason S. Brookner

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*Counsel to the Foreign Representative*

**Certificate of Service**

I certify that on January 16, 2025, I caused a copy of the foregoing document to be served by the Electronic Case Filing System for the United States Bankruptcy Court for the Northern District of Texas.

*/s/ Jason S. Brookner*

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Jason S. Brookner

**Exhibit 1**

**Sale Approval Order**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

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In re:	)	
	)	Chapter 15
	)	
SANDVINE CORPORATION, <i>et al.</i> , <sup>1</sup>	)	Case No. 24-33617 (SGJ)
	)	
Debtors in a Foreign Proceeding.	)	Jointly Administered

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**ORDER (I) RECOGNIZING AND ENFORCING THE  
CCAA APPROVAL AND VESTING ORDER, (II) APPROVING THE SALE  
OF SUBSTANTIALLY ALL OF THE DEBTORS’ ASSETS FREE AND CLEAR OF  
LIENS, CLAIMS, AND ENCUMBRANCES, AND (III) GRANTING RELATED RELIEF**

Upon consideration of the *Foreign Representative’s Motion for Entry of an Order (I) Recognizing and Enforcing the CCAA Approval and Vesting Order, (II) Approving the Sale of Substantially All of the Debtors’ Assets Free and Clear of Liens, Claims, and Encumbrances, and*

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<sup>1</sup> The Debtors in these chapter 15 cases, along with the Debtors’ unique identifiers, are: Sandvine Corporation (Business No.: 885025916), New Procera GP Company (Company Registration No.: WC-7044), Sandvine Holdings UK Limited (Company No.: 10533653), Sandvine OP (UK) Ltd. (Company No.: 10791762), Procera Networks, Inc. (EIN: 33-0974674), Procera Holding, Inc. (EIN: 47-4070338). The location of the Debtors’ service address for purposes of these chapter 15 cases is: 410 Albert St Suite 201, Waterloo, ON N2L 3V3, Canada. Copies of materials filed with the applicable court in the CCAA proceedings, and these chapter 15 cases are available on the website of the CCAA monitor: <https://www.ksvadvisory.com/experience/case/sandvine>.

(III) *Granting Related Relief* [Docket No. [ ]] (the “Motion”),<sup>2</sup> seeking entry of an order (this “Order”) pursuant to sections 105(a), 363, 365, 1501, 1507, 1520, 1521, 1525, and 1521 of title 11 of the United States Code (the “Bankruptcy Code”), Rules 2002, 6004, 6006, and 9014 of the Federal Rules of Bankruptcy Procedure (the “Bankruptcy Rules”) and Section E of the *Procedures for Complex Cases in the Northern District of Texas* (the “Complex Case Procedures”), (a) recognizing and enforcing the Canadian Court’s *Assignment, Approval and Vesting Order* (the “CCAA Approval and Vesting Order”), attached to this Order as **Exhibit 1**, (b) approving, under sections 105, 363, and 365 of the Bankruptcy Code, the sale of the Debtors’ rights, title, and interests in and to the Purchased Assets to the Purchasers pursuant to and in accordance with the Transaction Agreement, attached to this Order as **Exhibit 2**, free and clear of all liens, claims, encumbrances, and other interests (other than as permitted under the Transaction Agreement); and (c) granting related relief; and upon consideration of the Kupp Declaration and the Sellinger Declaration; and it appearing that due and proper notice of the Motion has been provided and no other or further notice need be provided; and a hearing (the “U.S. Sale Hearing”) <sup>3</sup> having been held to consider the relief requested in the Motion; and upon the record of the U.S. Sale Hearing and all of the proceedings had before the Court; and the Court having found and determined that the relief sought in the Motion is consistent with the purpose of chapter 15 of the Bankruptcy Code (“Chapter 15”) and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefore, the Court hereby

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

<sup>3</sup> As of the filing of this Motion, the U.S. Sale Hearing is scheduled for February 24, 2025, at 9:30 a.m. (prevailing Central Time).



**FINDS, DETERMINES, AND CONCLUDES AS FOLLOWS:**

A. The findings and conclusions set forth herein constitute this Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

B. This Court has jurisdiction over this matter under 28 U.S.C. §§ 157 and 1334. This is a core proceeding under 28 U.S.C. § 157(b)(2)(P). Venue is proper in this District under 28 U.S.C. § 1410. This Court may enter a final order on the Motion consistent with Article III of the United States Constitution.

C. Notice of the Motion, the U.S. Sale Hearing, and the CCAA Approval and Vesting Order was proper, timely, adequate, and sufficient under the circumstances of these Chapter 15 Cases and complied with the various applicable requirements of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules. No other or further notice of the Motion, the U.S. Sale Hearing, the CCAA Approval and Vesting Order, or the entry of this Order is necessary or shall be required.

D. This Order constitutes a final and appealable order within the meaning of 28 U.S.C. § 158(a).

E. The relief granted herein is necessary and appropriate, is in the interest of the public, promotes international comity, is consistent with the public policies of the United States, is warranted pursuant to sections 105(a), 363, 365, 1501, 1507, 1520, and 1521 of the Bankruptcy Code, and will not cause any hardship to any parties in interest that is not outweighed by the benefits of the relief granted.

F. This Court previously entered the Recognition Order [Docket No. 64], recognizing

the CCAA Proceedings as the Debtors' foreign main proceedings and granting comity to the A&R Initial Order, which included procedures for a sales and investment solicitation process (the "SISP") for a sale of potentially all of the Debtors' assets. All such findings by this Court in the Recognition Order are hereby incorporated by reference herein and such Recognition Order shall continue in full force and effect in all respects other than to the extent this Order directly modifies or contradicts such Recognition Order.

G. [On January [], 2025, the Canadian Court entered the CCAA Approval and Vesting Order (i) authorizing, among other things, the Sellers and Sandvine UK to enter into and consummate the Transaction Agreement, and (ii) approving, among other things, the transfer of the Purchased Assets to Purchasers and sale of the Sellers' rights, title, and interests in and to the Purchased assets in accordance with, and pursuant to, the Transaction Agreement, in each case, free and clear of all [liens claims encumbrances etc. other than Permitted Encumbrances and Assumed Liabilities (each as defined in the Transaction Agreement).]].

H. Based on the information in the Motion, the Kupp Declaration, the Sellinger Declaration, and the record made at the U.S. Sale Hearing, the Debtors, GLC, and the Monitor conducted a marketing and sale process to solicit interest in the Debtors' Assets and such process was non-collusive, duly noticed, and provided a reasonable opportunity for potentially interested bidders to make an offer to purchase the Debtors' Assets. The Debtors and GLC conducted the SISP, under the supervision and oversight of the Monitor, to solicit interest in the Debtors' Assets in accordance with the terms of the SISP Order. The Foreign Representative has recommended the sale of the Purchased Assets in accordance with the Transaction Agreement, and it is appropriate that the Purchased Assets be sold, transferred, assigned, and vested in the applicable Purchaser on the terms and subject to the conditions set forth in the Transaction Agreement.

I. Based on information contained in the Motion, the Kupp Declaration, the Sellinger Declaration, and the record made at the U.S. Sale Hearing, the relief granted herein relates to assets that, under the laws of the United States, should be administered in the CCAA Proceedings.

J. The Debtors' entry into and performance under the Transaction Agreement and related agreements: (a) constitutes a sound and reasonable exercise of the Debtors' business judgment; (b) provides value and are beneficial to the Debtors, and are in the best interests of the Debtors and their stakeholders, and (c) is reasonable and appropriate under the circumstances. The business justifications for the sale of the Purchased Assets to the Purchasers include, but are not limited to, the following: (a) the Transaction Agreement constitutes the highest and otherwise best offer received for the Purchased Assets, (b) the Transaction Agreement presents the best opportunity to maximize the value of the Purchased Assets on a going concern basis and to avoid the devaluation of the Purchased Assets, (c) unless the sale of the Purchased Assets pursuant to the Transaction Agreement and all of the other Transactions contemplated by the Transaction Agreement (including the Implementation Steps) are consummated expeditiously, as provided for in the Transaction Agreement, recoveries to the Debtors' creditors may be diminished, and (d) the Transactions under the Transaction Agreement maximize the value received for the Purchased Assets. The consideration provided by Purchasers for the Purchased Assets under the Transaction Agreement, including the Existing Loan Lender Credit Bid and Release and the DDTL/DIP Lender Credit Bid and Release (together, the "Credit Bid"), constitutes fair consideration and reasonably equivalent value for the Purchased Assets under the Bankruptcy Code, the Uniform Voidable Transactions Act, the Uniform Fraudulent Transfer Act, the Uniform Fraudulent Conveyance Act, and other laws of the United States, and any state, territory, possession thereof, or the District of Columbia.

K. None of the Purchaser Parties is and shall not be deemed to be, a mere continuation or successor, and is not holding itself out as a mere continuation or successor, of any of the Debtors. The Transactions do not amount to a consolidation, merger, or de facto merger of any of the Purchaser Parties and any of the Debtors.

L. Time is of the essence in consummating the Transactions. To maximize the value of the Purchased Assets, it is essential that the consummation of the Transactions occur and be recognized and enforced in the United States promptly. The Foreign Representative on behalf of the Debtors has demonstrated compelling circumstances and a good, sufficient, and sound business purpose and justification for the immediate approval and consummation of the Transactions as contemplated by the Transaction Agreement. Accordingly, cause exists to waive the stay that would otherwise be applicable under Bankruptcy Rules 6004(h) and 6006(d). The Transactions under the Transaction Agreement and related agreements (including the Implementation Steps) can be closed as soon as reasonably practicable upon entry of the CCAA Approval and Vesting Order and this Order.

M. Based upon the Motion, the Kupp Declaration, the Sellinger Declaration, the other pleadings filed in these Chapter 15 Cases of which the Court takes judicial notice, and the record made at the U.S. Sale Hearing, the Transaction Agreement and each of the Transactions contemplated therein (including the Implementation Steps) were negotiated, proposed, and entered into by the Debtors and the Purchaser Parties in good faith and without collusion. Each of the Purchaser Parties is a “good faith purchaser” within the meaning of section 363(m) of the Bankruptcy Code, and as such, is entitled to all the protections afforded thereby. The Debtors, the Foreign Representative, and the Purchaser Parties have not engaged in any conduct that would cause or permit the Transaction Agreement or consummation of the Sale or the Transactions to be

avoided or costs and damages to be imposed under section 363(n) of the Bankruptcy Code.

N. The Transaction Agreement was not entered into for the purpose of hindering, delaying, or defrauding any present or future creditors of the Debtors.

O. The Transaction Agreement requires the assignment of the Assigned Contracts to the Purchasers, which assignment is expressly approved by the CCAA Approval and Vesting Order. In the CCAA Approval and Vesting Order, the Canadian Court requires that all monetary defaults by the applicable Debtors under the Assigned Contracts be remedied by the payment of cure costs (if any). As such, enforcement in the United States of the assignment of the Assigned Contracts to the applicable Purchaser does not conflict with United States public policy or present any issue concerning protection of the interests of the non-Sandvine parties to the Assigned Contracts that would prevent this Court from entering this Order.

P. The Foreign Representative, on behalf of itself and the Debtors, may sell the Purchased Assets free and clear of all liens, claims (as defined in section 101(5) of the Bankruptcy Code), rights, liabilities, encumbrances, and other interests of any kind or nature whatsoever against the Debtors or the Purchased Assets, including, without limitation, security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, pledges, options, warrants, trusts or deemed trusts (whether contractual, statutory, or otherwise), obligations, liabilities, demands, guarantees, restrictions, contractual commitments, rights, including, without limitation, rights of first refusal and rights of set-off, liens, executions, levies, penalties, charges, financial or monetary claims, adverse claims, or rights of use, puts, or forced sale provisions exercisable as a consequence of or arising from the closing of the sale of the Purchased Assets, whether arising prior to or subsequent to the commencement of the CCAA Proceedings and these Chapter 15 Cases, whether or not they have attached or been perfected, registered or filed and whether secured,

unsecured, legal, equitable, possessory, or otherwise (collectively, the “Encumbrances”), other than the Permitted Encumbrances, because with respect to each creditor asserting any Encumbrance, one or more of the standards set forth in section 363(f)(1)-(5) of the Bankruptcy Code has been satisfied. Each creditor that did not object to the Motion is deemed to have consented to the sale of the Purchased Assets free and clear of all Encumbrances (other than the Permitted Encumbrances) pursuant to section 363(f)(2) of the Bankruptcy Code.

Q. The total consideration to be provided under the Transaction Agreement reflects the Purchaser Parties’ reliance on this Order to provide it, pursuant to sections 105(a) and 363(f) of the Bankruptcy Code, with title to and possession of the Purchased Assets free and clear of all Encumbrances, other than the Permitted Encumbrances.

R. The transfer of the Sellers’ rights under the Assigned Contracts as and to the extent provided in the CCAA Approval and Vesting Order is integral to the Transaction Agreement, is in the best interests of the Debtors and their estates, and represents the reasonable exercise of the Debtors’ business judgment.

S. Immediately upon the filing of the Monitor’s Certificate (as defined in the Transaction Agreement) in the CCAA Proceedings and the delivery thereof to the Purchasers, the transfer of the Purchased Assets to the applicable Purchaser will be a legal, valid, and effective transfer of the Purchased Assets, and will vest the applicable Purchaser with all of the right, title, and interests of the applicable Seller in and to the applicable Purchased Asset, free and clear of all Encumbrances, other than the Permitted Encumbrances.

T. The Foreign Representative, the Debtors, and the Monitor, as appropriate, (a) have full power and authority to execute the Transaction Agreement and all other documents contemplated thereby, (b) have all the power and authority necessary to consummate the

Transactions contemplated by the Transaction Agreement (including the Implementation Steps), and (c) upon entry of this Order, except with respect to the consents and approvals identified in the Transaction Agreement (including with respect to antitrust matters, if any), need no consent or approval from any other person or governmental unit to consummate the Transactions. The Sellers are the sole and rightful owners of the Purchased Assets, no other person has any ownership right, title, or interest therein, and the Transactions have been duly and validly authorized by all necessary corporate actions of the Sellers.

U. The Transaction Agreement is a valid and binding contract between the Sellers, Sandvine UK, and the Purchaser Parties and is enforceable pursuant to its terms. The Transaction Agreement, the Transactions, and the consummation thereof shall be specifically enforceable against and binding upon (without posting any bond) the Debtors and the Foreign Representative in these Chapter 15 Cases and shall not be subject to rejection or avoidance by the foregoing parties or any other person.

V. The Purchasers would not have entered into the Transaction Agreement and would not consummate the purchase of the Purchased Assets and the related Transactions, thus adversely affecting the Debtors, their creditors, and other parties in interest, if the sale of the Purchased Assets to the Purchasers was not free and clear of all Encumbrances (other than Permitted Encumbrances), or if the Purchaser Parties would, or in the future could, be liable on account of any such Encumbrances, including, as applicable, certain liabilities related to the Purchased Assets that will not be assumed by the Purchasers, as set forth in the Transaction Agreement.

W. A sale of the Purchased Assets other than free and clear of all Encumbrances (other than Permitted Encumbrances) would yield substantially less value than the sale of the Purchased Assets pursuant to the Transaction Agreement; thus, the sale of the Purchased Assets free and clear

of all Encumbrances, in addition to all of the relief provided herein, is in the best interests of the Debtors, their creditors, and other parties in interest.

X. The interests of the Debtors' creditors in the United States are sufficiently protected. The relief granted herein is necessary and appropriate, in the interests of the public and international comity, consistent with the public policies of the United States, and warranted pursuant to sections 1521(b) and 1522 of the Bankruptcy Code.

Y. The legal and factual bases set forth in the Motion and at the U.S. Sale Hearing establish just cause for the relief granted herein.

Z. Any and all findings of fact and conclusions of law announced by this Court at the Hearing are incorporated herein.

**ACCORDINGLY, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:**

1. The Motion and requested relief are **GRANTED** in their entirety.
2. All objections, if any, to the Motion or the relief requested therein that have not been withdrawn, waived, or settled by stipulation filed with the Court, and all reservations of rights included therein, are hereby overruled on the merits with prejudice.
3. The CCAA Approval and Vesting Order, attached hereto as **Exhibit 1**, and all of its terms, including any immaterial or administrative amendments thereto, including those necessary to give effect to the substance of such order, either pursuant to the terms therein or as approved by the Canadian Court, are fully recognized and given full force and effect in the United States in their entirety.
4. The Transaction Agreement and the Transactions contemplated thereunder (including the Implementation Steps), including, for the avoidance of doubt, the sale of the Purchased Assets, the Credit Bid, and the transfers and assignments of the Purchased Assets and



the Assigned Contracts, respectively, located within the United States on the terms set forth in the Transaction Agreement, the CCAA Approval and Vesting Order, including all transactions contemplated thereunder, this Order, including all transactions contemplated hereunder, and all of the terms and conditions of each of the foregoing, are hereby approved and authorized pursuant to sections 105, 363, 365, 1501, 1520, 1521, 1525, and 1527 of the Bankruptcy Code. The failure to specifically include any particular provision of the Transaction Agreement in this Order shall not diminish or impair the effectiveness of such provision, it being the intent of the Court that the Transaction Agreement and the Transactions therein be authorized and approved in their entirety.

5. Pursuant to sections 105, 363, 1501, 1520, 1521, 1525, and 1527 of the Bankruptcy Code, the CCAA Approval and Vesting Order, and this Order, the Monitor, the Debtors, the Purchaser Parties, and the Foreign Representative (as well as their respective officers, employees, and agents) are authorized to take any and all actions necessary or appropriate to: (a) consummate the Transactions, including the Implementation Steps and the sale of the Purchased Assets to Purchasers, in accordance with the Transaction Agreement, the CCAA Approval and Vesting Order, and this Order; and (b) perform under, implement, and close the Transaction Agreement, together with all additional instruments and documents that may be reasonably necessary or desirable to implement the Transaction Agreement and the Transactions and to take such additional steps and further actions as may be necessary or appropriate to the performance of the obligations contemplated by the Transaction Agreement, all without further order of the Court, and are hereby authorized and empowered to cause to be executed and filed such statements, instruments, releases, and other documents on behalf of such Person with respect to the Purchased Assets, Excluded Assets, Excluded Contracts, and Excluded Liabilities (each as defined in the Transaction Agreement) that are necessary or appropriate to effectuate the Transactions, any related

agreements, the CCAA Approval and Vesting Order, and this Order, including amended and restated certificates or articles of incorporation and by-laws or certificates or articles of amendment, and all such other actions, filings, or recordings as may be required under appropriate provisions of the applicable laws of all applicable governmental units or as any of the officers of the Debtors or the Purchaser Parties may determine are necessary or appropriate, and are hereby authorized and empowered to cause to be filed, registered, or otherwise a certified copy of the CCAA Approval and Vesting Order, this Order or the Transaction Agreement, which, once filed, registered, or otherwise recorded, shall constitute conclusive evidence of the release of all Encumbrances against the Purchased Assets (other than Permitted Encumbrances). The CCAA Approval and Vesting Order and this Order are deemed to be in recordable form sufficient to be placed in the filing or recording system of each and every federal, state, or local government agency, department, or office.

6. All Persons that are currently in possession of some or all of the Purchased Assets located in the United States or that are otherwise subject to the jurisdiction of this Court are hereby directed to surrender possession of such Purchased Assets to the applicable Purchaser on the Closing Date.

7. This Court shall retain jurisdiction to enforce any and all terms and provisions of the Transaction Agreement, the CCAA Approval and Vesting Order, and this Order with respect to the Purchased Assets in the United States.

**Transfer of the Purchased Assets Free and Clear**

8. Pursuant to sections 105(a), 363, 365, 1501, 1520, 1521, 1525, and 1527 of the Bankruptcy Code, on the Closing Date, all rights, title, and interests of the Sellers in the Purchased Assets shall be transferred and absolutely vest in the applicable Purchaser, without further instrument of transfer or assignment, and such transfer shall: (a) be a legal, valid, binding, and

effective transfer of the Purchased Assets to the applicable Purchaser; (b) vest the applicable Purchaser with all right, title, and interests of the applicable Seller in the Purchased Assets, and (c) be free and clear of all Encumbrances, other than the Permitted Encumbrances.

9. Pursuant to sections 105(a), 363, 365, 1501, 1520, 1521, 1525, and 1527 of the Bankruptcy Code, upon the closing of the Transactions: (a) no holder of an Encumbrance shall interfere, and each and every holder of an Encumbrance is enjoined from interfering, with the applicable Purchaser's rights and title to or use and enjoyment of the Purchased Assets; and (b) the sale of the Purchased Assets, the Transaction Agreement, and any instruments contemplated thereby shall be enforceable against and binding upon, and not subject to rejection or avoidance by, the Debtors or any successor thereof. All persons holding an Encumbrance are forever barred and enjoined from asserting such Encumbrance against the Purchased Assets, the Purchaser Parties or their affiliates, their Purchaser Parties' respective officers, directors, employees, managers, partners, members, financial advisors, attorneys, agents, and representatives and their Purchaser Parties' respective affiliates', successors and assigns from and after consummation of the Transactions.

10. Pursuant to, and in accordance with section 363(k) of the Bankruptcy Code and the CCAA Approval and Vesting Order, the Debtors and any other applicable non-Debtors shall be authorized and directed to accept the credit bids made by the Existing Loan Agents and the DDTL/DIP Agents pursuant to the Existing Loan Lender Credit Bid and Release and the DDTL/DIP Lender Credit Bid and Release, as applicable, and that:

- a. following the consummation of the Existing Loan Lender Credit Bid and Release, all of the Loan Parties' obligations, guarantees, liens, and security interests in connection with the Existing Loan Claims shall be discharged and deemed satisfied in full without any action on the part of any Person and all agreements, documents, and instruments in connection with the Existing Loan Claims shall be automatically canceled except for the provisions contained therein in connection with

indemnification and contribution or allowing the Existing Loan Agents or any Loan Party to make any distribution pursuant to this Order, which shall continue in effect, and in exchange, the Existing Loan Lenders shall receive the Existing Loan Claimholders Consideration free and clear of any and all Claims and Encumbrances; and

- b. following the consummation of the DDTL/DIP Lender Credit Bid and Release, all of the Loan Parties' obligations, guarantees, liens, and security interests in connection with the DDTL/DIP Claims shall be discharged and deemed satisfied in full without any action on the part of any Person and all agreements, documents, and instruments in connection with the DDTL/DIP Claims shall be automatically canceled except for the provisions contained therein in connection with indemnification and contribution or allowing the DDTL/DIP Agents or any Loan Party to make any distribution pursuant to this Order, which shall continue in effect, and in exchange, the DDTL/DIP Lenders shall receive the DDTL/DIP Claimholders Consideration free and clear of any and all Claims and Encumbrances.

11. Every federal, state, and local governmental agency or department is authorized and directed to accept (and not impose any fee, charge, or tax in connection therewith) any and all documents and instruments necessary or appropriate to consummate the sale of the Purchased Assets to the Purchasers and the Transactions generally. Effective as of the Closing Date, the CCAA Approval and Vesting Order and this Order shall constitute for any and all purposes a full and complete general assignment, conveyance, and transfer of the Sellers' interests in the Purchased Assets to the Purchasers free and clear of all Encumbrances, other than the Permitted Encumbrances.

12. This Order (a) shall be effective as a determination that, as of the Closing Date, all Encumbrances, other than the Permitted Encumbrances, have been unconditionally released, discharged, and terminated as to the Purchasers and the Purchased Assets, and that the conveyances and transfers described herein have been effected, and (b) is and shall be binding upon and govern the acts of all persons, including all filing agents, filing officers, title agents, title companies, recorders of mortgages, recorders of deeds, registrars of deeds, administrative agencies, governmental departments, secretaries of state, federal and local officials, and all other

persons who may be required by operation of law, the duties of their office, or contract, to accept, file, register, or otherwise record or release any documents or instruments, or who may be required to report or insure any title or state of title in or to any lease; and each of the foregoing persons is hereby directed to accept for filing any and all of the documents and instruments necessary and appropriate to consummate the transactions contemplated by the Transaction Agreement and effect the discharge of all Encumbrances other than the Permitted Encumbrances pursuant to this Order and the CCAA Approval and Vesting Order.

13. None of the Purchaser Parties is and shall not be deemed to: (a) be a legal successor, or otherwise be deemed a successor to any of the Debtors; (b) have, de facto or otherwise, merged with or into any or all Debtors; or (c) be a mere continuation or substantial continuation or successor of any or all Debtors or the enterprise or operations of any or all Debtors.

14. The Transactions, including the purchase of the Purchased Assets and the Credit Bid, are undertaken by the Purchaser Parties in good faith, as that term is used in section 363(m) of the Bankruptcy Code, and, accordingly, the reversal or modification on appeal of the authorizations provided herein shall neither affect the validity of the Transactions nor the transfer of the Purchased Assets, including the Assigned Contracts, to the Purchasers free and clear of all Encumbrances, unless such authorization is duly stayed before the closing of the Transactions pending such appeal.

15. The Debtors and the Purchaser Parties have not engaged in any conduct that would cause or permit the Transaction Agreement to be avoided or costs and damages to be imposed under section 363(n) of the Bankruptcy Code.

**Executory Contracts and Unexpired Leases**

16. Pursuant to, and to the extent allowed by, the CCAA Approval and Vesting Order and section 365 of the Bankruptcy Code, on the Effective Date, the rights and obligations of the

Sellers under the Assigned Contracts shall be, notwithstanding any provision contained in any such Assigned Contract that prohibits, restricts, or conditions assignment or transfer thereof or requires consent of any party to such assignment or transfer (each, an “Anti-Assignment Provision”), assigned to the applicable Purchaser or any Affiliate or designee thereof and shall remain in full force and effect for the benefit of the applicable Purchaser or such Affiliate or designee in accordance with their respective terms.

17. Each non-Sandvine counterparty to an Assigned Contract is prohibited from exercising any right or remedy under the Assigned Contract by reason of (a) any non-monetary defaults or defaults or events of default arising as a result of the insolvency of any Debtor or the cessation of the Debtors’ or their affiliates’ normal course business operations, (b) the insolvency of any Debtor or the fact that the Debtors sought or obtained relief under the CCAA or under the Bankruptcy Code, (c) any releases, discharges, cancellations, transactions, or other steps taken or effected pursuant to the Transaction Agreement, the Transactions (including the pre-closing reorganization of the Debtors), the provisions of this Order or any other Order of the Court in these Chapter 15 Cases, or (d) any change of control of the Debtors or their affiliates arising from the implementation of the Transaction, or any Anti-Assignment Provision in an Assigned Contract.

18. This Court shall retain jurisdiction to enforce any and all terms and provisions of the Transaction Agreement, the CCAA Approval and Vesting Order, and this Order with respect to the Assigned Contracts in the United States.

#### **Releases**

19. The releases set forth in paragraphs 26 and 27 of the CCAA Approval and Vesting Order (the “Releases”) are expressly recognized by this Court and given full force and effect in the United States. This Court shall retain jurisdiction to enforce all terms and provisions of the Transaction Agreement, the CCAA Approval and Vesting Order, and this Order with respect to

the Releases in the United States.

**Miscellaneous**

20. The terms and provisions of the Transaction Agreement, the CCAA Approval and Vesting Order, and this Order shall be binding in all respects upon, and shall inure to the benefit of, the Debtors, the Purchaser Parties, the Foreign Representative, the Monitor, the Debtors' creditors, and all other parties in interest, and any successors of the Debtors, the Purchaser Parties, the Foreign Representative, and the Debtors' creditors, including any foreign representative(s) of the Debtors, Monitor, trustee(s), examiner(s), or receiver(s) appointed in any proceeding, including, without limitation, any proceeding under any chapter of the Bankruptcy Code, the CCAA, or any other law, and all such terms and provisions shall likewise be binding on such foreign representative(s), trustee(s), examiner(s), or receiver(s) and shall not be subject to rejection or avoidance by the Debtors, their creditors, or any trustee(s), examiner(s), or receiver(s).

21. Subject to the terms and conditions of the CCAA Approval and Vesting Order, the Transaction Agreement and any related agreements, documents, or other instruments, may be modified, amended or supplemented by the parties thereto, in a writing signed by each party, and in accordance with the terms thereof, without further order of the Court; *provided* that any such modification, amendment, or supplement does not materially change the terms of the Transactions, the Transaction Agreement or any related agreements, documents, or other instruments and is otherwise in accordance with the terms of the CCAA Approval and Vesting Order.

22. The provisions of this Order and the Transaction Agreement are non-severable and mutually dependent. To the extent that there are any inconsistencies between the terms of this Order and the CCAA Approval and Vesting Order, on the one hand, and the Transaction Agreement, on the other, this Order and the CCAA Approval and Vesting Order shall govern.

23. Subject to the terms of the Transaction Agreement and the CCAA Approval and

Vesting Order, nothing in this Order shall be deemed to waive, release, extinguish or estop the Debtors or the Foreign Representative from asserting, or otherwise impair or diminish, any right (including, without limitation, any right of recoupment), claim, cause of action, defense, offset, or counterclaim in respect of any Asset that is not a Purchased Asset.

24. All persons subject to the jurisdiction of this Court are permanently enjoined and restrained from taking any actions inconsistent with, or interfering with, the enforcement and implementation of the this Order, the CCAA Approval and Vesting Order or any documents incorporated by the foregoing.

25. This Court shall retain jurisdiction with respect to any and all matters, claims, rights, or disputes arising from or related to the implementation or interpretation of this Order or the CCAA Approval and Vesting Order in the United States, including, without limitation, (a) the interpretation, enforcement, and implementation of the terms and conditions of the Transaction Agreement, all amendments thereto, any waivers and consents thereunder (and of each of the agreements executed in connection therewith), (b) the adjudication of disputes related to the Transaction Agreement and the assignment of the Assigned Contracts (and any related agreements, documents, or other instruments), and (c) the enforcement of the injunctions and Releases contained herein and in the CCAA Approval and Vesting Order in the United States.

26. The Foreign Representative is, and the Debtors are, authorized to take all actions necessary to effectuate the relief granted pursuant to this order in accordance with the Motion and the CCAA Approval and Vesting Order.

27. Notwithstanding the provisions of Bankruptcy Rules 6004(h) and 6006(d) or any applicable provisions of the Bankruptcy Rules or Local Rules, this Order shall not be stayed after the entry hereof, but shall be effective and enforceable immediately upon entry, and the fourteen



(14) day stay provided in Bankruptcy Rules 6004(h) and 6006(d) is hereby expressly waived and shall not apply. The Debtors, Purchaser Parties, and the Foreign Representative are not subject to any stay in the implementation, enforcement, or realization of the relief granted in this Order. For the avoidance of doubt, the Debtors, the Purchaser Parties, and the Foreign Representative may, in their discretion and without further delay, take any action and perform any act authorized under the CCAA Approval and Vesting Order or this Order.

### END OF ORDER ###

Submitted by:

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**Exhibit 1**

**CCAA Approval and Vesting Order**

Court File No. CV-24-00730836-00CL

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

THE HONOURABLE ) THURSDAY, THE 30TH  
 )  
JUSTICE OSBORNE ) DAY OF JANUARY 2025

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  
(collectively, the "**Applicants**")

**ASSIGNMENT, APPROVAL AND VESTING ORDER**

**THIS MOTION**, made by the Applicants pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), for an order, *inter alia*, (i) approving the Transaction Agreement dated December 18, 2024 (as amended and including the exhibits and schedules attached thereto, the "**Transaction Agreement**") between Sandvine Corporation and Procera Networks, Inc., as sellers (collectively, the "**Sellers**"), Sandvine Holdings UK Limited ("**Sandvine UK**") and Dune Parent LLC ("**NewCo Parent**"), for entities to be formed or that have been formed in accordance with the Implementation Steps (as defined in the Transaction Agreement and attached as Exhibit "A" thereto) (collectively, the "**Purchasers**"), a copy of which is attached as Exhibit "C" to the Second Kupp Affidavit (as defined below), the transactions contemplated therein, including the Implementation Steps, and the Transition Services Agreement (as defined in the Transaction Agreement) (collectively, the "**Transactions**"), (ii) vesting in the applicable Purchaser all of the applicable Sellers' right, title and interest in and to the

applicable Purchased Assets (as defined in the Transaction Agreement) free and clear of all Claims and Encumbrances (each as defined below) other than any Assumed Liabilities and Permitted Encumbrances (each as defined in the Transaction Agreement), (iii) assigning the Assigned Contracts (as defined in the Transaction Agreement) to the applicable Purchaser pursuant to section 11.3 of the CCAA, (iv) sealing the Confidential Exhibit “B” to the Sellinger Affidavit (as defined below) (the “**Confidential Exhibit**”), and (iv) granting related relief, was heard this day by videoconference at 330 University Avenue, Toronto, Ontario.

**ON READING** the affidavit of Jeffrey A. Kupp sworn January 16, 2025 and the exhibits attached thereto (the “**Second Kupp Affidavit**”), the affidavit of Michael Sellinger and the exhibits attached thereto sworn January 16, 2025 (the “**Sellinger Affidavit**”), the Second Report of KSV Restructuring Inc. in its capacity as Court-appointed Monitor (in such capacity, the “**Monitor**”) dated January [●], 2025, and on hearing the submissions of counsel for the Applicants and Procera II LP (collectively, the “**Sandvine Entities**”), the Monitor and such other counsel that were present, no one else appearing although duly served as appears from the affidavit of service of [●], sworn January [●], 2025,

## **SERVICE AND DEFINITIONS**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that all capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Amended and Restated Initial Order of this Court dated November 15, 2024 (the “**ARIO**”) or the Transaction Agreement, as applicable.

## **TRANSACTION APPROVAL**

3. **THIS COURT ORDERS** that the Transaction Agreement, the Transition Services Agreement and the Transactions (including the Implementation Steps in the sequence and manner set out in Exhibit “A” to the Transaction Agreement, the Existing Loan Lender Credit Bid and Release and the DDTL/DIP Lender Credit Bid and Release) are hereby approved, and the execution of the Transaction Agreement and the Transition Services Agreement by each of the Sellers and Sandvine UK, as applicable, is hereby authorized, ratified and approved, with such amendments as the Sellers and NewCo Parent, with the consent of the Monitor, may deem necessary or as the Transaction Agreement may permit in accordance with its terms. The Sellers, Sandvine UK and the Monitor are hereby authorized and empowered to perform their respective obligations under the Transaction Agreement, the Transition Services Agreement and any ancillary documents related thereto, as applicable. The Sellers, Sandvine UK and the Monitor are hereby authorized and empowered to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transactions, the conveyance of the applicable Purchased Assets to the applicable Purchasers and the provision of the Transition Services (as defined in the Transition Services Agreement).

4. **THIS COURT ORDERS** that this Order shall constitute the only authorization required by the Sellers and Sandvine UK to proceed with the Transactions and that no shareholder, unitholder, member, partner, director or other approval shall be required in connection therewith (including for the transfer of shares of any Acquired Subsidiary in accordance with the Transaction) other than to the extent contemplated by the Transaction Agreement or the Transition Services Agreement.

5. **THIS COURT ORDERS** that each of the NewCos (as defined in the Transition Services Agreement) are hereby authorized and empowered to comply with and perform their respective obligations under the Transition Services Agreement and any ancillary documents related thereto, as applicable.

6. **THIS COURT ORDERS** that, except as expressly provided otherwise in the Transition Services Agreement, the NewCos, and each of their respective current, future and former directors, officers, managers, shareholders, members, employees, consultants, legal counsel, partners and advisors, as applicable, shall incur no liability or obligation whatsoever relating to, arising out of, or in respect of the Transition Services Agreement, the Transition Services or the Transition Customers (each as defined in the Transition Services Agreement), save and except for any fraud, gross negligence or wilful misconduct on their part, as determined by a final order of this Court.

7. **THIS COURT ORDERS** that, upon the delivery of a Monitor's certificate (the "**Monitor's Certificate**") to each Seller and to NewCo Parent (the time of such delivery, the "**Effective Time**") substantially in the form attached as Schedule "A" hereto, in the sequence and manner set out in the Implementation Steps, all of each Seller's right, title and interest in and to the applicable Purchased Assets shall vest absolutely in the applicable Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, rights of distraint, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the ARIO or any other Order of this Court in these CCAA proceedings (the "**CCAA Charges**"); and (ii) all charges, security interests or claims evidenced by registrations

pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system (all of which are collectively referred to as the “**Encumbrances**”), other than the Assumed Liabilities and Permitted Encumbrances and that all of the Encumbrances other than the Assumed Liabilities and Permitted Encumbrances affected or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets; *provided* that, notwithstanding anything to the contrary herein, the Administration Charge (but not the Directors’ Charge, the DIP Charge or the Transaction Fee Charge) shall continue to attach to the Administrative Expense Reserve, the Priority Payments / Disputed Cures Costs / CCAA Charges Reserve and the Transition Services Fees Reserve which shall be held by the Monitor in accordance with the terms and conditions of the Transaction Agreement, the Post-Closing Administration Order, or any further Order(s) of this Court.

8. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims and Encumbrances, the net proceeds from the sale of the Purchased Assets (if any), shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Monitor’s Certificate all Claims and Encumbrances, other than the Assumed Liabilities and Permitted Encumbrances, shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the Person having that possession or control immediately prior to the sale.

9. **THIS COURT ORDERS** that the Sellers and any other applicable Sandvine Entities shall be authorized and directed to accept the credit bids made by the Existing Loan Agents and the DDTL/DIP Agents pursuant to the Existing Loan Lender Credit Bid and Release and the DDTL/DIP Lender Credit Bid and Release, respectively, and that:



- (a) following the consummation of the Existing Loan Lender Credit Bid and Release, all of the Loan Parties' obligations, guarantees, liens, and security interests in connection with the Existing Loan Claims shall be discharged and deemed satisfied in full without any action on the part of any Person and all agreements, documents, and instruments in connection with the Existing Loan Claims shall be automatically cancelled except for the provisions contained therein in connection with indemnification, contribution, payment of fees, and expense reimbursement for the Existing Loan Agents or allowing the Existing Loan Agents or any Loan Party to make any distribution pursuant to this Order, which shall continue in effect, and in exchange, the Existing Loan Lenders shall receive the Existing Loan Claimholders Consideration free and clear of any and all Claims and Encumbrances; and
- (b) following the consummation of the DDTL/DIP Lender Credit Bid and Release, all of the Loan Parties' obligations, guarantees, liens, and security interests in connection with the DDTL/DIP Claims shall be discharged and deemed satisfied in full without any action on the part of any Person and all agreements, documents, and instruments in connection with the DDTL/DIP Claims shall be automatically cancelled except for the provisions contained therein in connection with indemnification, contribution, payment of fees, and expense reimbursement for the DDTL/DIP Agents or allowing the DDTL/DIP Agents or any Loan Party to make any distribution pursuant to this Order, which shall continue in effect, and in exchange, the DDTL/DIP Lenders shall receive the DDTL/DIP Claimholders Consideration free and clear of any and all Claims and Encumbrances.

10. **THIS COURT ORDERS AND DIRECTS** the Monitor to file with the Court a copy of the Monitor's Certificate, forthwith after delivery thereof.

11. **THIS COURT ORDERS** that the Monitor and its counsel may rely on written notice from the Sellers and NewCo Parent regarding the satisfaction or waiver of conditions to closing under the Transaction Agreement and shall have no liability with respect to delivery of the Monitor's Certificate.

#### **ASSIGNMENT OF ASSUMED CONTRACTS**

12. **THIS COURT ORDERS** that, at the Effective Time, but subject to the payment of the applicable Cure Costs (if any) in accordance with paragraph 15 herein, all of the rights and obligations of each Seller under, to and in connection with, the applicable Assigned Contracts shall be assigned, conveyed, transferred to, and assumed by, the applicable Purchaser pursuant to section 11.3 of the CCAA, and such assignment is valid and binding upon all of the counterparties to the Assigned Contracts, notwithstanding any restriction, condition or prohibition contained in any such Assigned Contracts relating to the assignment thereof, including without limiting the generality of the foregoing, any transfer restrictions or provisions relating to a change of control or requiring the consent of, or notice for any period in advance of the assignment to, any party to such Assigned Contracts.

13. **THIS COURT ORDERS** that, at the Effective Time, but subject to the payment of the applicable Cure Costs (if any) in accordance with paragraph 15 herein, each Seller's right, title and interest in and to the applicable Assigned Contracts shall vest absolutely in the applicable Purchaser free and clear of all Claims and Encumbrances other than the Assumed Liabilities and Permitted Encumbrances.

14. **THIS COURT ORDERS** that (i) each counterparty to the Assigned Contracts (an “**Assigned Contract Counterparty**”), and (ii) each counterparty to a contract with an Assigned Contract Counterparty where such Assigned Contract Counterparty acts as a distributor or reseller of the Sandvine Entities’ products and services (together the contracts referred to (i) and (ii), the “**Protected Contracts**”), is prohibited from exercising any right or remedy (including, without limitation, any right of set-off or termination) or pursuing any demand, claim, action or suit under, to and in connection with any Protected Contract, and shall be forever barred, enjoined and estopped from taking such action by reason of:

- (a) any circumstance that existed or event that occurred on or prior to the Effective Time that would have entitled such counterparty to the Protected Contract to enforce those rights or remedies or caused an automatic termination to occur;
- (b) the insolvency of any of the Sandvine Entities;
- (c) the commencement of these CCAA proceedings or the ancillary recognition proceedings (the “**Chapter 15 Proceedings**”) commenced by the Foreign Representative (as defined below) pursuant to chapter 15 of title 11 of the United States Code in the United States Bankruptcy Court for the Northern District of Texas (Dallas Division) (the “**U.S. Bankruptcy Court**”);
- (d) any restriction, condition or prohibition contained in any such Protected Contract relating to the assignment of any Assigned Contract, including without limiting the generality of the foregoing, any transfer restrictions or provisions relating to a change of control or which requires the consent of, or notice of any period in advance of the assignment to, any party to such Assigned Contract;

- (e) the Transaction Agreement, the Transition Services Agreement, the Restructuring Support Agreement, the Restructuring Term Sheet, and any agreement, document, instrument, matter or transaction involving the Sandvine Entities arising in connection with or pursuant to any of the foregoing, and/or the consummation of the Transactions or any parts thereof (including the assignment of the Assigned Contracts and any default or obligation arising as a result of such assignment); or
- (f) any of the Sellers having breached a non-monetary obligation under any of the Assigned Contracts,

and the counterparties to the Protected Contracts are hereby deemed to waive any defaults relating thereto.

15. **THIS COURT ORDERS** that all Cure Costs related to the Assigned Contracts, if any, shall be in the amounts set out in Schedule “B” hereto (unless otherwise agreed to between the applicable Purchaser, the contract counterparty and the Monitor) and other than in respect of such amounts, the Purchasers shall not be liable for any other amounts or monetary obligations of any kind due or accrued in respect of such Assigned Contracts arising or relating to the period prior to the Effective Time except to the extent provided in the Transaction Agreement. All Cure Costs in relation to the Assigned Contracts shall be paid by the Purchasers within fifteen (15) calendar days following the Effective Time, or such later date as may be agreed to by the applicable Purchaser and the counterparty to such Assigned Contract on prior written notice to the Monitor.

16. **THIS COURT ORDERS** that to the extent any dispute exists regarding the amount of Cure Costs payable to the counterparty to an Assigned Contract, the Sellers or the Monitor, as applicable, in consultation with NewCo Parent, are authorized and empowered to elect to (a) not

assign such Assigned Contract; (b) postpone the assignment of such Assigned Contract until the resolution of such dispute in accordance with the Transaction Agreement; or (c) hold the claimed amount in the Priority Payments / Disputed Cures Costs / CCAA Charges Reserve pending resolution of such dispute, and notwithstanding the dispute, the assignment and assumption of the Assigned Contract pursuant to this Order is valid and binding in all respects and the Assigned Contract Counterparty's recourse is limited to the funds held in reserve pending resolution of the dispute.

17. **THIS COURT ORDERS** that, except as otherwise dealt with herein, there shall be no assignment fees, increases, rent-acceleration, or any other fees charged to the applicable Purchaser or the Sellers as a result of the assumption and assignment of an Assigned Contract. All counterparties to the Assigned Contracts are forever barred, estopped and permanently enjoined from raising or asserting against the Sellers or the applicable Purchaser any assignment fee, default, breach, claim, pecuniary loss, or condition to assignment, arising under or related to the Assigned Contracts, existing as of the date that such Assigned Contracts are assumed or arising by reason of the Closing.

#### **ACQUIRED SUBSIDIARIES**

18. **THIS COURT ORDERS** that, at the Effective Time and in the sequence and manner set out in the Implementation Steps, Sandvine OP (UK) Ltd. ("**Sandvine OP**") shall cease being an Applicant in these CCAA proceedings and shall be deemed to be released from the purview of the ARIO and all other Orders of this Court granted in respect of these CCAA proceedings, save and except for this Order, the provisions of which (as they relate to Sandvine OP) shall continue to apply in all respects, and the Monitor shall have been discharged as Monitor of Sandvine OP. At the Effective Time, the CCAA Charges shall be expunged and discharged as against Sandvine OP's

Property. Pursuant to paragraph 32 of this Order, the Foreign Representative (as defined below) may seek an order from the U.S. Bankruptcy Court to close Sandvine OP's Chapter 15 Proceeding.

19. **THIS COURT ORDERS** that the stay of proceedings and protections granted in respect of the Non-Applicant Stay Parties, their respective directors, managers, officers, advisors or representatives acting in such capacities, and the Non-Applicant Stay Parties' Property pursuant to paragraphs 17, 18, 20 and 21 of the ARIO, are hereby terminated and of no further force and effect as of the Effective Time.

20. **THIS COURT ORDERS** that, from and after the Effective Time, all Persons shall be deemed to have waived any and all defaults then existing or previously committed by any Acquired Subsidiary, or caused by any Acquired Subsidiary, directly or indirectly, or noncompliance with any covenant, warranty, representation, undertaking, positive or negative pledge, term, provision, condition or obligation, expressed or implied, in any contract existing between any such Person and any Acquired Subsidiary, resulting directly or indirectly from (a) the insolvency of any of the Sandvine Entities; (b) the commencement of these CCAA proceedings or the Chapter 15 Proceedings; and (c) the Transaction Agreement, the Transition Services Agreement, the Restructuring Support Agreement, the Restructuring Term Sheet, and any agreement, document, instrument, matter or transaction involving the Sandvine Entities arising in connection with or pursuant to any of the foregoing, and/or the consummation of the Transactions or any parts thereof, and any and all notices of default or demands for payment or any step or proceeding taken or commenced in connection with any of the foregoing under any such contract shall be deemed to have been rescinded and of no further force or effect; *provided* that, nothing herein shall be deemed to excuse the Sellers, Sandvine UK, and the Purchasers, as applicable, from performing their respective obligations under, or be a waiver of any defaults by any such party under, the Transaction

Agreement and any related agreements or documents, or affect the validity of the Implementation Steps.

### **ADDITIONAL PROVISIONS**

21. **THIS COURT ORDERS** that upon the registration in the Canadian Intellectual Property Office of a copy of this Order, the applicable Registrar is hereby directed to transfer all of the applicable Seller's right, title and interest in and to the intellectual property owned by it (including, without limitation, the intellectual property set out in Section 2.1(i) of the Transaction Agreement) to the applicable Purchaser, free and clear of all Claims and Encumbrances other than any Permitted Encumbrances.

22. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act (Canada)*, each Seller is authorized and permitted to disclose and transfer to the Purchasers all human resources and payroll information in such Seller's records pertaining to the Assumed Employees, subject to and in accordance with the terms and conditions of the Transaction Agreement. The Purchasers shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by each such Seller.

23. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these CCAA proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act (Canada)* (the "**BIA**") in respect of any of the Sandvine Entities and any bankruptcy order issued pursuant to any such applications; and

(c) any assignment into bankruptcy under the BIA made in respect of any of the Sandvine Entities,

the vesting of the Purchased Assets and the assignment of the Assigned Contracts in and to the Purchasers pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of any of the Sandvine Entities and shall not be void or voidable by creditors of any of the Sandvine Entities, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the CCAA, the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

24. **THIS COURT ORDERS** that (a) on or after the Effective Time, each of the Sandvine Entities is hereby permitted to execute and file articles of amendment or such other documents or instruments as may be required to change its legal name, and such articles, documents or other instruments shall be deemed to be duly authorized, valid and effective without any requirement to obtain shareholder, unitholders, manager, member, or partner consent; and (b) upon the official change to the legal name of any of the Sandvine Entities that may occur, the name of Sandvine Entity in the within title of proceeding shall be deleted and replaced with the new legal name of such Sandvine Entity, and any document filed thereafter in this proceeding (other than the Monitor's Certificate and the certificate to be filed by the Monitor in respect of the termination of these CCAA proceedings) shall be filed using such revised title of proceeding.



## TITLE OF PROCEEDINGS

25. **THIS COURT ORDERS** that, following the Effective Time, the title of these CCAA proceedings shall be hereby amended to the following:

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. AND NEW  
PROCERA GP COMPANY

## RELEASES

26. **THIS COURT ORDERS** that, at the Effective Time, (a) the current and former directors, managers, officers, advisors, legal counsel or representatives of the Sandvine Entities; (b) the Consenting Stakeholders; (c) each current or former shareholder (or holder of any other Interest (as defined in the Restructuring Support Agreement)) of the Sandvine Entities; (d) each current or former holder of any current or previous funded debt Claim against the Sandvine Entities (including but not limited to the Existing Loan Lenders and the DDTL/DIP Lenders); (e) the Existing Loan Agents and the DDTL/DIP Agents and their respective legal counsel; (f) the Monitor and its legal counsel; (g) the NewCo Entities (including the Purchasers) and any shareholder or member of NewCo Parent (solely in its capacity as such); and (h) with respect to each Person listed or described in any of the foregoing (b) through (g), each such Person's current and former Affiliates (other than the Sandvine Entities), and each such Person's and their current and former Affiliates' current and former directors, managers, officers, employees, consultants, legal counsel, partners and advisors (in such capacities, collectively, the "**Released Parties**") shall be deemed to be forever irrevocably released by all Persons and discharged from 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 on or prior to the Effective Time, or undertaken or completed in connection with or pursuant to the terms of this Order, in respect of, relating to, or arising out of (i) the Sandvine Entities, the business, operations, assets, property and affairs of the Sandvine Entities wherever or however conducted or governed, the administration and/or management of the Sandvine Entities, these CCAA proceedings and/or the Chapter 15 Proceedings, or (ii) the Transaction Agreement, the Transition Services Agreement, the Restructuring Support Agreement, the Restructuring Term Sheet, and any agreement, document, instrument, matter or transaction involving the Sandvine Entities arising in connection with or pursuant to any of the foregoing, and/or the consummation of the Transactions or any parts thereof (the “**Released Claims**”), which Released Claims shall be deemed to be fully, finally, irrevocably and forever waived, discharged, released, cancelled and barred as against the Released Parties; *provided* that, nothing in this paragraph shall waive, discharge, release, cancel or bar (w) any claim that is not permitted to be released pursuant to section 5.1(2) of the CCAA, (x) any claim with respect to any act or omission that is determined by final order of a court of competent jurisdiction to have constituted actual fraud, willful misconduct, or gross negligence, or (y) any claim by any Person relating to the right to enforce against any of the Released Parties its post-Effective Time obligations under the Transaction

Agreement, the Transition Services Agreement, and any other agreement, document, or instrument executed to implement the Transactions.

27. **THIS COURT ORDERS** that, notwithstanding anything set out in any of the Orders made by the Court in these CCAA proceedings, any Released Claim asserted against the current or former directors, managers and officers of the Sandvine Entities (collectively, the “**Sandvine D&Os**”) that is covered by any insurance policy maintained by the Sandvine Entities (each, an “**Insured Claim**”), but only to the extent of any such available insurance, shall not be compromised, released, discharged, cancelled or barred by this Order, and any person having an Insured Claim shall be irrevocably limited to recovery in respect of such Insured Claim solely from the proceeds of the applicable insurance policies, and persons with Insured Claims shall have no right to, and shall not, directly or indirectly, seek any recoveries in respect thereof from the Sandvine D&Os, other than enforcing such person’s rights to be paid by the applicable insurer(s) from the proceeds of the applicable insurance policies. Nothing herein shall prejudice, compromise, release or otherwise affect any rights or defences of any insurer with respect to any Insured Claim.

#### **SEALING ORDER**

28. **THIS COURT ORDERS** that the Confidential Exhibit is hereby sealed and shall not form part of the public record, subject to further order of this Court sought on not less than seven (7) days’ notice to the Purchasers and, provided it has not been discharged, the Monitor.

#### **GENERAL**

29. **THIS COURT ORDERS** that the Sandvine Entities or the Monitor may from time to time apply to this Court to amend, vary or supplement this Order or for advice and directions in the

discharge of their powers and duties under this Order or in the interpretation or application of this Order.

30. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.

31. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body or agency, having jurisdiction in Canada or in the United States, including the U.S. Bankruptcy Court, to give effect to this Order and to assist the Sandvine Entities and the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies and agencies are hereby respectfully requested to make such orders and to provide such assistance to Sandvine Corporation, in its capacity as the foreign representative in respect of the within proceedings (in such capacity, the “**Foreign Representative**”), the Sandvine Entities and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant foreign representative status to Sandvine Corporation, in any foreign proceeding, or to assist the Sandvine Entities and the Monitor and their respective agents in carrying out the terms of this Order.

32. **THIS COURT ORDERS** that the Sandvine Entities, the Foreign Representative and the Monitor be at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

33. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order without any need for entry and filing.

*(to be completed by registrar)*

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*(Signature of judge, officer or registrar)*

**SCHEDULE “A”**

**FORM OF MONITOR’S CERTIFICATE**

Court File No. CV-24-00730836-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**(COMMERCIAL LIST)**

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  
(collectively, the “**Applicants**”)

**MONITOR’S CERTIFICATE**

**RECITALS**

1. Pursuant to the Initial Order of the Honourable Justice Osbourne of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated November 7, 2024 (as amended and restated on November 15, 2024, and as may be further amended, restated or supplemented from time to time), the Applicants were granted protection from their creditors pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), and KSV Restructuring, Inc. was appointed as the monitor (the “**Monitor**”).

2. Pursuant to an Assignment, Approval and Vesting Order of the Court dated January 30, 2025, the Court *inter alia*: approved the Transaction Agreement dated December 18, 2024 (as amended and including the exhibits and schedules attached thereto, the “**Transaction Agreement**”) between Sandvine Corporation and Procera Networks, Inc., as sellers (collectively,

the “**Sellers**”), Sandvine Holdings UK Limited (“**Sandvine UK**”) and Dune Parent LLC (“**NewCo Parent**”), for entities to be formed or that have been formed in accordance with the Implementation Steps (as defined in the Transaction Agreement and attached as Exhibit “A” thereto) (the “**Purchasers**”), the transactions contemplated therein, including the Implementation Steps, and the Transition Services Agreement (as defined in the Transaction Agreement) (collectively, the “**Transactions**”), and provided for (i) the vesting in the applicable Purchaser all of the applicable Sellers’ right, title and interest in and to the applicable Purchased Assets (as defined in the Transaction Agreement), free and clear of all Claims and Encumbrances other than the Assumed Liabilities and Permitted Encumbrances (each as defined in the Transaction Agreement) upon the delivery by the Monitor to the Sellers and NewCo Parent of a certificate confirming: (x) that the Monitor has received confirmation in writing in accordance with the provisions of Section 8.4 of the Transaction Agreement from the Sellers and NewCo Parent that the conditions of closing in the relevant party’s favour have been satisfied or waived by the Sellers and NewCo Parent, as applicable; and (y) the Transaction has been completed to the satisfaction of the Monitor, and (ii) the assignment of the Assigned Contracts (as defined in the Transaction Agreement) to the applicable Purchaser pursuant to Section 11.3 of the CCAA.

3. Unless otherwise indicated herein, capitalized terms have the meanings set out in the Transaction Agreement.

**THE MONITOR HEREBY CERTIFIES** the following:

1. The Monitor has received written confirmation from each Seller and NewCo Parent, in form and substance satisfactory to the Monitor, that all conditions of closing under the Transaction Agreement in the relevant party’s favour have been satisfied or waived by the Sellers and NewCo

Parent, as applicable.

2. This Certificate was delivered by the Monitor at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

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**KSV RESTRUCTURING INC., solely in its  
capacity as Monitor of the Applicants, and not  
in its personal capacity**



**SCHEDULE "B"**

**CURE COSTS**

None.

**Exhibit 2**

**Transaction Agreement**

**DUNE PARENT LLC**

**as NewCo Parent**

**– AND –**

**SANDVINE CORPORATION**

**PROCERA NETWORKS, INC.**

**as Sellers**

**– AND –**

**SANDVINE HOLDINGS UK LIMITED**

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**TRANSACTION AGREEMENT**

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**DATED DECEMBER 18, 2024**

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## TRANSACTION AGREEMENT

This transaction agreement, executed on December 18, 2024, is made by and between (i) Dune Parent LLC, a Delaware limited liability company (“**NewCo Parent**”), (ii) Sandvine Corporation (“**Sandvine**”), a corporation amalgamated under the laws of the Province of British Columbia, Procera Networks, Inc. (“**Procera**”), a Delaware corporation (and together with Sandvine, the “**Sellers**,” and individually, each a “**Seller**”), and (iii) Sandvine Holdings UK Limited, a private limited company incorporated under the laws of England and Wales (“**Sandvine UK**”). NewCo Parent, the Sellers, Sandvine UK, and any other persons that in the future become party hereto (including the Purchasers (as defined herein)) are each a “**Party**” and collectively, the “**Parties**.”

### RECITALS

**WHEREAS** the Sellers, directly and indirectly through their wholly-owned subsidiaries and Affiliates (as defined herein), including New Procera GP Company, Procera II LP, and Procera II LP’s subsidiaries (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;

**WHEREAS** the Sellers are party to that certain First Lien Credit Agreement, dated as of November 2, 2018, by and among Sandvine, as Canadian borrower, Procera, as U.S. borrower, Procera II LP, as ultimate parent, each other guarantor, the lenders from time to time party thereto (the “**Existing Loan Lenders**”), Seaport Loan Products LLC, as co-administrative agent, and Acquiom Agency Services LLC, as co-administrative agent and collateral agent (solely in such capacity, “**Existing Loan Collateral Agent**,” and together with Seaport Loan Products LLC, the “**Existing Loan Agents**”), as may be amended, restated, amended and restated, supplemented or otherwise modified from time to time (the “**Existing Loan Credit Agreement**” and the loans thereunder, the “**Existing Loans**”). The obligations under the Existing Loan Credit Agreement and the other related, ancillary transaction documents are secured by liens in and upon substantially all property and assets of the Company Parties that are borrowers or guarantors under the Existing Loan Credit Agreement (the “**Loan Parties**”);

**WHEREAS** the Sellers are party to that certain Super-Senior Credit Agreement, dated as of October 2, 2024, by and among Sandvine, as Canadian borrower, Procera, as U.S. borrower, Procera II LP, as ultimate parent, each other guarantor, the Specified Term Lenders (as defined in the DDTL/DIP Credit Agreement (as defined below)) (the “**DDTL Lenders**”), the Delayed Draw DIP Term Lenders (as defined in the DDTL/DIP Credit Agreement) (the “**DIP Lenders**,” and together with the DDTL Lenders, the “**DDTL/DIP Lenders**”), Seaport Loan Products LLC, as co-administrative agent, and Acquiom Agency Services LLC, as co-administrative agent and collateral agent (solely in such capacity, “**DDTL/DIP Collateral Agent**,” and together with Seaport Loan Products LLC, the “**DDTL/DIP Agents**”), as amended by Amendment No. 1 to Super-Senior Credit Agreement, dated as of November 6, 2024, and as may be further amended, restated, amended and restated, supplemented or otherwise modified from time to time (the “**DDTL/DIP Credit Agreement**” and the facility thereunder, the “**DDTL/DIP Facility**”). The obligations under the DDTL/DIP Credit Agreement and the other related, ancillary transaction

documents are secured by liens in and upon substantially all property and assets of the Loan Parties;

**WHEREAS** certain of the Company Parties entered into a Restructuring Support Agreement (as defined herein) with Existing Loan Lenders holding 97% of the Existing Loans (each, in such capacity, a “**Consenting Stakeholder**”, and collectively, the “**Consenting Stakeholders**”) whereby the Consenting Stakeholders and the Company Parties 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) (the “**CCAA**”);

**WHEREAS** the Sellers and Sandvine UK, together with certain of their affiliates, including New Procera GP Company, Sandvine OP (UK) Ltd., and Procera Holding, Inc. (collectively, the “**Debtors**”), have commenced proceedings (the “**CCAA Proceedings**”) under the CCAA in the Ontario Superior Court of Justice (Commercial List) (the “**CCAA Court**”) in order to, *inter alia*, seek creditor protection for, and certain relief in respect of, the Debtors, Procera II LP, and certain other Company Parties;

**WHEREAS** Sandvine, as foreign representative of the Debtors in the CCAA Proceedings, has commenced ancillary proceedings (the “**Chapter 15 Proceedings**”) under Chapter 15 of Title 11 of the United States Code (the “**Bankruptcy Code**”) in the United States Bankruptcy Court for the Northern District of Texas (Dallas Division) (the “**Chapter 15 Court**”);

**WHEREAS**, 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;

**WHEREAS**, Brigade Agency Services LLC (the “**Consenting Stakeholder Representative**”) formed NewCo Parent, which will form the Purchasers for the purpose of effecting the rights and interests of the Consenting Stakeholders in accordance with the terms and conditions of the Restructuring Support Agreement;

**WHEREAS** in connection with the CCAA Proceedings and the Chapter 15 Proceedings, the Debtors are pursuing a SISP with a view to implementing a transaction which will allow the continuation of their business operations as a going concern; and

**WHEREAS** NewCo Parent has agreed to act as a “stalking horse” bidder in the SISP and, if selected or deemed the successful bid, in accordance with the terms of the SISP, to cause the Purchasers to be formed and to purchase from the Sellers, and the Sellers have agreed to sell to the Purchasers, substantially all of the property and assets owned by the Sellers and used in connection with the Business (as defined herein), pursuant to and in accordance with the terms and conditions set out in the SISP, and subject to and in accordance with the terms and conditions of this Agreement and the Implementation Steps (as defined herein) consistent with the terms and economic conditions of the Restructuring Support Agreement (including the Restructuring Term Sheet).

**NOW THEREFORE** in consideration of the covenants and mutual promises set forth in this Agreement (including the recitals hereof) and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:



## ARTICLE 1 INTERPRETATION

### 1.1 Definitions

In this Agreement:

“**Acquired Subsidiaries**” means those direct and indirect subsidiaries of the Sellers listed in Schedule “A” attached hereto; *provided that*, up to the date that is two (2) Business Days prior to the Closing Date, the Sellers and NewCo Parent may agree to amend Schedule “A”, subject to the consent of the Monitor.

“**Action**” means any claim, counterclaim, application, action, suit, cause of action, Order, charge, indictment, prosecution, demand, complaint, grievance, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena or investigation of any nature, civil, criminal, administrative, regulatory or otherwise, whether at Law or in equity and by or before a Governmental Entity.

“**Administration Charge**” has the meaning given to it in the Amended and Restated Initial CCAA Order.

“**Administrative Expense Costs**” means the reasonable and documented fees and costs of the Monitor and its professional advisors and the professional advisors of the Debtors for services performed prior to and after the Closing Date, in each case, relating directly or indirectly to the CCAA Proceedings, the Chapter 15 Proceedings or this Agreement, including without limitation, costs required to wind down and/or dissolve and/or bankrupt the Debtors (but excluding any services in relation to the Transition Services Agreement).

“**Administrative Expense Reserve**” means an amount equal to \$3,000,000, to be paid to the Monitor and held in trust by the Monitor for the benefit of Persons (including the Monitor) entitled to be paid the Administrative Expense Costs.

“**Affiliate**” means, with respect to any Person, any other Person who directly or indirectly controls, is controlled by, or is under direct or indirect common control with, such Person, and includes any Person in like relation to an Affiliate. A Person shall be deemed to “control” another Person if such Person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of such other Person, whether through the ownership of voting securities, by contract or otherwise; and the term “controlled” shall have a similar meaning.

“**Agreement**” means this transaction agreement, the Disclosure Letter and all attachments, Schedules and Exhibits, in each case as the same may be supplemented, amended, restated or replaced from time to time.

“**Alternative Restructuring Proposal**” means any inquiry, proposal, offer, expression of interest, bid, term sheet, discussion, or agreement with respect to a sale, disposition, new-money investment, restructuring, reorganization, merger, amalgamation, acquisition, consolidation, dissolution, debt investment, equity investment, liquidation, tender offer, recapitalization, plan of reorganization, share exchange, business combination, or similar transaction involving any one or more Company Party, one or more of any Company Party’s assets, or the debt, equity, or other

interests in any one or more Company Party that is an alternative to or otherwise inconsistent with the transaction contemplated hereby and any amendment to or variation of any such inquiry, proposal, offer, expression of interest, bid, term sheet, discussion, or agreement, and is with a counterparty other than NewCo Parent or any of its Affiliates (unless such counterparty is formed pursuant to the instruction of any Consenting Stakeholder to effectuate the transactions as contemplated in the Restructuring Support Agreement).

**“Amended and Restated Initial CCAA Order”** means the Amended and Restated Initial Order (amending and restating the Initial Order dated November 7, 2024) entered by the CCAA Court on November 15, 2024, which Order amended and restated the Initial CCAA Order.

**“Antitrust and Foreign Investment Laws”** means the Sherman Antitrust Act of 1890, as amended, the Clayton Antitrust Act of 1914, as amended, the HSR Act, the Federal Trade Commission Act of 1914, as amended, and all other applicable supranational, national, federal, state or foreign antitrust, competition or trade statutes, rules, regulation, Orders, decrees, administrative and judicial doctrines and other Laws (including any applicable legislation that is adopted by a jurisdiction and comes into force after the date of this Agreement and before the Closing Date) that are (i) designed or intended to prohibit, restrict or regulate actions having the purpose or effect of monopolization or restraint of trade or lessening competition, or (ii) designed to prohibit, restrict or regulate foreign investments or national security and foreign subsidies. For the avoidance of doubt, “Antitrust and Foreign Investment Laws” include the Competition Act and the Investment Canada Act.

**“Antitrust and Foreign Investment Approvals”** means the obtaining of all necessary actions or non-actions, waivers, and consents from Governmental Entities and the making of all necessary registrations and filings (including filings with Governmental Entities, if any) and the taking of all steps as may be necessary to obtain an approval or waiver from, or to avoid an action, objection or legal proceeding by, any Governmental Entity with relation to any Antitrust or Foreign Investment Law, (ii) the prompt compliance with all legal requirements (foreign and domestic) that may be imposed on a Party or any of its Affiliates with respect to the Closing or the transactions contemplated hereby and (iii) the execution and delivery of any additional instruments necessary to consummate the transactions contemplated hereby and to fully carry out the purposes of this Agreement. For the avoidance of doubt, “Antitrust and Foreign Investment Approvals” include (i) the Competition Act Approval and (ii) the Investment Canada Act Approval if NewCo Parent determines that Investment Canada Act Approval should be obtained as contemplated herein.

**“Applicable Law”** means, with respect to any Person, property, transaction, event or other matter, any transnational, foreign or domestic, federal, provincial, territorial, state, local or municipal (or any subdivision of them) law (including common law and civil law), constitution, treaty, law, statute, regulation, code, ordinance, principle of common law or equity, rule, by-law (zoning or otherwise), Order (including any securities laws or requirements of stock exchanges and any consent decree or administrative Order) or other requirement having the force of law (“**Law**”), in each case relating or applicable to such Person, property, transaction, event or other matter and also includes, where appropriate, any interpretation of Law (or any part thereof) by any Person having jurisdiction over it, or charged with its administration or interpretation.

**“Approval and Vesting Order”** means an Order issued by the CCAA Court substantially in the form attached hereto as Schedule “B” and otherwise acceptable to NewCo Parent, the Sellers, and

the Monitor, each acting reasonably, approving among other things, this Agreement, the vesting in and to the applicable Purchasers all right, title and interest of the applicable Sellers in and to the applicable Purchased Assets, free and clear of and from all Encumbrances (other than Assumed Liabilities and Permitted Encumbrances), the Existing Loan Lender Credit Bid and Release, the DDTL/DIP Lender Credit Bid and Release and the Transition Services Agreement and the limitation of liability of the applicable NewCo Entities under Transition Services Agreement, in each case, to the extent and as provided for in such Order.

“**Assigned Contracts**” means, collectively, the Assigned Vendor Contracts, the Assigned Customer Contracts, and the Independent Contractor Contracts assigned in accordance with Section 5.7(c).

“**Assigned Customer Contracts**” means all Contracts listed in Schedule “1” of the Disclosure Letter; *provided that*, up to the date that is two (2) Business Days prior to the Closing Date the Sellers and NewCo Parent may agree to amend Schedule “1” of the Disclosure Letter, subject to the consent of the Monitor.

“**Assigned Vendor Contracts**” means all Contracts listed in Schedule “C” attached hereto; *provided that*, up to the date that is two (2) Business Days prior to the Closing Date the Sellers and NewCo Parent may agree to amend Schedule “C”, subject to the consent of the Monitor.

“**Assignment and Assumption Agreement**” means an assignment and assumption agreement in form and substance satisfactory to Sellers and NewCo Parent, each acting reasonably.

“**Assignment Order**” means an order of the CCAA Court, in form and substance satisfactory to NewCo Parent the Sellers and the Monitor each acting reasonably, and obtained on application made on notice to such Persons as NewCo Parent and the Sellers determine, acting reasonably, to be sought by the applicable Seller assigning the rights and obligations of the applicable Seller to the applicable Purchaser under an Assigned Contract for which a consent, approval or waiver necessary for the assignment of such Assigned Contract has not been obtained or is not obtainable prior to the Closing Date. For the avoidance of doubt, the Assignment Order may be included in, and form part of, the Approval and Vesting Order.

“**Assumed Contractors**” has the meaning given to it in Section 5.7(c).

“**Assumed Employees**” has the meaning given to it in Section 5.7(b).

“**Assumed Intercompany Debts**” has the meaning given to it in Section 2.3(b).

“**Assumed Liabilities**” has the meaning given to it in Section 2.3.

“**Authorization**” means any authorization, approval, consent, concession, exemption, license, lease, grant, permit, franchise, right, privilege or no-action letter from any Governmental Entity having jurisdiction with respect to any specified Person, property, transaction or event, or with respect to any of such Person’s property or business and affairs (including any zoning approval, mining permit, development permit or building permit) or from any Person in connection with any easements, contractual rights or other matters.

“**Bankruptcy Code**” has the meaning given to it in the Recitals.

**“Books and Records”** means the books and records of the Sellers that are Related to the Business or related to any Purchased Assets or Assumed Liabilities, including financial, corporate, operations and sales books, records, books of account, sales and purchase records, lists of suppliers and customers, formulae, business reports, plans and projections and all other documents, surveys, plans, files, records, assessments, correspondence, and other data and information, financial or otherwise, including all data, information and databases stored on computer-related or other electronic media.

**“Business”** means the business and operations carried on by the Sellers as at the date of this Agreement and as at the Closing Date.

**“Business Day”** means any day except Saturday, Sunday or any day on which banks are generally not open for business in the Province of Ontario, Canada or New York City, New York, United States of America.

**“Buyer Plans”** has the meaning given to it in Section 5.7(g).

**“Canadian NewCo”** means a corporation to be formed indirectly by NewCo Parent under the laws of any jurisdiction in Canada as determined by NewCo Parent in accordance with the Implementation Steps.

**“CCAA”** has the meaning given to it in the Recitals.

**“CCAA Charges”** means, collectively, the Administration Charge, the DIP Charge, the Directors’ Charge and the Transaction Fee Charge.

**“CCAA Court”** has the meaning given to it in the Recitals.

**“CCAA Proceedings”** has the meaning given to it in the Recitals.

**“Chapter 15 Court”** has the meaning given to it in the Recitals.

**“Chapter 15 Proceedings”** has the meaning given to it in the Recitals.

**“Claims”** means any right or claim of any Person, whether or not asserted, in connection with any indebtedness, liability or obligation of any kind whatsoever, whether reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, unknown, by guarantee, by surety, by warranty or otherwise, and whether or not such right is executory or anticipatory in nature, including without limitation, any claim arising from or caused by the termination, disclaimer, rescission, assignment or repudiation of any contract, lease, or other agreement, whether written or oral, the commission of a tort (intentional or unintentional), any breach of duty (including without limitation, any legal, statutory, equitable or fiduciary duty), any right of ownership of or title to property, employment, contract, a trust or deemed trust, howsoever created or any right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any grievance, matter, action, cause or chose in action, whether existing at present or commenced in the future, together with any other claims of any kind that, if unsecured, would constitute a debt provable in bankruptcy, including but not limited to all debts, obligations, expenses, costs, damages, losses, Actions, Liabilities, Encumbrances, accounts payable,

indebtedness, contracts, leases, agreements, undertakings, claims, rights and entitlements of any kind or nature 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 in equity and whether based in statute or otherwise).

“**Closing**” means the completion of the Transactions in accordance with the Implementation Steps and the other provisions of this Agreement.

“**Closing Date**” means the date on which the Closing occurs.

“**Closing Deliverables**” means all contracts, agreements, certificates and instruments required by this Agreement to be delivered at or before the Closing in order to effect the Transactions.

“**Closing Time**” means the time on the Closing Date at which Closing occurs, as evidenced by the Monitor’s Certificate.

“**Code**” means the U.S. Internal Revenue Code of 1986, as amended.

“**Commissioner**” means the Commissioner of Competition appointed under the Competition Act or any Person duly authorized to exercise powers of the Commission of Competition.

“**Company Parties**” has the meaning given to it in the Recitals.

“**Competition Act**” means the Competition Act (Canada), R.S.C., 1985, c. C-34.

“**Competition Act Approval**” means that: (i) the Commissioner shall have issued an Advance Ruling Certificate under subsection 102(1) of the Competition Act in respect of the transactions contemplated by this Agreement, or (ii) the applicable waiting period under section 123 of the Competition Act shall have expired or been waived by the Commissioner, or the obligation to submit a notification shall have been waived under paragraph 113(c) of the Competition Act, and the Commissioner shall have issued a No Action Letter.

“**Conditions Certificates**” has the meaning given to it in Section 8.4.

“**Confidential Information**” means non-public, confidential, personal or proprietary information which is furnished to a Party by the other Party, including, without limitation, any information about identifiable individuals, any information relating to a Party and/or its Affiliates or any information concerning a customer or supplier of a Party and/or its Affiliates; provided that “Confidential Information” does not include information that:

- (a) is or becomes generally available to the public other than as a result of disclosure in breach of this Agreement;
- (b) is received by a Party from a third party, provided that such third party obtained such information lawfully and while it was under no duty of confidentiality;
- (c) was lawfully in a Party’s possession prior to disclosure thereof by the other Party;  
or

- (d) was independently developed by a Party without use of, or reference to, the other Party's Confidential Information.

**"Consenting Stakeholder"** has the meaning given to it in the Recitals.

**"Consenting Stakeholder Representative"** has the meaning given to it in the Recitals.

**"Contracts"** means all contracts, agreements, deeds, licenses, leases, obligations, commitments, promises, undertakings, engagements, understandings and arrangements to which a Seller is a party to or by which a Seller is bound or under which a Seller has, or will have at Closing, any right or liability or contingent right or liability (in each case, whether written or oral, express or implied) Related to the Business, including any Real Property Leases and any Contracts in respect of Employees.

**"Cure Costs"** means all monetary defaults in relation to the Assigned Contracts as of the Closing Date, other than those arising by reason only of the applicable Debtors' insolvency, the commencement of the CCAA Proceedings or the Chapter 15 Proceedings by the Debtors, the applicable Debtors failure to perform a non-monetary obligation or amounts, including any amounts paid to obtain any third party consents required to effect an assignment of an Assigned Contract or otherwise effect an assignment to the applicable Purchasers any Assigned Contract, including all administrative fees and counsel fees of the counterparties required to be paid to obtain such assignment.

**"DDTL Commitment Fee"** has the meaning given to it in the Restructuring Term Sheet.

**"DDTL Lenders"** has the meaning given to it in the Recitals.

**"DDTL Tranche A Commitment"** means a DDTL Tranche A Commitment Party's commitment to fund DDTL Tranche A Loans up to such DDTL Tranche A Commitment Party's applicable DDTL Tranche A Commitment Amount under the DDTL/DIP Facility pursuant to the terms and conditions of the DDTL/DIP Credit Agreement.

**"DDTL Tranche A Commitment Amount"** means the amount as set forth opposite the relevant DDTL Tranche A Commitment Party's name under the column titled "DDTL Tranche A Commitment Amount" on Schedule 1 to the Restructuring Support Agreement.

**"DDTL Tranche A Commitment Amounts"** means the aggregate DDTL Tranche A Commitment Amount of all DDTL Tranche A Commitment Parties.

**"DDTL Tranche A Commitment Parties"** means, collectively, each Consenting Stakeholder that elected, in accordance with the Restructuring Support Agreement, to provide a DDTL Tranche A Commitment.

**"DDTL Tranche A Loan Claims"** means any Claims arising in connection with the DDTL Tranche A Loans.

**"DDTL Tranche A Loans"** means the "Initial Term Loans" as defined in the DDTL/DIP Credit Agreement.

“**DDTL Tranche B Loan Claims**” means any Claims arising in connection with the DDTL Tranche B Loans.

“**DDTL Tranche B Loans**” means the “Exchange Term Loans” as defined in the DDTL/DIP Credit Agreement.

“**DDTL/DIP Agents**” has the meaning given to it in the Recitals.

“**DDTL/DIP Claimholder**” means any holder of any DDTL/DIP Claim.

“**DDTL/DIP Claimholders Consideration**” has the meaning given to it in Section 3.2(b).

“**DDTL/DIP Claims**” means, collectively, the DDTL Tranche A Loan Claim, DDTL Tranche B Loan Claims, and DIP Loan Claims.

“**DDTL/DIP Collateral Agent**” has the meaning given to it in the Recitals.

“**DDTL/DIP Credit Agreement**” has the meaning given to it in the Recitals.

“**DDTL/DIP Facility**” has the meaning given to it in the Recitals.

“**DDTL/DIP Lender**” has the meaning given to it in the Recitals.

“**DDTL/DIP Lender Credit Bid and Release**” has the meaning given to it in Section 3.3(b).

“**Debtors**” has the meaning given to it in the Recitals.

“**Delayed Offer of Employment**” has the meaning given to it in Section 5.7(e).

“**Delayed Transfer Employee**” means each Employee that provides services to any Purchaser pursuant to the Transition Services Agreement and is set forth on the Delayed Transfer Employee Schedule.

“**Delayed Transfer Employee Termination Date**” has the meaning given to it in Section 5.7(e).

“**Delayed Transfer Employee Schedule**” has the meaning given to it in Section 5.7(d).

“**DIP Charge**” has the meaning given to it in the Amended and Restated Initial CCAA Order.

“**DIP Lenders**” has the meaning given to it in the Recitals.

“**DIP Loan Claims**” means any Claims arising in connection with DIP Loans.

“**DIP Loans**” means the “Delayed Draw DIP Term Loans” as defined in the DDTL/DIP Credit Agreement.

“**Direction Letter**” has the meaning given to it in Section 3.3.

“**Directors’ Charge**” has the meaning given to it in the Amended and Restated Initial CCAA Order.

“**Disclosure Letter**” means the confidential disclosure letter to be delivered by the Sellers to NewCo Parent, with a copy to the Monitor.

“**Employee Plans**” means any plan, arrangement, agreement, program, policy, practice or undertaking, formal or informal, funded or unfunded, insured or uninsured, registered or unregistered, that provides any employee benefit, fringe benefit, supplemental unemployment benefit, bonus, incentive, profit sharing, termination, change of control, pension, supplemental pension, retirement, stock option, stock purchase, stock appreciation, share unit, phantom stock, deferred compensation, health, welfare, medical, dental, disability, life insurance and any similar plans, programmes, arrangements or practices, in each case (x) for the benefit of Employees, officers or directors of the Sellers or other Persons who are receiving remuneration for work or services provided to the Sellers who are not Employees (or any spouses, dependants, survivors or beneficiaries of such Persons), or (y) that are maintained, sponsored or funded by the Sellers or (z) under which the Sellers have, or will have, any liability or contingent liability, provided that an Employee Plan shall not include any Statutory Plans.

“**Employee TSA Period**” has the meaning given to it in Section 5.7(e).

“**Employees**” means all individuals who, as of the Closing Time, are employed by the Sellers and the Acquired Subsidiaries, whether on a full-time or part-time basis and including all individuals who are on leave of absence, including without limitation maternity leave, disability leave or workers compensation leave, and “**Employee**” means any one of them.

“**Encumbrances**” means all claims, Liabilities (direct, indirect, absolute or contingent), obligations, prior claims, rights of retention, liens, security interests, charges, hypothecs, trusts, deemed trusts (statutory or otherwise), judgments, writs of seizure or execution, notices of sale, contractual rights (including purchase options, rights of first refusal, rights of first offer or any other pre-emptive contractual rights) and encumbrances, whether or not they have been registered, published or filed and whether secured, unsecured or otherwise.

“**ETA**” means the *Excise Tax Act* (Canada), R.S.C., 1985, c. E-15.

“**Excess Value Debt**” has the meaning given to it in the Implementation Steps.

“**Excluded Assets**” has the meaning given to it in Section 2.2.

“**Excluded Contracts**” means all Contracts that are not Assigned Contracts.

“**Excluded Liabilities**” has the meaning given to it in Section 2.4.

“**Existing Loan Agents**” has the meaning given to it in the Recitals.

“**Existing Loan Claimholder**” means any holder of the Existing Loan Claims.

“**Existing Loan Claimholders Consideration**” has the meaning given to it in Section 3.2(a).

“**Existing Loan Claims**” means any Claims arising in connection with the Existing Loans.

“**Existing Loan Collateral Agent**” has the meaning given to it in the Recitals.



“**Existing Loan Credit Agreement**” has the meaning given to it in the Recitals.

“**Existing Loan Facility**” has the meaning given to it in the Recitals.

“**Existing Loan Lenders**” has the meaning given to it in the Recitals.

“**Existing Loan Lender Credit Bid and Release**” has the meaning given to it in Section 3.3(a).

“**Existing Loans**” has the meaning given to it in the Recitals.

“**Exit Term Loan Facility**” means the term loan credit facility issued by a NewCo Entity pursuant to the terms as set forth in the Restructuring Term Sheet.

“**Exit Term Loans**” means loans advanced pursuant to the Exit Term Loan Facility.

“**Filing Date**” means the date that the Initial CCAA Order was granted.

“**Final Order**” means, in respect of any Order, that such Order shall not have been vacated, set aside, or stayed, and that the time within which an appeal or request for leave to appeal must be initiated has passed with no appeal or leave to appeal having been initiated.

“**Governmental Entity**” means any government, regulatory authority, governmental department, agency, commission, bureau, official, minister, Crown corporation, court, board, tribunal or dispute settlement panel or other law, rule or regulation-making organization or entity: (i) having or purporting to have jurisdiction on behalf of any nation, province, territory or state or any other geographic or political subdivision of any of them, or (ii) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power.

“**Implementation Steps**” has the meaning given to it in Section 2.7(a).

“**Independent Contractor Contracts**” has the meaning given to it in Section 5.7(c).

“**Independent Contractors**” means all individuals who, as of the Closing Time, provide services to the Sellers and the Acquired Subsidiaries and are not Employees, and “**Independent Contractor**” means any one of them.

“**Initial CCAA Order**” means the Initial Order entered by the CCAA Court on November 7, 2024, pursuant to the CCAA.

“**Intended U.S. Tax Treatment**” has the meaning given to it in Schedule “J.”

“**Interim Period**” means the period from the date of this Agreement until the Closing Time.

“**Inventory**” has the meaning given to it in Section 2.1(c).

“**Investment Canada Act**” means the *Investment Canada Act*, R.S.C., 1985, c. 28.

“**Investment Canada Act Approval**” means both: (i) receipt by NewCo Parent of a certification letter from the Director of Investments under the Investment Canada Act pursuant to subsection

13(1) of the Investment Canada Act confirming that that the transactions contemplated by this Agreement are not reviewable under Part IV of the Investment Canada Act; and (ii) either: (a) no notice is given under subsection 25.2(1) or 25.3(2) of the Investment Canada Act within the prescribed period; or, (b) if notice is given under subsection 25.2(1) or 25.3(2) of the Investment Canada Act, then either (A) the Minister or Ministers under the Investment Canada Act have sent to NewCo Parent a notice under paragraph 25.2(4)(a) or 25.3(6)(b) of the Investment Canada Act; or (B) the Governor in Council has issued an order under paragraph 25.4(1)(b) of the Investment Canada Act authorizing the transactions contemplated by this Agreement.

“**Law**” has the meaning given to it under the definition of “**Applicable Law**.”

“**Liability**” means, with respect to any Person, any liability or obligation of such Person of any kind, character or description, whether known or unknown, absolute or contingent, accrued or unaccrued, disputed or undisputed, liquidated or unliquidated, secured or unsecured, joint or several, due or to become due, vested or unvested, executory, determined, determinable or otherwise, and whether or not the same is required to be accrued on the financial statements of such Person.

“**Loan Parties**” has the meaning given to it in the Recitals.

“**Material Adverse Effect**” means any change, effect, event, occurrence, state of facts or development that has or could reasonably be expected to have a material adverse effect on (i) the business, assets, liabilities, financial conditions or results of operations of the Sellers, collectively, or (ii) prevents or limits the ability of the Sellers to perform their obligations under, or to consummate the Transactions contemplated by, this Agreement, taken as a whole; provided that in respect of paragraph (i) except to the extent that any such change, effect, event, occurrence, state of facts or development is attributable to: (a) general economic or business conditions; (b) Canadian, the U.S. or foreign economies, or financial, banking or securities markets in general, or other general business, banking, financial or economic conditions (including (i) any disruption in any of the foregoing markets, (ii) any change in the currency exchange rates or (iii) any decline or rise in the price of any security, commodity, contract or index); (c) acts of God or other calamities, national or international political or social conditions, including the engagement and/or escalation by the U.S. or Canada in hostilities, whether or not pursuant to the declaration of a national emergency or war, hostilities, sabotage, cyber attack or hacking, or the occurrence of any military or terrorist attack upon the U.S. or Canada or any of their territories, possessions or diplomatic or consular offices or upon any military installation, equipment or personnel of the U.S. or Canada; (d) conditions affecting generally the industry in which the Company Parties participate; (e) the public announcement of, entry into or pendency of, actions required or contemplated by or performance of obligations under, this Agreement or the Transactions, or the identity of the Sellers and NewCo Parent, including any termination of, reduction in or similar adverse impact on relationships, contractual or otherwise, with any customers, suppliers, financing sources, licensors, licensees, distributors, partners, employees or others having relationships with the Company Parties; (f) changes in Applicable Law or the interpretation thereof; (g) any change in applicable accounting standards or other accounting requirements or principles; (h) the failure of the Sellers to meet or achieve the results set forth in any internal projections (but not the underlying facts giving rise to such failure unless such facts are otherwise excluded pursuant to the clauses contained in this definition); or (i) any change resulting from compliance with the terms of, or any actions taken (or not taken) by any Party pursuant to or in accordance with, this Agreement;

provided that the exceptions set forth in clauses (a), (b), (c), (d), (f), (g) or (h) shall not apply to the extent that such event is disproportionately adverse to the Company Parties, taken as a whole, as compared to other companies in the industries in which the Company Parties operate.

“**Monitor**” means KSV Restructuring Inc., in its capacity as court-appointed monitor in the CCAA Proceedings.

“**Monitor’s Certificate**” means the certificate, substantially in the form attached as Schedule “A” to the Approval and Vesting Order, to be delivered by the Monitor to the Parties in accordance with Section 8.4 of this Agreement, and thereafter filed by the Monitor with the CCAA Court.

“**New OpCo I**” means a Delaware limited liability company to be formed and owned indirectly by NewCo Parent in accordance with the Implementation Steps.

“**New OpCo II**” means a Delaware limited liability company to be formed and owned indirectly by NewCo Parent in accordance with the Implementation Steps.

“**New Parent Equity**” means the common equity of NewCo Parent issued at Closing, as contemplated in the Restructuring Support Agreement.

“**NewCo Entities**” means, collectively, NewCo Parent, New OpCo I, New OpCo II, Canadian NewCo, UK NewCo, and any other entity to be formed directly or indirectly by NewCo Parent in a form agreeable to NewCo Parent in accordance with the Implementation Steps and “**NewCo Entity**” means any one individually.

“**NewCo Entities’ Organizational Documents**” means, with respect to any NewCo Entity, the documents by which such NewCo Entity was organized or formed (such as a certificate of incorporation, certificate of formation, certificate of limited partnership, or articles of organization) or which relate to the internal governance of such NewCo Entity (such as by-laws or a partnership agreement, or an operating, limited liability company, or members agreement.)

“**NewCo Parent**” has the meaning given to it in the Preamble.

“**No Action Letter**” means written confirmation from the Commissioner that the Commissioner does not, at that time, intend to make an application under section 92 of the Competition Act in respect of the transactions contemplated by this Agreement.

“**Offer of Employment**” has the meaning given to it in Section 5.7(a).

“**Offer of Engagement**” has the meaning given to it in Section 5.7(c).

“**Order**” means any order, directive, judgment, decree, injunction, decision, ruling, award or writ of any Governmental Entity.

“**Organizational Documents**” means any trust document, charter, certificate or articles of incorporation or amalgamation, articles of amendment, articles of association, articles of organization, articles of continuance, bylaws, partnership agreement or similar formation or governing documents of a Person (excluding individuals).

“**Outside Date**” means March 21, 2025, or such other date as the Sellers and NewCo Parent may agree to in writing, with the consent of the Monitor (not to be unreasonably withheld or delayed if such extension is necessary to obtain any Antitrust and Foreign Investment Approval that is pending on March 21, 2025).

“**Party**” or “**Parties**” has the meaning set forth in the preamble.

“**Permits and Licenses**” means the permits, licenses, Authorizations, approvals or other evidence of authority Related to the Business or the Purchased Assets or issued to, granted to, conferred upon, or otherwise created for, the Sellers, including, without limitation, as listed in Schedule “D” attached hereto.

“**Permitted Encumbrances**” means the Encumbrances related to the Purchased Assets listed in Schedule “E”; *provided that*, up to the date that is two (2) Business Days prior to the Closing Date, the Sellers and NewCo Parent may agree to amend Schedule “E”, subject to the consent of the Monitor.

“**Person**” is to be broadly interpreted and includes an individual, a corporation, a partnership, a trust, an unincorporated organization, a Governmental Entity, and the executors, administrators or other legal representatives of any of the foregoing in such capacity.

“**Personal Property Leases**” has the meaning given to it in Section 2.1(e).

“**Post-Closing Administration Order**” means an Order issued by the CCAA Court in form and substance acceptable to NewCo Parent, the Sellers and the Monitor, each acting reasonably, among other things, providing for the administration of the CCAA Proceedings after Closing, including with respect to the administration of the Administrative Expense Reserve, the Priority Payments / Disputed Cures Costs / CCAA Charges Reserve and the Transition Services Fees Reserve and expanded powers of the Monitor, in each case, to the extent and as provided for in such Order.

“**Post-Filing Trade Amounts**” means any accrued and unpaid amounts owed by the Sellers to third parties for leased or financed equipment and or goods and services provided to the Sellers by third parties in connection with the Business relating to the period from and including the Filing Date, that remain unpaid as of the Closing Date (but excluding, for the avoidance of doubt, the professional fees, costs and expenses secured by the Administration Charge and any intercompany amounts).

“**Pre-Closing Internal Reorganization**” means (i) Sandvine UK’s transfer of intellectual property to Sandvine OP (UK) Ltd., a private limited company incorporated under the laws of England and Wales, (ii) Sandvine UK’s transfer of all equity interest it holds in Acquired Subsidiaries to Sandvine, and (iii) Procera Holding, Inc.’s transfer of assets it owns that would constitute Purchased Assets if it were a Seller (if any) to Procera, in each case, prior to Closing in accordance with the Implementation Steps.

“**Pre-Filing Trade Amounts**” means any accrued and unpaid amounts owed by the Sellers to third parties for leased or financed equipment and for goods and services provided to the Sellers by third parties in connection with the Business as it relates to the Assigned Vendor Contracts prior to and exclusive of the Filing Date, that are listed in Schedule “F” attached hereto, that remain unpaid as

of the Closing Date (excluding, for the avoidance of doubt, any intercompany amounts and any Cure Costs).

**“Priority Payments / Disputed Cures Costs / CCAA Charges Reserve”** means an amount equal to (i) any Liability of the Sellers that ranks in priority to the Claims of the Existing Loan Claimholders as determined by Final Order of the CCAA Court or pursuant to a priority claims process approved by Order of the CCAA Court; (ii) any disputed Cure Costs, which the Sellers and NewCo Parent agree to reserve subject to consent of the Monitor, to be paid to the Monitor and held in trust by the Monitor for the benefit of Persons entitled to be paid such amounts; and (iii) amounts owing in respect of obligations secured by the CCAA Charges.

**“Proceeding Recognition Order”** means the Order of the Chapter 15 Court in the Chapter 15 Proceedings recognizing the CCAA Proceedings as “foreign main proceedings” pursuant to section 1517 of the Bankruptcy Code.

**“Procera”** has the meaning given to it in the Preamble.

**“Purchase Price”** has the meaning given to it in Section 3.1.

**“Purchased Assets”** has the meaning given to it in Section 2.1.

**“Purchased Intercompany Receivables”** means any debt owing to a Seller by any shareholder or Affiliate of such Seller that is expressly set forth in Schedule “H”, which may be updated no later than two (2) Business Days prior to the Closing Date.

**“Purchaser Released Parties”** has the meaning given to it in Section 5.12.

**“Purchasers”** means, collectively, New OpCo I, New OpCo II, Canadian NewCo, UK NewCo and any other NewCo Entity that NewCo Parent adds as a Party to this Agreement and designates as a Purchaser pursuant to Section 5.13 of this Agreement, and **“Purchaser”** means any one individually.

**“Real Property Leases”** means all leases, subleases and other occupancy Contracts with respect to all real or immovable property, and all plants, buildings, structures, improvements, appurtenances and fixtures (including fixed machinery and fixed equipment) thereon, forming part thereof or benefiting such real or immovable property.

**“Related to the Business”** means (i) used in connection with; (ii) arising from; or (iii) otherwise related to, the Business or any part thereof.

**“Released Claims”** means 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 on or prior to the Closing Date, or undertaken or completed in connection with or pursuant

to the terms of the Approval and Vesting Order, in respect of, relating to, or arising out of (a) the Company Parties or NewCo Entities, the business, operations, assets, property and affairs of the Company Parties or NewCo Entities wherever or however conducted or governed, the administration and/or management of the Company Parties or the NewCo Entities, the CCAA Proceedings, and/or the Chapter 15 Proceedings, or (b) this Agreement, the Restructuring Support Agreement, the Restructuring Term Sheet, the other definitive documents, any agreement, document, instrument, matter, or transaction involving the Company Parties or the NewCo Entities arising in connection with or pursuant to any of the foregoing, and/or the consummation of the Transactions.

“**Representative**” when used with respect to a Person means each director, officer, employee, consultant, financial adviser, legal counsel, accountant and other agent, adviser or representative of that Person.

“**Restricted Rights**” has the meaning given to it in Section 2.5(a).

“**Restructuring Support Agreement**” means that certain Restructuring Support Agreement, dated October 2, 2024, by and among certain Company Parties and the Consenting Stakeholders, as may be amended, restated, supplemented, or otherwise modified from time to time.

“**Restructuring Term Sheet**” means the restructuring term sheet attached as Exhibit A to the Restructuring Support Agreement.

“**Sandvine**” has the meaning given to it in the Preamble.

“**Sandvine UK**” has the meaning given to it in the Preamble.

“**Seller**” and “**Sellers**” have the respective meanings given to them in the Preamble.

“**Seller Released Parties**” has the meaning given to it in Section 5.11.

“**SISP**” has the meaning given to it in the Recitals.

“**SISP Order**” means the SISP Approval Order entered by the CCAA Court on November 15, 2024, that, among other things, approved the SISP and related matters.

“**Statutory Plans**” means statutory benefit plans which any Seller is required to participate in or comply with under Applicable Law, including the Canada Pension Plan and Québec Pension Plan and any plans administered pursuant to applicable health tax, workplace safety insurance and employment insurance legislation.

“**Target Closing Date**” means the date that is 30 Business Days after the Vesting Recognition Order is entered by the Chapter 15 Court, or such other date as the Sellers and NewCo Parent may agree to in writing, with the consent of the Monitor.

“**Tax Act**” means the *Income Tax Act* (Canada), R.S.C., 1985, c.1 (5<sup>th</sup> Supp.).

“**Tax Insurance Policy**” means the tax insurance policy (Reference Number RTR24TX585744) provided to Procera by Ryan Transactional Risk commencing June 28, 2024.

“**Tax Law**” means the Tax Act, the Code and any other Applicable Law in respect of Tax.

“**Tax Returns**” means all returns, reports, declarations, designations, forms, elections, notices, filings, information returns, and statements in respect of Taxes that are filed or required to be filed with any applicable Governmental Entity, including all schedules, attachments or supplements thereto or amendments thereof, whether in tangible or electronic form.

“**Taxes**” or “**Tax**” means, with respect to any Person, all supranational, national, federal, provincial, state, local or other taxes, including income taxes, global minimum taxes, mining taxes, branch taxes, profits taxes, capital gains taxes, gross receipts taxes, windfall profits taxes, value added taxes, severance taxes, ad valorem taxes, property taxes, property transfer taxes, capital taxes, net worth taxes, production taxes, sales taxes, goods and services taxes, harmonized sales taxes, use taxes, license taxes, excise taxes, franchise taxes, environmental taxes, transfer taxes, withholding or similar taxes, payroll taxes, employment taxes, employer health taxes, governmental pension plan premiums and contributions, social security premiums, workers’ compensation premiums, employment/unemployment insurance or compensation premiums, stamp taxes, occupation taxes, premium taxes, alternative or add on minimum taxes, customs duties, import and export taxes, countervailing and anti-dumping duties or other taxes of any kind whatsoever imposed or charged by any Governmental Entity and any instalments in respect thereof, together with any interest, penalties, or additions with respect thereto and any interest in respect of such additions or penalties and any liability for the payment of any amounts of the type described in this paragraph as a result any express or implied obligation to indemnify any other Person or as a result of being a transferee or successor in interest to any Person, whether disputed or not.

“**Transaction Fee Charge**” has the meaning given to it in the Amended and Restated Initial CCAA Order.

“**Transactions**” means all of the transactions contemplated by this Agreement (including, for greater certainty, the Implementation Steps), each on and subject to the terms set forth herein, in the Approval and Vesting Order or in the Vesting Recognition Order.

“**Transfer Taxes**” has the meaning given to it in Section 5.8(c).

“**Transition Services Agreement**” means the transition services agreement between Sandvine and Procera, on the one hand, and New OpCo I, New OpCo II, and Canadian NewCo, on the other hand, relating to the provision of transition services substantially in the form attached hereto as Schedule “G.”

“**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 (as such terms are defined in the Transition Services Agreement).

“**Transition Services Fees Reserve**” means a reserve to cover the costs and expenses of the services to be performed in connection with the terms of the Transition Services Agreement and related CCAA costs of the Monitor and its professional advisors in an amount to be agreed to between the Sellers, NewCo Parent and the Monitor (provided that such amount is no less than

\$1,500,000), to be paid to the Monitor and held in trust by the Monitor for the benefit of Persons (including the Monitor and its professional advisors) entitled to be paid such amounts.

“**UK NewCo**” means a private limited company incorporated under the laws of England and Wales to be formed and owned indirectly by NewCo Parent in accordance with the Implementation Steps.

“**Vesting Recognition Order**” means an Order of the Chapter 15 Court entered in the Chapter 15 Proceedings in form and substance acceptable to the Sellers and NewCo Parent, which shall, among other things, recognize and give effect to the Approval and Vesting Order within the territorial jurisdiction of the United States.

## **1.2 Actions on Non-Business Days**

If any payment is required to be made or other action (including the giving of notice) is required to be taken pursuant to this Agreement on a day which is not a Business Day, then such payment or action shall be considered to have been made or taken in compliance with this Agreement if made or taken on the next succeeding Business Day.

## **1.3 Currency and Payment Obligations**

Except as otherwise expressly provided in this Agreement, all dollar amounts referred to herein are stated in the lawful currency of the United States.

## **1.4 Calculation of Time**

Unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the next Business Day following if the last day of the period is not a Business Day.

## **1.5 Additional Rules of Interpretation**

- (a) Consents, Agreements, Approval, Confirmations and Notice to be Written. Any consent, agreement, approval or confirmation from, or notice to, any party permitted or required by this Agreement shall be written consent, agreement, approval, confirmation, or notice, and email shall be sufficient.
- (b) Gender and Number. In this Agreement, unless the context requires otherwise, words in one gender include all genders and words in the singular include the plural and vice versa.
- (c) Headings and Table of Contents. The inclusion in this Agreement of headings of Articles and Sections and the provision of a table of contents are for convenience of reference only and are not intended to be full or precise descriptions of the text to which they refer.
- (d) Section References. Unless the context requires otherwise, references in this Agreement to Articles, Sections or Schedules are to Articles or Sections of this Agreement, or Schedules to this Agreement.



- (e) Words of Inclusion. Wherever the words “include”, “includes” or “including” are used in this Agreement, they shall be deemed to be followed by the words “without limitation” and the words following “include”, “includes” or “including” shall not be considered to set forth an exhaustive list.
- (f) References to this Agreement. The words “hereof”, “herein”, “hereto”, “hereunder”, “hereby” and similar expressions shall be construed as referring to this Agreement in its entirety and not to any particular Article, Section or portion of it.
- (g) Statute References. Unless otherwise indicated, all references in this Agreement to any statute include the regulations promulgated thereunder, in each case as amended, re-enacted, consolidated or replaced from time to time and in the case of any such amendment, re-enactment, consolidation or replacement, reference herein to a particular provision shall be read as referring to such amended, re-enacted, consolidated or replaced provision and shall also include, unless the context otherwise requires, all applicable guidelines, bulletins or policies made in connection therewith.
- (h) Document References. All references herein to any agreement (including this Agreement), document or instrument mean such agreement, document or instrument as amended, supplemented, modified, varied, restated or replaced from time to time in accordance with the terms thereof and, unless otherwise specified therein, includes all schedules and exhibits attached thereto.

## 1.6 Exhibits and Schedules

- (a) The following are the Exhibits and Schedules attached to and incorporated in this Agreement by reference and deemed to be a part hereof:

### SCHEDULES

Exhibit “A”	Implementation Steps
Schedule “A”	Acquired Subsidiaries
Schedule “B”	Form of Approval and Vesting Order
Schedule “C”	Assigned Vendor Contracts
Schedule “D”	Permits and Licenses
Schedule “E”	Permitted Encumbrances
Schedule “F”	Pre-Filing Trade Amounts
Schedule “G”	Form of Transition Services Agreement
Schedule “H”	Assumed Intercompany Debts and Purchased Intercompany Receivables
Schedule “I”	Excluded Debts
Schedule “J”	Intended U.S. Tax Treatment

- (b) Unless the context otherwise requires, words and expressions defined in this Agreement will have the same meanings in the Exhibits and Schedules and the interpretation provisions set out in this Agreement apply to the Exhibits and Schedules. Unless the context otherwise requires, or a contrary intention appears,

references in the Exhibits and Schedules to a designated Article, Section, or other subdivision refer to the Article, Section, or other subdivision, respectively, of this Agreement. From time to time up to the date that is two (2) Business Days prior to the Closing Date, the Sellers and NewCo Parent may agree to amend, supplement or modify any Exhibits or Schedules (including adding any Exhibits or Schedules that are not attached to this Agreement as of the date hereof), subject to the terms and conditions herein and the consent of the Monitor.

- (c) The Disclosure Letter and all schedules thereto form an integral part of this Agreement for all purposes of it.
- (d) The Assigned Customer Contracts are confidential information and may not be disclosed unless: (i) it is required to be disclosed pursuant to Applicable Law, unless such Applicable Law permits the Parties to refrain from disclosing the information for confidentiality or other purposes; or (ii) a Party needs to disclose it in order to enforce or exercise its rights under this Agreement, and, in that case, only to Persons to which such information must be disclosed in connection therewith.

## ARTICLE 2 PURCHASE AND SALE

### 2.1 Agreement to Purchase and Sell Purchased Assets

Upon and subject to the terms and conditions of this Agreement, the Approval and Vesting Order and the Vesting Recognition Order, on the Closing Date, in accordance with the Implementation Steps, after the effectuation of the Pre-Closing Internal Reorganization, each Seller shall sell, convey, assign and transfer and deliver to the applicable Purchaser, and each applicable Purchaser shall purchase, acquire and accept from each applicable Seller, free and clear of all Encumbrances, other than Assumed Liabilities and Permitted Encumbrances, all of such Seller's right, title and interest at the time specified in the Implementation Steps in, to and under, or relating to, all the assets, property and undertaking, owned, used or held by it in connection with the Business other than the Excluded Assets (collectively, the "**Purchased Assets**"), including the following properties, assets and rights:

- (a) Cash and Accounts Receivable – all cash (including any unused portion of the amounts used to fund the Administrative Expense Reserve, the Priority Payments / Disputed Cures Costs / CCAA Charges Reserve and the Transition Services Fees Reserve as contemplated by Section 2.9(b)), bank balances, moneys in possession of banks and other depositories, term or time deposits and similar cash items of, owned or held by or for the account of the Sellers, all accounts receivable (including unbilled revenue and holdbacks), bills receivable, trade accounts, trade debts and book debts due or accruing due, including any refunds, rebates receivable and rights in respect of letters of credit and the full benefit of all security (including cash deposits), guarantees and other collateral held by the Sellers Related to the Business, and amounts receivable (or which may become receivable) by the Sellers under agreements whereby any such Seller has disposed of assets, or under royalty (or other) agreements or documents related thereto, the Purchased Intercompany

Receivables, and any asset-backed commercial paper or other investments, including cash deposited at any distribution agent's account;

- (b) Prepaid Expenses – the full benefit of its prepaid expenses and all deposits with any supplier, public utility, lessor under any Personal Property Lease or Assigned Contract or Governmental Entity (but excluding any all prepaid expenses and deposits relating to the Excluded Assets);
- (c) Inventory – all items that are held by or on behalf of it for sale, license, rent, lease or other distribution in the ordinary course of Business, or which are being produced for sale, or are to be consumed, directly or indirectly, in the production of goods or services to be available for sale, of every kind and nature and wheresoever situated including inventories of raw materials, spare parts, works in progress, finished goods and by-products, operating supplies and packaging materials (collectively, the “**Inventory**”);
- (d) Fixed Assets and Equipment – all machinery, equipment, furnishings, furniture, parts, dies, molds, tooling, tools, computer hardware, supplies, accessories and other tangible personal and moveable property (other than Inventory) owned or used or held by it, whether located on its premises or elsewhere (including at customer locations), but excluding any equipment owned by other Persons or customers of the Sellers located on the Sellers' leased premises;
- (e) Personal Property Leases – all leases of personal or moveable property used by it, including all benefits, rights and options pursuant to such leases and all leasehold improvements forming part thereof (the “**Personal Property Leases**”);
- (f) Assigned Contracts – the Assigned Contracts;
- (g) Acquired Subsidiaries – directly or indirectly, any securities in the Acquired Subsidiaries;
- (h) Other Assets – any assets transferred to a Seller under the Implementation Steps and, to the extent that it is necessary to specifically identify them for any purpose whatsoever, any other assets as agreed to in writing between the Sellers and NewCo Parent prior to the Closing Date (which, for certainty, will not result in any adjustment to the aggregate consideration received for the Purchased Assets);
- (i) Intellectual Property – all of its right, title and interest to all intellectual property owned by it (including after giving effect to the Pre-Closing Internal Reorganization), including:
  - (i) all trade-marks, trade names, trade dress, domain names, social media accounts, certification marks, service marks, and other similar source indicators (including the name “Sandvine” or “Procera” and any variations thereof), and the goodwill of any business symbolized thereby, patents, copyrights, proprietary rights in software (including source or object code, applications, or systems), proprietary rights in databases, compilations of data, website content, know-how, formulae, processes, inventions, trade

secrets, industrial designs and other similar property rights in information or inventions;

- (ii) all registrations and applications for registration of the foregoing;
  - (iii) the right to obtain renewals, extensions, substitutions, continuations, continuations-in-part, divisions, re-issues, re-examinations or similar legal protections of the foregoing registrations and applications; and
  - (iv) the right to bring an action at law or equity for the past, present or future infringement of any of the foregoing, including the right to receive all proceeds and damages therefrom;
- (j) Computer Software – all software and documentation therefor owned by it Related to the Business or related to the Purchased Assets, including, all electronic data processing systems, program specifications, source code, object code, development tools, input data, report layouts, formats, software implementations of algorithms, record file layouts, diagrams, functional specifications, narrative descriptions, flow charts, operating manuals, training manuals and other related material;
- (k) Goodwill – the goodwill of the Business and relating to the Purchased Assets, and information and documents relevant thereto including lists of customers and suppliers, credit information, telephone and facsimile numbers, e-mail addresses, research materials, research and development files and confidential information and the exclusive right of the applicable Purchaser to represent itself as carrying on the Business in succession to the applicable Seller;
- (l) Employee Plans – unless the applicable NewCo Entities establish mirror plans, the sponsorship of, and all assets, agreements, funding arrangements and policies forming part of or relating to any Employee Plan, and all rights, interests and obligations thereunder;
- (m) Books and Records – subject to Section 2.2(e), the Books and Records, including, and all records, files and information necessary or desirable for NewCo Parent or the applicable Purchaser to conduct or pursue the rights described in Section 2.1(p); *provided, however*, that: (i) each Seller may retain copies of all Books and Records to the extent necessary or useful for the administration of the CCAA Proceedings or the Chapter 15 Proceedings, or any subsequent bankruptcy or wind-down of the Debtors, the filing of any Tax Return, conducting any Tax audit or compliance with any Applicable Law or the terms and conditions of this Agreement; and (ii) the Sellers (including any trustee appointed in respect thereof) and the Monitor shall have access to, and the right to copy, at their own expense, for purposes of the CCAA Proceedings, the Chapter 15 Proceedings, or any subsequent bankruptcy or wind-down of the Debtors, or the filing of any Tax Return, conducting any Tax audit or compliance with any Applicable Law or the terms and conditions of this Agreement, during usual business hours, upon reasonable prior notice to NewCo Parent or the applicable Purchaser, all Books and Records;
- (n) Permits and Licenses – all Permits and Licenses;

- (o) Insurance
  - (i) without duplication to those Contracts referred to in Section 2.1(f) herein, its interests in all Contracts of insurance, insurance policies and insurance plans in each case to the extent Related to the Business or related to the Purchased Assets and to the extent such interests are assignable, including for certainty, any directors' and officers' insurance policies (including any "tail policy") in effect or purchased for and on behalf of directors and officers of the Sellers as of or following the date hereof and, for greater certainty, including the Tax Insurance Policy;
  - (ii) any insurance proceeds (net of any deductibles and retention) recovered by it under all Contracts of insurance, insurance policies and insurance plans between the date of this Agreement and the Closing Date in each case to the extent Related to the Business or related to the Purchased Assets; and
  - (iii) the full benefit of its rights to insurance claims to the extent relating to the Business or the Purchased Assets and amounts recoverable in respect thereof net of any deductible;
- (p) Actions, etc. – its Claims, refunds, causes of action, rights of recovery, rights of set-off and rights of recoupment, and its interest in any litigation and in the proceeds of any judgment, order or decree issued or made in respect thereof in respect of occurrences, events, accidents or losses suffered prior to the Closing Time;
- (q) Warranty Rights – all warranty rights against manufacturers, builders, contractors or suppliers relating to any of the Purchased Assets, to the extent the foregoing are transferable; and
- (r) Tax Refunds – the benefit of any refundable Taxes or refund of Taxes (including any input tax credits under the ETA), and any claim or right of it to any incentive, refund, rebate or credit of Taxes (including any refundable Tax credits) that is assignable to a Purchaser under Applicable Law,

in each case, other than the Excluded Assets.

## 2.2 Excluded Assets

Notwithstanding any provision of this Agreement to the contrary, the Purchased Assets shall not include any of the following assets of each Seller (collectively, the "**Excluded Assets**"), which shall remain the property of such Seller:

- (a) Excluded Contracts – all Excluded Contracts, and all cash (received following Closing), Claims, accounts receivable and amounts receivable by the Sellers, in each case arising following Closing, on account of the Excluded Contracts;
- (b) The Transition Services Pre-Payment Amount – the Transition Services Pre-Payment Amount; *provided however*, that such Transition Services Pre-Payment

Amount shall be transferred to NewCo Entities on the Closing Date pursuant to the terms and conditions of the Transition Services Agreement;

- (c) Tax Refunds – the benefit of any Tax attribute, refundable Taxes or refund of Taxes (including any input tax credits under the ETA), and any claim or right of it to any incentive, refund, rebate or credit of Taxes (including any refundable Tax credits); *provided that* the foregoing shall only apply to the extent that such benefit, claim or right may not be legally assigned to a Purchaser under Applicable Law;
- (d) Loans – any loans or debts due to it prior to the Closing Date, including loans, debts or other amounts due or payable to it by a Company Party (other than such amounts owed pursuant to any Assumed Intercompany Debt or Purchased Intercompany Receivable);
- (e) Corporate Records – Tax Returns and original Tax records and Books and Records pertaining thereto, minute books, corporate seals, taxpayer and other identification numbers and other documents relating to the organization, maintenance and existence of a Seller as a Person, and any other Books and Records that the Sellers, or any of them, is prohibited from disclosing or transferring to the Purchasers under Applicable Law and is required by Applicable Law to retain; *provided that* the applicable Purchaser may take copies of all Tax records and Books and Records pertaining to such records (as redacted, if applicable) to the extent necessary or useful and as permitted by Applicable Law to the Purchaser after Closing including in connection with the filing of any Tax Return;
- (f) Rights under Agreement – each Seller’s rights under this Agreement, the Closing Deliverables and the Transaction, including, for greater certainty, all consideration received under this Agreement;
- (g) Assets Held by non-Seller Company Parties – all properties, assets and rights solely held by any non-Seller Company Party other than properties, assets and rights transferred to a Seller under the Implementation Steps;
- (h) Shares – securities held by the Sellers other than those securities transferred to a Purchaser under the Implementation Steps;
- (i) Insurance – all rights under Contracts of insurance, insurance policies and insurance plans to the extent not Related to the Business or related to the Purchased Assets, which, for greater certainty, shall not include the directors’ and officers’ insurance policies contemplated in Section 2.1(o)(i);
- (j) Ordinary Course Assets – any asset of the Sellers that would otherwise constitute a Purchased Asset but for the fact that it is conveyed, leased or otherwise disposed of in the ordinary course of the Business in compliance with Section 5.4 during the Interim Period;
- (k) Retainers – all rights in respect of any retainers paid by the Sellers to professional service providers or to the Monitor and its counsel; and

- (l) Records and Communications with Professional Service Providers – all records of communications between the Sellers and their professional service providers, including those that may be stored on any device that is included in the Purchased Assets, which shall not be accessed by the Purchasers or NewCo Parent but may remain stored in the ordinary course of business in accordance with back up or electronic record retention policies.

### 2.3 Assumption of Liabilities

The applicable Purchaser shall assume and agree to pay, perform and discharge only the following Liabilities of the applicable Seller from and after the Closing Date, in accordance with the Implementation Steps (collectively, the “**Assumed Liabilities**”):

- (a) Obligations under Contracts, etc. – all liabilities and obligations arising under or in respect of the Personal Property Leases, Employee Plans, Permits and Licenses, and the Assigned Contracts, including any Cure Costs;
- (b) Intercompany Accounts Payable – any debt owing by a Seller to any shareholder or Affiliate of such Seller that is expressly set forth in Schedule “H”, which may be updated no later than two (2) Business Days prior to the Closing Date (the “**Assumed Intercompany Debts**”);
- (c) Employee Matters – all liabilities and obligations of the applicable Purchaser pursuant to Section 5.7;
- (d) Post-Filing Trade Amounts – all Post-Filing Trade Amounts;
- (e) Pre-Filing Trade Amounts – all Pre-Filing Trade Amounts; and
- (f) Purchased Assets – all liabilities relating to the ownership or use of the Purchased Assets and the operation of the Business from and after the Closing Date.

### 2.4 Excluded Liabilities

Subject to any covenant or agreement contained in this Agreement where the applicable Purchaser or any of its Affiliates has expressly agreed to assume, satisfy, discharge, perform when due, bear or otherwise be liable for any Liabilities, each Purchaser shall not assume and shall not be responsible to pay, perform or discharge any Liabilities of the Sellers or any of their Affiliates of any kind or nature whatsoever that are not Assumed Liabilities (collectively, the “**Excluded Liabilities**”). Without limiting the generality of the foregoing, the Excluded Liabilities include the following:

- (a) Intercompany Debts – any debt (including accounts payable) owing by a Seller to any shareholder or Affiliate of a Seller that is not an Assumed Intercompany Debt;
- (b) Intellectual Property Claims – any claims against a Seller for infringement of any intellectual property rights of any third party occurring during any period prior to the Closing Date;
- (c) Excluded Assets – all liabilities and obligations relating to the Excluded Assets;

- (d) Debt – all liabilities and obligations under any Contracts related to the debt described in Schedule “I”, which may be updated no later than ten (10) days prior to the hearing for the Approval and Vesting Order, including all accrued and accruing interest, fees, costs and expenses thereunder;
- (e) Taxes – all liabilities for Taxes of the Sellers; and
- (f) Other – any Claims arising from or in relation to any facts, circumstances, events or occurrences existing or arising prior to the Closing Time, except as specifically included in Section 2.3 as an Assumed Liability.

## 2.5 Assignment of Purchased Assets

- (a) Notwithstanding anything in this Agreement to the contrary, this Agreement shall not constitute an agreement to assign or transfer any Purchased Asset or any right thereunder if an attempted assignment or transfer (i) without the consent, approval or waiver of a third party, would constitute a breach or in any way adversely affect the rights of the applicable Purchaser thereunder or (ii) is not permitted or enforceable under Applicable Law (collectively, “**Restricted Rights**”). Each Seller and NewCo Parent shall use commercially reasonable efforts to take all such actions, cooperate with each other and do or cause to be done all such things as are reasonably necessary or proper, following the Closing, in order that the obligations of the applicable Purchaser under such Restricted Rights may be performed in such manner that the value of such Restricted Rights is preserved and enures to the benefit of the applicable Purchaser, and that any amounts due and payable, or which become due and payable, in and under the Restricted Rights are received by the applicable Purchaser and the liabilities are satisfied by the applicable Purchaser. Subject to payment of all liabilities in respect thereof by the applicable Purchaser, the applicable Seller shall reasonably promptly pay to the applicable Purchaser all amounts collected by or paid to the applicable Seller in respect of all such Restricted Rights. Subject to Section 5.4, the Sellers shall not, without the prior written consent of NewCo Parent, agree to any modification of any Restricted Rights.
- (b) If a consent to transfer the Restricted Rights to the applicable Purchaser is not obtained by the Closing Date or such assignment is not obtainable, the Sellers and NewCo Parent, as applicable, will cooperate and use their respective commercially reasonable efforts, from and after the Closing Date, to implement a mutually agreeable arrangement pursuant to which the applicable Purchaser will obtain the benefits, and assume the liabilities and obligations, related to such Restricted Rights in accordance with this Agreement; provided, however, that NewCo Parent acknowledges and agrees that nothing in this Section 2.5 shall operate to prohibit or diminish in any way the right of a Seller to dissolve, windup or otherwise cease operations as it may determine in its sole discretion, or require any Seller to take any illegal action or commit fraud on any Person.
- (c) If any necessary consents or approvals in order to assign the Assigned Contracts cannot be obtained or such assignments are not obtainable, the Sellers and the Monitor may elect to, or upon the request of NewCo Parent, shall apply for and use



commercially reasonable efforts to obtain an Assignment Order prior to the Closing Date.

- (d) Notwithstanding the foregoing: (i) nothing in this Section 2.5 shall require the Sellers to renew any Restricted Rights once they have expired, (ii) any efforts required of the Sellers pursuant to this Section 2.5 shall (A) be subject to receipt of adequate compensation in respect of all direct incremental costs and expenses incurred in respect of or related to such arrangement, (B) be strictly on an interim basis and in no event required to continue for more than 90 days following Closing, and (C) to the extent not prohibited, be of an administrative nature only, without any substantive function. NewCo Parent shall or shall cause the applicable NewCo Entity to reimburse the Seller for any direct incremental cost incurred and any cost to indemnify and hold the Seller harmless from and against all Claims, incurred or asserted by a Seller, as a result of any actions taken pursuant to this Section 2.5.
- (e) For the avoidance of doubt, subject to the Sellers complying with their obligations under this Section 2.5 in all material respects, the Sellers and NewCo Parent acknowledge that the fact that any Purchased Asset constitutes a Restricted Right shall not (i) constitute a breach of any covenant hereunder, (ii) entitle NewCo Parent to terminate this Agreement or (iii) result in any reduction of the consideration payable hereunder. Any non-Restricted Right assigned pursuant to the terms of this Section 2.5 shall, when assigned, constitute an Assigned Contract hereunder from and after such date.
- (f) Subject to the terms and conditions of this Agreement, each Seller hereby agrees to assign to the applicable Purchaser on the Closing Date, effective as of the Closing, all of such Seller's rights, benefits and interests in, to and under the Assigned Contracts, in accordance with this Agreement. The Sellers, in consultation with NewCo Parent, shall use commercially reasonable efforts to obtain any necessary consents or approvals in order to assign the Assigned Contracts. NewCo Parent will use its commercially reasonable efforts to assist the Sellers in obtaining any such consent.

## **2.6 Contract Designation Rights**

- (a) No later than ten (10) days prior to the hearing for the Approval and Vesting Order, the Sellers shall deliver to NewCo Parent a list of Contracts of each Seller with the anticipated amount of the Cure Costs associated with each Contract. Sellers shall cooperate with and provide such additional information to NewCo Parent in order to identify and provide to NewCo Parent as promptly as practicable all material Contracts Related to the Business (and the related Cure Costs), as well as Cure Costs of non-material Contracts subject to assumption or assignment or rejection or disclaimer hereunder. Notwithstanding the foregoing, (i) prior to the Closing Date, the Sellers shall supplement such list to add any material Contracts entered into by the Sellers during the pendency of the CCAA Proceedings and (ii) on and within 180 days after the Closing Date, the applicable Purchaser retains the right to assume any executory Contract that is not an Assigned Contract as of the Closing Date.

- (b) To the extent required to effectuate the assignment of a Contract, the Sellers shall seek, among other things, an Order of the CCAA Court for approval of certain assumption and assignment procedures to, among other things, (i) assign to the applicable Purchaser all of the Assigned Contracts of the Sellers and (ii) fix the Cure Costs associated with each Contract as of the date of the hearing to approve the Approval and Vesting Order (or as of such later date acceptable to NewCo Parent).
- (c) For the purpose of determining whether a Contract of the Sellers shall be included as an Assigned Contract or an Excluded Contract, from and after the Filing Date all Contracts shall be treated as follows:
  - (i) no later than ten (10) days prior to the hearing for the CCAA Court approval of the Approval and Vesting Order, NewCo Parent shall notify Sellers in writing of those Contracts which NewCo Parent desires to be designated to be assumed by the Purchasers and assigned to the Purchasers on the Closing Date, subject to later redesignation pursuant to Section 2.6(c)(iii) hereof (or later designation pursuant to the applicable definition of Assigned Contract);
  - (ii) any Contracts entered into during the pendency of the CCAA Proceedings shall be designated to be assigned to the Purchasers, unless NewCo Parent notifies the Sellers in writing that it will not designate such Contract to be assumed by the Purchasers prior to the Closing Date, in which case such Contract shall not be assigned to the applicable Purchaser and shall be designated as an Excluded Contract; and
  - (iii) at any time prior to the Closing Date, NewCo Parent shall notify Sellers in writing of any Contracts which NewCo Parent does not desire to be assumed by and assigned to the Purchasers, in which case any such Contracts shall not be assigned to the Purchasers and shall be included as an Excluded Contract and may be rejected by Sellers; provided that, for a period of 180 days after the Closing Date, NewCo Parent may notify the Sellers in writing of Contracts (other than Contracts contemplated in Section 2.6(b)) that it no longer wishes to have the Purchasers assume in the event the consents, approvals or waivers set forth in Section 2.5 hereof are not obtained within a reasonable period of time.

## 2.7 Implementation Steps and Pre-Closing Internal Reorganization

- (a) On or prior to the Closing Date, the Parties shall (and shall cause their respective Affiliates to) undertake the steps described in Exhibit “A” (including the Pre-Closing Internal Reorganization) (such steps, including any subsequent amendments thereto, the “**Implementation Steps**”) in accordance with the terms thereof.
- (b) Prior to the Closing Date, the Sellers, acting reasonably, may amend the Implementation Steps subject to receiving the prior written consent of NewCo Parent and the Monitor, not to be unreasonably withheld; *provided* that, any

amendment thereto does not cause the consideration payable to the Existing Loan Lenders or the DDTL/DIP Lenders to materially deviate from the terms of the Restructuring Support Agreement and the Restructuring Term Sheet.

- (c) The Implementation Steps shall occur, and be deemed to have occurred in the order and manner to be set out in the Implementation Steps.
- (d) Following the consummation of the Implementation Steps, pursuant to the same plan as the Implementation Steps and after the Closing Date, Procera shall take all necessary steps to liquidate and dissolve in accordance with Applicable Law (the “**Procera Liquidation**”).
- (e) The Implementation Steps shall be treated as part of this Agreement.

## **2.8 Intended U.S. Federal Income Tax Treatment**

The Parties intend that the Transactions shall qualify for the Intended U.S. Tax Treatment set forth in Schedule “J”. Prior to the Closing Date, the Sellers, acting reasonably, may amend Schedule “J.”

## **2.9 Administrative Expense Matters**

- (a) On the Closing Date, in accordance with the Implementation Steps:
  - (i) the Administrative Expense Reserve, the Priority Payments / Disputed Cures Costs / CCAA Charges Reserve and the Transition Services Fees Reserve shall each be constituted by the Monitor and funded on the Closing Date out of the cash and cash equivalents of the Sellers and the other Company Parties; provided that
  - (ii) if (A) the Administrative Expense Costs incurred on or after the Closing Date exceed the amount of the Administrative Expense Reserve, then the Monitor shall draw upon the Transition Services Fees Reserve to fund such deficiency; or (B) the amounts payable out of the Transition Services Fees Reserve incurred on or after the Closing Date exceed the amount payable out of the Transition Services Fees Reserve, then the Monitor shall draw upon the Administrative Expense Reserve to fund such deficiency; provided further that
  - (iii) if the aggregate amount of the Administrative Expense Costs and the amounts payable out of the Transition Services Fees Reserve incurred on or after the Closing Date exceed the aggregate amount of the Administrative Expense Reserve and the Transition Services Fees Reserve, together with other sources of funds available to the Sellers (including net revenue from Excluded Contracts), the NewCo Entities shall fund any such deficiency; provided further that
  - (iv) in no event, shall the NewCo Entities’ aggregate obligations under Section 2.9(a)(iii) exceed \$3,000,000.

- (b) Any unused portion of the Administrative Expense Reserve, the Priority Payments / Disputed Cures Costs / CCAA Charges Reserve or the Transition Services Fees Reserve after payment or reservation for all Administrative Expense Costs and amounts payable out of the Priority Payments / Disputed Cures Costs / CCAA Charges Reserve or the Transition Services Fees Reserve, in each case as determined by the Monitor, shall be transferred by the Monitor to the Purchasers as a Purchased Asset. For the avoidance of doubt, if the amounts payable out of the Priority Payments / Disputed Cures Costs / CCAA Charges Reserve incurred on or after the Closing Date exceed the amounts of the Priority Payments / Disputed Cures Costs / CCAA Charges Reserve, neither the Administrative Expense Reserve nor the Transition Services Fees Reserve may be drawn upon to fund such deficiency.

### ARTICLE 3 CONSIDERATION AND RELATED MATTERS

#### 3.1 Consideration for Sellers

The aggregate purchase price payable by the Purchasers to the Sellers in exchange for the Purchased Assets (the “**Purchase Price**”) shall be satisfied by (i) the assumption of Assumed Liabilities by the Purchasers, and (ii) the transfer of, in aggregate, 50% of the New Parent Equity (or, if applicable, the Excess Value Debt) and the Exit Term Loans, in each case, by the applicable Purchaser to the applicable Seller, in each case, in accordance with the Implementation Steps. The Purchase Price shall be determined and allocated among the Purchased Assets as agreed by the Sellers and NewCo Parent, acting reasonably. Such allocation shall be binding, and NewCo Parent and the Sellers shall report (and cause their applicable Affiliates to report) the purchase and sale of the Purchased Assets and file (and cause their applicable Affiliates to file) all filings which are necessary or desirable under Tax Law to give effect to such allocations and in a manner consistent with the Intended U.S. Tax Treatment and shall not take (or cause their applicable Affiliates to take) any position or action inconsistent with such allocation or the U.S. Intended Tax Treatment.

#### 3.2 Consideration for Existing Loan Claimholders and DDTL/DIP Claimholders

In accordance with and as a consequence of the Implementation Steps:

- (a) the Existing Loan Claimholders shall receive, in aggregate, 50% of the New Parent Equity (subject to dilution by the management incentive plan, if any) (the “**Existing Loan Claimholders Consideration**”) in exchange for, directly or indirectly, the settlement and extinguishment of the Existing Loan Claims, and such New Parent Equity shall be allocated to each Existing Loan Claimholder on a *pro rata* basis to the Existing Loan Claims held by each such Existing Loan Claimholder in proportion to the Existing Loan Claims held by all Existing Loan Claimholders, which shall be effectuated through the Existing Loan Lender Credit Bid and Release;
- (b) The DDTL/DIP Claimholders shall receive the Exit Term Loans (the “**DDTL/DIP Claimholders Consideration**”), in exchange for, directly or indirectly, the settlement and extinguishment of the DDTL Tranche A Loan Claims, DDTL Tranche B Loan Claims, and DIP Loan Claims on a *pro rata* and dollar-for-dollar

basis, which shall be effectuated through the DDTL/DIP Lender Credit Bid and Release; and

- (c) the DDTL Tranche A Commitment Parties shall receive, in aggregate, 50% of the New Parent Equity (subject to dilution by the management incentive plan, if any) in satisfaction of the DDTL Commitment Fee, and such New Parent Equity shall be allocated to each DDTL Tranche A Commitment Party on a *pro rata* basis to the DDTL Tranche A Commitment Amount of such DDTL Tranche A Commitment Party in proportion to the aggregate DDTL Tranche A Commitment Amounts of all DDTL Tranche A Commitment Parties.

### 3.3 Direction Letter and Credit Bids

On or prior to the execution of this Agreement, the Sellers shall have received from NewCo Parent a true, complete and accurate copy of a direction letter (the “**Direction Letter**”), which includes, among other things:

- (a) instructions made by Consenting Stakeholders in their capacity as the “Required Lenders” under the Existing Loan Credit Agreement directing the Existing Loan Agents to, subject to the entry of the Approval and Vesting Order and the Vesting Recognition Order, (i) exercise the Existing Loan Collateral Agent’s right pursuant to Section 14(d) of the U.S. Collateral Agreement (as defined in the Existing Loan Credit Agreement) on behalf of all Existing Loan Lenders to credit bid all Existing Loan Claims and in connection with such credit bid, to release all of the Loan Parties’ obligations (including any guaranty and security interest) in connection with the Existing Loan Claims in exchange for the Existing Loan Claimholders Consideration, (ii) in connection with such credit bid, consent, on behalf of itself and the Existing Loan Lenders, to the release of any and all Liens (as defined in the Existing Loan Credit Agreement) (including replacement Liens) of the Secured Parties (as defined in the Existing Loan Credit Agreement) under the Existing Loan Credit Agreement on any and all Collateral (as defined in the Existing Loan Credit Agreement) including, if applicable, on the DDTL/DIP Claimholders Consideration; *provided* that such release of Liens shall only occur on the Closing Date in accordance with the Implementation Steps, and (iii) take and do or cause to be taken and done any and all such actions and things as are necessary, appropriate, convenient, proper, or advisable to implement the directions in the Direction Letter (the “**Existing Loan Lender Credit Bid and Release**”); and
- (b) instructions made by the Consenting Stakeholders in their capacity as “all Lenders” under the DDTL/DIP Credit Agreement directing the DDTL/DIP Agents to, subject to the entry of the Approval and Vesting Order and the Vesting Recognition Order, (i) exercise the DDTL/DIP Collateral Agent’s right pursuant to Section 14(d) of the U.S. Collateral Agreement (as defined in the DDTL/DIP Credit Agreement) on behalf of all DDTL/DIP Lenders to credit bid all DDTL/DIP Claims and in connection with such credit bid, to release all of the Loan Parties’ obligations (including any guaranty and security interest) in connection with the DDTL/DIP Claims in exchange for the DDTL/DIP Claimholders Consideration, (ii) in connection with such credit bid, consent, on behalf of itself and the DDTL/DIP Lenders, to the release of any and all Liens (as defined in the DDTL/DIP Credit

Agreement) (including replacement Liens) of the Secured Parties (as defined in the DDTL/DIP Credit Agreement) under the DDTL/DIP Credit Agreement on any and all Collateral (as defined in the DDTL/DIP Credit Agreement) including, if applicable, on the Existing Loan Claimholders Consideration; *provided* that such release of Liens shall only occur on the Closing Date in accordance with the Implementation Steps, and (iii) take and do or cause to be taken and done any and all such actions and things as are necessary, appropriate, convenient, proper, or advisable to implement the directions in the Direction Letter (the “**DDTL/DIP Lender Credit Bid and Release**”).

Other than the Restructuring Support Agreement, there are no side letters or other agreements, contracts, arrangements or understandings that adversely affect the availability, enforceability or termination of, or impose any additional conditions on the availability of, the Direction Letter. When delivered, the Direction Letter will be in full force and effect and will be legal, valid, binding and enforceable obligations, in accordance with its terms. Other than as set out in the Restructuring Support Agreement, there are no conditions precedent or other contractual contingencies related to the Direction Letter, other than as expressly set forth in the Direction Letter.

The Existing Loan Lender Credit Bid and Release and the DDTL/DIP Lender Credit Bid and Release shall be approved by Approval and Vesting Order, which shall be recognized in the Chapter 15 Proceedings.

### **3.4 Withholding**

The Sellers, the NewCo Entities, any of their respective Affiliates, and any other applicable withholding agent 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 are required to be deducted and withheld therefrom under any applicable provision of U.S. federal, state, local or non-U.S. Tax Law. To the extent that amounts are so deducted, withheld and paid over to the applicable Governmental Entity, such deducted and withheld amounts shall be treated for all purposes of this Agreement as having been paid to such Person in respect of which such deduction and withholding was made.

## **ARTICLE 4 REPRESENTATIONS AND WARRANTIES**

### **4.1 Representations and Warranties as to the Sellers**

Subject to the issuance of the Approval and Vesting Order and the Vesting Recognition Order, each of the Sellers, severally, and not jointly or jointly and severally, represents and warrants to NewCo Parent on the date hereof and at Closing as follows and acknowledges and agrees that NewCo Parent is relying upon such representations and warranties in connection with the Transactions:

- (a) Incorporation and Status. Each Seller is duly incorporated, organized or formed (as applicable), validly existing and in good standing under the Laws of the jurisdiction of its incorporation, organization or formation and has full power and authority to enter into, deliver and perform its obligations under, this Agreement.

- (b) Corporate Authorization. The execution, delivery and performance by each Seller of this Agreement has been authorized by all necessary corporate action on the part of such Seller.
- (c) No Conflict. The execution, delivery and performance by each Seller of this Agreement does not or would not with the giving of notice, the lapse of time, or both, or the happening of any other event or condition result in a breach or a violation of, or conflict with, or allow any other Person to exercise any rights under, any terms or provisions of the Organizational Documents of such Seller or Applicable Law.
- (d) Execution and Binding Obligation. This Agreement has been duly executed and delivered by each Seller and constitutes a legal, valid and binding obligation of such Seller, enforceable against it in accordance with its terms subject only to the Approval and Vesting Order and the Vesting Recognition Order.
- (e) Right to Sell Purchased Assets. Except as identified elsewhere in this Agreement and the Implementation Steps, each Seller is the sole legal and the sole registered owner of all of its assets and interest in the applicable Purchased Assets with good and valid title, free and clear of all Encumbrances other than Assumed Liabilities and Permitted Encumbrances. Each Seller has the exclusive right to dispose of its applicable Purchased Assets as provided in this Agreement and such disposition will not violate, contravene, breach or offend against or result in any default under any Contract, charter or by-law provision, Order, judgment, decree, licence, permit or Law, to which such Seller is a party or by which such Seller is bound or affected, except with respect to any Purchased Asset that is subject to any Restricted Rights.
- (f) Permits and Licenses; Assigned Contracts. The Permits and Licenses and Assigned Contracts are in full force and effect. Other than defaults that will be cured by the payment of the Cure Costs or defaults arising by reason only of the applicable Sellers' insolvency, the commencement of the CCAA Proceedings or the Chapter 15 Proceedings, the applicable Seller is not in default or breach of any Permit and License or Assigned Contract that would reasonably be expected to create a Material Adverse Effect. True and complete copies of all material Contracts with the applicable Seller's customers and vendors have been provided in the virtual data room of the Company Parties for the Transactions; provided that, if any material Contracts are not included in such virtual data room on the date hereof, such Contracts will be provided to the applicable Purchaser within ten (10) Business Days of the date hereof.
- (g) Employee Matters. Except as would not, individually or in the aggregate, have a Material Adverse Effect as of the date hereof,
  - (i) there is no proceeding, action, suit or claim pending or, to each Seller's knowledge, threatened involving any employee of each Seller, alleging violation of any labour or employment Laws;
  - (ii) there are no existing or, to each Seller's knowledge, threatened strikes, labour disputes, work slow-downs or stoppages, grievances, controversies

or other labour relations difficulties affecting such Seller, and no such event has occurred within the last five (5) years;

- (iii) all amounts due and payable by each Seller to its former and current employees, consultants and contractors have been paid in full as of the Closing Date and all amounts accruing due to the aforementioned parties have been reflected in the financial records of such Seller; and
- (iv) the Sellers have made available to NewCo Parent copies of all of their employment Contracts.
- (h) Residence of Sandvine. Sandvine is not a non-resident of Canada for purposes of the Tax Act.
- (i) GST/HST. Sandvine is duly registered under the ETA with respect to HST/GST and its registration number is 885025916 RT0001.
- (j) Pensions and Benefits.
  - (i) None of the Employee Plans is or is intended to be a “registered pension plan”, a “deferred profit sharing plan”, or a “salary deferral arrangement” as each such term is defined in the Tax Act.
  - (ii) Current and complete copies of all Employee Plans, as amended to the date hereof or, where oral, written summaries of the terms thereof, and all booklets and communications concerning such Employee Plans have been delivered or made available to NewCo Parent.
  - (iii) Except as disclosed, each Seller has no formal benefit plan and has made no promise or commitment, to create any additional benefit plans which would be considered to be an Employee Plan once created or to improve or change the benefits provided under any Employee Plan.
  - (iv) All material employer and employee payments, contributions and premiums required to be remitted, paid to or in respect of each Employee Plan and each Statutory Plan have been paid or remitted in a timely fashion in accordance with its terms and all Laws.

#### **4.2 Representations and Warranties as to NewCo Parent and, once joined, the Purchasers**

NewCo Parent represents and warrants to and in favour of the Sellers as follows and acknowledges and agrees that each Seller is relying upon such representations and warranties in connection with the Transactions.

- (a) Incorporation and Status. NewCo Parent is duly incorporated, organized or formed (as applicable), validly existing and in good standing under the Laws of the jurisdiction of its incorporation, organization or formation and has full power and authority to enter into, deliver and perform its obligations under, this Agreement.



- (b) Corporate Authorization. The execution, delivery and performance by NewCo Parent of this Agreement has been authorized by all necessary corporate action.
- (c) No Conflict. The execution, delivery and performance by NewCo Parent of this Agreement and the completion of the Transactions does not (or would not with the giving of notice, the lapse of time, or both, or the happening of any other event or condition) result in a breach or a violation of, or conflict with, or allow any other Person to exercise any rights under, any terms or provisions of the Organizational Documents of NewCo Parent, or Applicable Law.
- (d) Execution and Binding Obligation. This Agreement has been duly executed and delivered by NewCo Parent, and constitutes a legal, valid and binding obligation of NewCo Parent, enforceable against it in accordance with its terms except in each case as such enforceability is limited by bankruptcy, insolvency, reorganization, moratorium or similar laws now or hereafter in effect relating to creditors' rights generally or general principles of equity and subject only to the Approval and Vesting Order and the Vesting Recognition Order.
- (e) No Broker. NewCo Parent has carried on all negotiations relating to this Agreement and the Transactions directly and without the intervention on its behalf of any other party in such manner as to give rise to any valid claim for a brokerage commission, finder's fee or other like payment by the Sellers.
- (f) Proceedings. As of the date hereof, there are no Actions pending, or to the knowledge of NewCo Parent, threatened against NewCo Parent before any Governmental Entity, which would: (i) prohibit or seek to enjoin, restrict or prohibit the Transactions or (ii) reasonably be expected to materially delay NewCo Parent from fulfilling any of its obligations set forth in this Agreement.
- (g) Investment Canada Act. NewCo Parent is a "**Canadian**" or a "**WTO Investor**" or a "**Trade Agreement Investor**" within the meaning of the Investment Canada Act.
- (h) Consents. Except for: (i) the issuance of the Approval and Vesting Order and the Vesting Recognition Order; and (ii) any regulatory approvals required to be obtained pursuant to this Agreement, no Authorization, consent or approval of, or filing with or notice to, any Governmental Entity, court or other Person is required in connection with NewCo Parent's execution, delivery or performance of this Agreement and each of the agreements to be executed and delivered by NewCo Parent hereunder.

At the time that each Purchaser becomes Party to this Agreement, each of the above representations shall be deemed to be made, *mutatis mutandis*, by such Purchaser.

#### 4.3 As is, Where is

NewCo Parent acknowledges and agrees that it has conducted to its satisfaction an independent investigation and verification of the Business, the Purchased Assets, the Assigned Contracts and the Assumed Liabilities and, based solely thereon and the advice of its financial, legal and other advisors, has determined to proceed with the Transactions. NewCo Parent has relied solely on the

results of its own independent investigation and verification and, except for the representations and warranties of the Sellers expressly set forth in Section 4.1, NewCo Parent understands, acknowledges and agrees that all other representations, warranties, guarantees, conditions and statements of any kind or nature, expressed or implied (including any relating to the future or historical financial condition, results of operations, prospects, assets or liabilities of the Company Parties or the Business, or the quality, quantity or condition of the Purchased Assets) are specifically disclaimed by each Seller and its respective financial and legal advisors and the Monitor and its legal counsel. NEWCO PARENT SPECIFICALLY ACKNOWLEDGES AND AGREES THAT, EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES OF THE SELLERS EXPRESSLY AND SPECIFICALLY SET FORTH IN SECTION 4.1: (A) THE PURCHASERS ARE ACQUIRING THE PURCHASED ASSETS ON AN “AS IS, WHERE IS” BASIS; AND (B) NONE OF THE SELLERS, THE MONITOR OR ANY OTHER PERSON (INCLUDING ANY REPRESENTATIVE OF THE SELLERS OR THE MONITOR WHETHER IN ANY INDIVIDUAL, CORPORATE OR ANY OTHER CAPACITY) IS MAKING, AND NEWCO PARENT IS NOT RELYING ON, ANY REPRESENTATIONS, WARRANTIES, GUARANTEES, CONDITIONS OR OTHER STATEMENTS OF ANY KIND WHATSOEVER, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, AS TO ANY MATTER CONCERNING THE SELLERS, THE BUSINESS, THE PURCHASED ASSETS, THE ASSIGNED CONTRACTS, THE ASSUMED LIABILITIES THE EXCLUDED ASSETS, THE EXCLUDED LIABILITIES, THIS AGREEMENT OR THE TRANSACTIONS, OR THE ACCURACY OR COMPLETENESS OF ANY INFORMATION PROVIDED TO (OR OTHERWISE ACQUIRED BY) NEWCO PARENT OR ANY OF ITS REPRESENTATIVES; AND WITHOUT LIMITING THE FOREGOING, ANY AND ALL CONDITIONS OR WARRANTIES EXPRESSED OR IMPLIED PURSUANT TO THE SALE OF GOODS ACT (ONTARIO) AND ANY OTHER APPLICABLE SALE OF GOODS LEGISLATION, WILL NOT APPLY AND ARE HEREBY WAIVED BY THE SELLERS AND THAT EACH PURCHASER IS PURCHASING THE PURCHASED ASSETS AT ITS OWN RISK AND ANY AND ALL CONDITIONS, WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, PURSUANT TO ANY APPLICABLE LAW IN ANY JURISDICTION, WHICH NEWCO PARENT CONFIRMS DO NOT APPLY TO THIS AGREEMENT, AND ARE HEREBY WAIVED IN THEIR ENTIRETY BY NEWCO PARENT. THE DISCLAIMER IN THIS SECTION 4.3 IS MADE NOTWITHSTANDING THE DELIVERY OR DISCLOSURE TO NEWCO PARENT OR ITS DIRECTORS, OFFICERS, EMPLOYEES, AGENTS OR REPRESENTATIVES OF ANY DOCUMENTATION OR OTHER INFORMATION (INCLUDING ANY FINANCIAL PROJECTIONS, ESTIMATES, BUDGETS, INFORMATION MEMORANDA, MANAGEMENT PRESENTATIONS, DUE DILIGENCE MATERIALS OR OTHER SUPPLEMENTAL DATA NOT INCLUDED IN THIS AGREEMENT). At the time that each Purchaser becomes Party to this Agreement, each of the above undertakings shall be deemed to be made, *mutatis mutandis*, by such Purchaser.

## ARTICLE 5 COVENANTS

### 5.1 Target Closing Date

The Parties shall cooperate with each other and shall use their commercially reasonable efforts to effect the Closing by the Target Closing Date.

## **5.2 Motion for Approval and Vesting Order**

- (a) As soon as practicable after NewCo Parent's bid is selected as the "Successful Bid" pursuant to the SISP, the Sellers, on behalf of the Debtors, shall serve and file a motion seeking the issuance of the Approval and Vesting Order.
- (b) The Sellers shall diligently use commercially reasonable efforts to seek the issuance and entry of the Approval and Vesting Order and NewCo Parent and each Purchaser shall cooperate with the Sellers in their efforts to obtain the issuance and entry of such Order. The Sellers' motion materials for the Approval and Vesting Order shall be in form and substance satisfactory to NewCo Parent, acting reasonably. The Sellers will provide NewCo Parent a reasonable opportunity to review a draft of the motion materials to be served and filed with the CCAA Court, it being acknowledged that such motion materials should be served as promptly as reasonably possible following the execution of this Agreement, and will serve such materials on the service list prepared by the Debtors and reviewed by the Monitor, and on such other interested parties, and in such manner, as NewCo Parent may reasonably require. The Sellers will promptly inform counsel for NewCo Parent of any and all threatened or actual objections to the motion for the issuance of the Approval and Vesting Order, of which it becomes aware, and will promptly provide to NewCo Parent a copy of all written objections received.

## **5.3 Motion for Post-Closing Administration Order**

- (a) As soon as practicable after NewCo Parent's bid is selected as the "Successful Bid" pursuant to the SISP, the Sellers, on behalf of the Debtors, shall serve and file, or support the Monitor in serving and filing, a motion seeking the issuance of the Post-Closing Administration Order.
- (b) The Seller shall diligently use commercially reasonable efforts to seek, or support the Monitor in seeking, the issuance and entry of the Post-Closing Administration Order and NewCo Parent and each Purchaser shall cooperate with the Sellers or the Monitor, as applicable, in their efforts to obtain the issuance and entry of such Order. The Sellers' or Monitor's, as applicable, motion materials for the Post-Closing Administration Order shall be in form and substance satisfactory to NewCo Parent, acting reasonably. The Sellers or the Monitor, as applicable, will provide NewCo Parent a reasonable opportunity to review a draft of the motion materials to be served and filed with the CCAA Court, it being acknowledged that such motion materials should be served as promptly as reasonably possible following the execution of this Agreement, and will serve such materials on the service list prepared by the Debtors and reviewed by the Monitor, and on such other interested parties, and in such manner, as NewCo Parent may reasonably require. The Sellers will promptly inform counsel for NewCo Parent of any and all threatened or actual objections to the motion for the issuance of the Post-Closing Administration Order, of which it becomes aware, and will promptly provide to NewCo Parent a copy of all written objections received.

#### **5.4 Interim Period**

- (a) During the Interim Period, except: (i) as contemplated or permitted by this Agreement (including, for certainty, the Implementation Steps); (ii) as necessary in connection with the CCAA Proceedings or the Chapter 15 Proceedings; (iii) as otherwise provided in the Initial CCAA Order and any other CCAA Court Order, prior to the Closing Time; or (iv) as consented to by NewCo Parent:
  - (i) each Seller shall continue to maintain its Business and operations in substantially the same manner as conducted as of the date of this Agreement, including preserving and maintaining the Purchased Assets;
  - (ii) each Seller shall not transport, remove or dispose of, any of its assets out of its current locations outside of the ordinary course of business;
  - (iii) each Seller shall use commercially reasonable efforts to keep in full force and effect all of its existing insurance policies and to give any notice or present any claim under any such insurance policies consistent with past practices of such Seller in the ordinary course of business;
  - (iv) each Seller shall not incur any indebtedness or any material liability or enter into any Contract binding on such Seller that would be an Assumed Liability other than in the ordinary course of business; and
  - (v) each Seller shall not amend or terminate any Assigned Contracts, other than in the ordinary course of business.
- (b) During the Interim Period, except as contemplated or permitted by this Agreement (including, for certainty, the Implementation Steps), the Restructuring Support Agreement, the SISP or any CCAA Court Order, no Seller shall enter into any non-arms' length transactions involving such Seller or its assets or the Business without the prior approval of NewCo Parent.

#### **5.5 Support Obligations**

- (a) During the Interim Period:
  - (i) the Sellers will cooperate with NewCo Parent with respect to all material steps required in connection with the Transactions, including preparing and executing any additional documentation necessary to implement the Implementation Steps;
  - (ii) the Sellers will negotiate in good faith all documents to be delivered in connection with the Transactions on terms consistent with this Agreement and will take any and all commercially reasonable and appropriate actions in furtherance of the Transactions and as agreed to with NewCo Parent;
  - (iii) the Sellers will promptly notify NewCo Parent, in writing, of receipt of any notice, demand, request or inquiry by any Governmental Entity concerning the Transactions;

- (iv) the Sellers will take all action as may be necessary so that the Transactions will be effected in accordance with Applicable Law;
- (v) the Sellers and NewCo Parent will execute any and all documents and perform (or cause its agents and advisors to perform) any and all commercially reasonable acts required in connection with this Agreement, including in connection with effecting the Implementation Steps;
- (vi) with regard to the Competition Act Approval and/or Investment Canada Act Approval:
  - (A) if Competition Act Approval is required, the Sellers and NewCo Parent shall, as soon as reasonably practicable, submit a request to the Commissioner for an Advance Ruling Certificate, or in the alternative, a No Action Letter in respect of the transaction contemplated by this Agreement;
  - (B) if Competition Act Approval is required, the Sellers and NewCo Parent shall submit, at the Sellers and NewCo Parent's joint election, notification filings in accordance with Part IX of the Competition Act in respect of the transactions contemplated by this Agreement; and
  - (C) if NewCo Parent, acting reasonably, determines that Investment Canada Act Approval should be obtained, NewCo Parent shall, as soon as reasonably practicable, submit the notification for the Investment Canada Act Approval.
- (vii) The Sellers shall be responsible for the payment of any filing fees required to be paid in connection with any filing made in respect of the Competition Act Approval and any other Antitrust and Foreign Investment Approvals, as applicable.
- (viii) the Sellers and NewCo Parent will use commercially reasonable efforts to timely prepare and file all documentation and pursue all steps reasonably necessary to obtain all material third-party consents and approvals including, Antitrust and Foreign Investment Approvals, as may be required in connection with the Transactions;
- (ix) the Sellers and NewCo Parent will (i) comply at the earliest practicable date with any request under any applicable Antitrust and Foreign Investment Laws for additional information, documents, or other materials received by any of them or any of their respective Subsidiaries from any Governmental Entity in respect of such filings or such transactions and (ii) cooperate with each other in connection with any such filing and in connection with resolving any investigation or other inquiry of any Governmental Entity with respect to any such filing or any such transaction;

- (x) the Sellers and NewCo Parent will use its commercially reasonable efforts to furnish to each other Party all information required for any Antitrust and Foreign Investment Approval required pursuant to any applicable Antitrust and Foreign Investment Law in connection with the transactions contemplated by this Agreement;
- (xi) the obligations of the Sellers and NewCo Parent to use its commercially reasonable efforts to obtain the Antitrust and Foreign Investment Approvals does not require the Sellers or NewCo Parent (or any Affiliate thereof) to undertake any divestiture of any business or business segment of such Party, to agree to any material operating restrictions related thereto or to incur any material expenditure(s) related therewith, unless agreed to by the Sellers and NewCo Parent. In connection with obtaining the Antitrust and Foreign Investment Approvals, no Sellers shall agree to any of the foregoing items without the prior written consent of NewCo Parent; and
- (xii) the Sellers will promptly notify NewCo Parent of any Material Adverse Effect occurring from and after the date hereof.

## **5.6 Access During Interim Period**

Until the Closing Time, the Sellers shall give NewCo Parent's and its Affiliates' personnel engaged in the Transactions contemplated by this Agreement and their accountants, legal advisers, consultants, financial advisors and representatives during normal business hours reasonable access to the Books and Records, and shall furnish them with all such information relating to the Business, the Purchased Assets, the Employees and the Assumed Liabilities as NewCo Parent and its Affiliates may reasonably request in connection with the transactions contemplated by this Agreement, in accordance with Applicable Law, under the supervision of the applicable Seller's personnel and in such a manner as to maintain confidentiality and not to unreasonably interfere with the normal operations of the Business, and the Sellers will not be required to provide access to or copies of any such Books and Records if (a) the provision thereof would cause such Seller to be in contravention of any Applicable Law (including Antitrust and Foreign Investment Laws), (b) the Seller reasonably considers such information to be commercially sensitive (provided that if such Seller makes such determination, it will provide the relevant information to NewCo Parent's external counsel on an "External Counsel Only" basis), or (c) making such information available would (A) result in the loss of any lawyer-client or other legal privilege, or (B) cause the Seller to be found in contravention of any Applicable Law (including Antitrust and Foreign Investment Laws) or contravene any fiduciary duty or agreement (including any confidentiality agreement to which the Seller or any of its Affiliates are a party), it being understood that the Sellers shall cooperate in any reasonable efforts and requests that would otherwise require disclosure to NewCo Parent (or its Affiliates) to occur without so jeopardizing privilege or contravening such Applicable Law, duty or agreement.

## **5.7 Employee Matters**

- (a) At least ten (10) Business Days prior to, but conditional on, Closing and with effect as of the Closing Time, the applicable Purchaser shall, with respect to each Employee (except any Delayed Transfer Employee), either (i) continue to employ such Employee, to the extent employment continues by operation of Applicable

Law, or (ii) offer, or cause its applicable Affiliate to offer, employment to such Employee (each, an “**Offer of Employment**”), to the extent employment does not continue by operation of Applicable Law, in all cases, on terms and conditions that are no less favourable (including with respect to title, duties, reporting relationships, compensation, target incentive opportunity, benefits, vacation entitlement, termination entitlements, hours of work and work location) as those enjoyed by the Employees immediately prior to Closing. Each Offer of Employment will expressly provide that the applicable Purchaser recognizes all employment service with the Company Parties of each Employee for all purposes, whether arising under statute, common law, contract or otherwise, including for the purpose of vacation entitlement, benefits, notice of termination, pay in lieu of notice, and severance pay. The applicable Purchaser shall provide copies of each Offer of Employment to be made to the Employees for review, comment and approval by the Sellers five (5) Business Days in advance of the sending of same to the Employees. Nothing herein shall be construed as a representation or guarantee by the Sellers or any other Company Party that any or all Employees employed by the Sellers or any other Company Party will accept the Offer of Employment, or any Employee who accepted the Offer of Employment will continue in employment with any Purchaser following the Closing for any period of time.

- (b) All of the Employees who accept the Offer of Employment (including a Delayed Offer of Employment), or who otherwise continue in employment with any Purchaser following the Closing, including for greater certainty, any Employee who is on a sick leave, short-term disability, long-term disability or workers’ compensation leave of absence as of the Closing Date shall hereinafter be referred to as “**Assumed Employees.**” The Sellers shall cooperate with the applicable Purchaser in giving notice to the Employees concerning such matters referred to in this Section 5.7 as are reasonable under the circumstances.
- (c) At least ten (10) Business Days prior to, but conditional on, Closing and with effect as of the Closing Time, the Sellers shall automatically assign any arrangements related to the engagement of Independent Contractors (the “**Independent Contractor Contracts**”) to the applicable Purchaser if permitted under Applicable Law and the applicable Purchaser shall continue to engage such Independent Contractor (“**Assumed Contractors**”). To the extent the Sellers cannot assign an Independent Contractor Contract to the applicable Purchaser under Applicable Law, then the applicable Purchaser shall make an offer of engagement on terms and conditions that are no less favourable as those enjoyed by the Independent Contractor immediately prior to Closing (“**Offer of Engagement**”). The applicable Purchaser shall provide copies of each Offer of Engagement to be made to the Independent Contractors for review, comment and approval by the Sellers at least five (5) Business Days in advance of sending of same to the Independent Contractors. Nothing herein shall be construed as a representation or guarantee by the Sellers or any other Company Party that any or all Independent Contractors engaged by the Sellers or any other Company Party will accept the Offer of Engagement, or any Independent Contractor who accepted the Offer of

Engagement will continue to provide services to any Purchaser following the Closing for any period of time.

- (d) Sellers shall provide the applicable Purchaser with a true and accurate list of Delayed Transfer Employees (the “**Delayed Transfer Employee Schedule**”). The Delayed Transfer Employee Schedule shall list only those Employees who are employed by the UAE branch of Procera.
- (e) To the extent permitted by Applicable Law, each Delayed Transfer Employee shall, following the Closing Date, remain an employee of the Sellers until the expiration of the transition services provided by such Delayed Transfer Employee pursuant to the terms of the Transition Services Agreement or, if earlier, the applicable Purchaser (x) establishes an entity that can employ the Delayed Transfer Employees in Dubai, United Arab Emirates and (y) if required for such Delayed Transfer Employee, obtains the requisite work permits and employment visas for such Delayed Transfer Employee’s authorization to work in Dubai, United Arab Emirates (such period, the “**Employee TSA Period**”). During the Employee TSA Period, each Delayed Transfer Employee shall provide services to the applicable Purchaser pursuant to the terms of the Transition Services Agreement. Upon the expiration of the Employee TSA Period, the Sellers shall terminate any employment arrangements with any Delayed Transfer Employee, including cancelling any of the Delayed Transfer Employee’s work permits or employment visas, if applicable (the “**Delayed Transfer Employee Termination Date**”). Immediately following the Delayed Transfer Employee Termination Date, the applicable Purchaser shall provide, or cause its applicable Affiliate to provide, an Offer of Employment to each Delayed Transfer Employee on terms consistent with Section 5.7(a) (the “**Delayed Offer of Employment**”). Effective as of the Closing, the applicable Purchaser shall be solely responsible for all liabilities relating to the Delayed Transfer Employees, including all costs and expenses incurred by the Sellers, with respect to the Delayed Transfer Employees. Following the Closing and for the duration of the Employee TSA Period, the applicable Purchaser shall promptly reimburse the Sellers for all liabilities incurred by the Sellers with respect to the Delayed Transfer Employees, including any costs and expenses relating to compensation or employee benefits, employment taxes, social security contributions (if any) and other expenses incurred by the Sellers in connection with the services provided by each Delayed Transfer Employee to the applicable Purchaser during the Employee TSA Period. In addition, the applicable Purchaser shall indemnify and hold the Sellers harmless from and against all Claims incurred or asserted by a Delayed Transfer Employee for the period from the Closing Date to the Delayed Transfer Employee Termination Date.
- (f) The applicable Purchaser shall be responsible for all liabilities and obligations with respect to the Assumed Employees payable following the Closing Date, including without limitation, all liabilities for salary, wages, bonuses, commissions, vacation pay, overtime pay, sick pay, severance pay, termination pay, pay in lieu of notice, damages and other liabilities (including all accrued but unpaid vacation pay as of the Closing Date), and all related costs. The applicable Purchaser shall also be responsible for all employment-related claims, penalties, contributions, premiums



and assessments, and all liabilities for claims for injury, disability, death or workers' compensation arising from or related to employment of the Assumed Employees following the Closing Date.

- (g) With respect to any Employee Plans being assumed by the applicable Purchaser or other employee benefit plans or arrangements of the applicable Purchaser maintained by such Purchaser in which such Employees participate following the Closing Date (collectively, the “**Buyer Plans**”), the applicable Purchaser shall use commercially reasonable efforts to, (i) cause to be waived all pre-existing condition exclusions, actively-at-work requirements and waiting periods for each Assumed Employee and his or her eligible covered dependents under any Buyer Plan providing medical, dental, pharmaceutical and/or vision benefits, but only to the same extent such limitations were waived or satisfied as of immediately prior to the Closing Date under the comparable Employee Plan as in effect on such date, and (ii) cause any eligible expenses incurred by each Assumed Employee and his or her eligible covered dependents under an Employee Plan that is a welfare plan during the plan year in which the Closing Date occurs to be taken into account under such comparable Buyer Plan for purposes of satisfying any annual deductible, co-payments, co-insurance and out of pocket expenses applicable to such Assumed Employee and his or her eligible covered dependents for such year as if such amounts had been paid in accordance with such Buyer Plan.
- (h) The applicable Purchaser shall cause all Assumed Employees to be eligible to participate in a retirement plan maintained by the applicable Purchaser as soon as reasonably practicable following the Closing Date, and, to the extent applicable, each Assumed Employee shall be entitled to effect a direct rollover of any eligible rollover distributions (as defined in Section 402(c)(4) of the Code), including any outstanding loans, to such retirement plan maintained by the applicable Purchaser.
- (i) Except for payments and entitlements being assumed by the applicable Purchaser under this Section 5.7 (including, without limitation, all accrued vacation pay as of the Closing Date), the applicable Seller shall be responsible for all liabilities and obligations with respect to Employees accrued due and owing up to and including the Closing Date and all liabilities and obligations with respect to any Employees of the applicable Seller who are not Assumed Employees, provided that nothing in this Agreement shall require the applicable Seller to pay any such amounts.
- (j) The Sellers shall cooperate with NewCo Parent to transition all information that is required or relevant to administer all aspects of the employment relationship of the Assumed Employees to the applicable Purchaser.
- (k) Nothing contained in this Section 5.7, express or implied, is intended to confer upon any Assumed Employee any right to continued employment for any period or continued receipt of any specific employee benefit, or constitutes or other term and condition of employment, or constitutes the adoption, establishment, amendment to or any other modification or termination of any Buyer Plan or existing Employee Plan. Furthermore, this Section 5.7 shall not in any way limit the ability of the applicable Purchaser to amend, modify or terminate their respective benefit plans, shall be binding upon and inure solely to the benefit of each of the Sellers and the

Purchasers, and nothing in this Section 5.7, express or implied, is intended to confer upon any other Person any rights or remedies of any nature whatsoever.

## 5.8 Tax Matters

- (a) The Parties agree to use commercially reasonable efforts to furnish or cause to be furnished to each other, as promptly as practicable, such information and assistance relating to the Purchased Assets and the Assumed Liabilities as is reasonably necessary for the preparation and filing of any Tax Return, claim for refund or other required or optional filings relating to Tax matters, for the preparation for and proof of facts during any Tax audit, for the preparation for any Tax protest, for the prosecution of any suit or other proceedings relating to Tax matters and for the answer to any governmental or regulatory inquiry relating to Tax matters.
- (b) For purposes of any Tax Return related to the Transactions (including, for greater certainty, any Tax election) each NewCo Entity and each Seller, agree to report the Transactions in a manner consistent with the Intended U.S. Tax Treatment and the Purchase Price allocation determined in accordance with Section 3.1, and NewCo Parent, the other NewCo Entities and the Sellers shall not voluntarily take any action inconsistent therewith in any such Tax Return, refund claim, litigation or otherwise, unless required by a final determination (within the meaning of Section 1313 of the Code), or other good faith resolution of a tax proceeding. The NewCo Entities and the Sellers shall each be responsible for the preparation of their own Tax Returns.
- (c) All consideration payable to the Sellers under the Implementation Steps are exclusive of any GST/HST, or any other federal, provincial, state or local or foreign value-added, sale, use, consumption, multi-staged, ad valorem, personal property, customs, excise, stamp, transfer, land or real property transfer, or similar Taxes, duties, or charges, or any recording or filing fees or similar charges that are imposed by reason of the sale, transfer, assignment and delivery of the Purchased Assets (collectively, “**Transfer Taxes**”). All Transfer Taxes are the responsibility of and for the account of NewCo Parent. NewCo Parent, for and on behalf of the applicable NewCo Entity, and the Seller agree to cooperate to determine the amount of Transfer Taxes payable in connection with the Transactions. NewCo Parent for and on behalf of the applicable NewCo Entity, and the Sellers will cooperate in a commercially reasonable manner to (a) determine the amount of Transfer Taxes payable in connection with the Transactions, (b) minimize Transfer Taxes; and (c) prepare and file, or cause to be prepared and filed, any and all required Tax Returns for or with respect to such Transfer Taxes with any and all appropriate Governmental Entities.
- (d) If a Seller is required by Applicable Law or by administration thereof to collect any applicable Transfer Taxes from the applicable Purchaser, as promptly as reasonably practicable after Closing, the applicable Purchaser shall pay, or cause to be paid, on a timely basis such amounts to the Seller (which, for the avoidance of doubt, may be sourced from cash included in the scope of Purchased Assets), and the Seller shall remit or account for such Transfer Taxes to the applicable Governmental Entity on a timely basis and otherwise in accordance with Applicable Laws.

- (e) At the sole discretion of Sandvine and to the extent permitted under applicable law,
  - (i) Sandvine and the applicable Purchaser shall jointly make an election under section 167 of the ETA and under any other equivalent or corresponding provisions of any Applicable Laws to have the sale of the Purchased Assets of Sandvine take place on a GST/HST-free basis under the ETA and the applicable Purchaser shall file such election with its GST/HST return for the reporting period in which the sale of the Purchased Assets takes place;
  - (ii) Sandvine and the applicable Purchaser will jointly execute, and each of them will file promptly following the Closing Date, an election under section 22 of the Tax Act with respect to the sale of accounts receivable hereunder and shall designate therein the portion of the Purchase Price allocated to the accounts receivable as consideration paid for the accounts receivable. This election shall be made within the time prescribed for such election. For greater certainty, the Sellers and NewCo Parent, for and on behalf of the applicable Purchaser, agree to prepare and file their respective Tax Returns in a manner consistent with such election; and
  - (iii) Sandvine and the applicable Purchaser will jointly elect under subsection 20(24) of the Tax Act, in the prescribed manner and within the required time period, in respect of the assumption by such Purchaser hereunder of any obligations in respect of undertakings to which paragraph 12(1)(a) of the Tax Act applies. To the extent such election is made, the Sellers and NewCo Parent, for and on behalf of the applicable Purchaser, acknowledge that a portion of the Purchased Assets having a value equal to the elected amount shall be transferred to the applicable Purchaser as payment by Sandvine to such Purchaser for the assumption by such Purchaser of any such future obligations of Sandvine.
- (f) The Sellers and NewCo Parent, for and on behalf of the applicable NewCo Entity, agree to make such other tax elections as reasonably necessary to minimize adverse tax consequences of the Implementation Steps, including without limiting the generality of the foregoing, any “pertinent loan or indebtedness” or “PLOI” election under the Tax Act as set out in the Implementation Steps.

## **5.9 Accounts Receivable**

Within three (3) Business Days following the Closing Date, the Sellers shall deliver a notice, in a form satisfactory to NewCo Parent and duly executed by the Sellers, to the account debtors of the accounts receivable included in the Purchased Assets regarding the transfer of the accounts receivable and directing that all further payments thereunder be made to the applicable Purchaser. Any accounts receivable forming part of the Purchased Assets collected by any Seller or on a Seller’s behalf, from and after the Closing Date, shall be held for the benefit of the applicable Purchaser, and shall promptly be paid to, and for the benefit of the applicable Purchaser.

### **5.10 Trade Amounts**

Within 30 Business Days following the Closing Date, or such other time period as may be agreed between the applicable Purchaser and the applicable vendor or supplier, such Purchaser shall pay all Post-Filing Trade Amounts and Pre-Filing Trade Amounts.

### **5.11 Release by NewCo Parent and the Purchasers**

Except in connection with any obligations of the Sellers contained in this Agreement, any Closing Deliverables, the Approval and Vesting Order or the Vesting Recognition Order, effective as of the Closing Time, NewCo Parent and each Purchaser hereby release and forever discharge the Sellers, the Monitor and their respective Affiliates, and each of their respective successors and assigns, and all current and former officers, directors, partners, members, shareholders, limited partners, employees, agents, financial and legal advisors of each of them (the “**Seller Released Parties**”), whether in this jurisdiction or any other, whether or not presently known to them or to the law, and whether in law or equity, of and from, and hereby unconditionally and irrevocably waives, any and all Released Claims that NewCo Parent and the Purchasers ever had, now have or ever may have or claim to have against any of the Seller Released Parties in their capacity as such, for or by reason of any matter, circumstance, event, action, inaction, omission, cause or thing whatsoever arising prior to the Closing Time relating to the Purchased Assets, except for Released Claims arising out of fraud or willful misconduct.

### **5.12 Release by the Sellers**

Except in connection with any obligations of NewCo Parent and the Purchasers contained in this Agreement, any Closing Deliverables, the Approval and Vesting Order or the Vesting Recognition Order, effective as of the Closing Time, the Sellers and their Affiliates hereby release and forever discharge NewCo Parent and each Purchasers, the Monitor and their respective Affiliates, and each of their respective successors and assigns, and all current and former officers, directors, managers, partners, members, shareholders, limited partners, employees, agents, financial and legal advisors of each of them (the “**Purchaser Released Parties**”), whether in this jurisdiction or any other, whether or not presently known to them or to the law, and whether in law or equity, of and from, and hereby unconditionally and irrevocably waives, any and all Released Claims that the Sellers and their Affiliates ever had, now has or ever may have or claim to have against any of the Purchaser Released Parties in their capacity as such, for or by reason of any matter, circumstance, event, action, inaction, omission, cause or thing whatsoever arising prior to the Closing Time, except for Released Claims arising out of fraud or willful misconduct.

### **5.13 Accession of NewCo Entities**

Prior to Closing, NewCo Parent shall cause each of New OpCo I, New OpCo II, Canadian NewCo, UK NewCo and each other NewCo Entity contemplated by the Implementation Steps (as may be amended from time to time pursuant to the terms hereof) to be a “Purchaser” pursuant to this Agreement to be formed in accordance therewith. NewCo Parent shall cause each such NewCo Entity to enter into an accession agreement, in form and substance acceptable the Sellers and NewCo Parent, whereby such NewCo Entity shall agree to assume all of the liabilities and obligations as a “Purchaser” under this Agreement and will become Party to this Agreement. NewCo Parent may, acting reasonably, cause additional NewCo Entities to be to be formed and to

enter into an accession agreement, in form and substance acceptable the Sellers and NewCo Parent, whereby such NewCo Entity becomes a non-Purchaser Party to this Agreement.

## **ARTICLE 6 INSOLVENCY PROVISIONS**

### **6.1 CCAA Court Orders and Related Matters**

- (a) From and after the date of this Agreement and until the Closing Date, the Sellers shall deliver to NewCo Parent drafts of any and all material pleadings, motions, notices, statements, applications, schedules, and other papers to be filed or submitted by the Sellers in connection with or related to this Agreement, for NewCo Parent's prior review at least two (2) Business Days in advance of service and filing of such materials (or where circumstances make it impracticable to allow for two (2) Business Days' review, with as much opportunity for review and comment as is practically possible in the circumstances). Each Seller acknowledges and agrees (i) that any such material pleadings, motions, notices, statements, applications, schedules, or other papers in respect of Approval and Vesting Order and the Vesting Recognition Order shall be in form and substance satisfactory to NewCo Parent, acting reasonably, and (ii) to consult and cooperate with NewCo Parent regarding any discovery, examinations and hearing in respect of any of the foregoing, including the submission of any evidence, including witnesses testimony, in connection with such hearing.
- (b) Notice of the motion seeking the issuance of the Approval and Vesting Order, and the Vesting Recognition Order shall be served on all Persons required to receive notice under Applicable Law and any other Person that the Sellers, NewCo Parent and the Monitor determine, each acting reasonably, requires such notice.
- (c) In the event that the Approval and Vesting Order or the Vesting Recognition Order has not been issued and entered by the CCAA Court or the Chapter 15 Court by the Outside Date or such later date agreed to in writing by NewCo Parent, in its sole discretion, NewCo Parent may terminate this Agreement.
- (d) If the Approval and Vesting Order or the Vesting Recognition Order is appealed or a motion for leave to appeal, rehearing, reargument or reconsideration is filed with respect thereto, the Sellers agree to take and to cause the Debtors to take all actions as may be commercially reasonable and appropriate to defend against such appeal, petition or motion.

## **ARTICLE 7 CLOSING ARRANGEMENTS**

### **7.1 Closing**

The Closing shall take place virtually by exchange of documents in PDF format on the Closing Date, in accordance with the Implementation Steps, and shall be subject to such escrow document release arrangements as the Sellers and NewCo Parent may agree.

## 7.2 NewCo Parent's Closing Deliverables

At or before the Closing (as applicable), NewCo Parent shall deliver or shall cause the other NewCo Entities to deliver to the Sellers (or to the Monitor, if so indicated below), the following:

- (a) counterpart signatures from each Purchaser to the applicable Assignment and Assumption Agreement;
- (b) the election referred to in Section 5.8(e)(i) duly executed by applicable NewCo Entity;
- (c) counterpart signatures from each DDTL/DIP Claimholder and the applicable NewCo Entities to the document memorializing the terms of the Exit Term Loan Facility and any applicable security agreements and related documents;
- (d) the duly executed Direction Letter;
- (e) counterpart signatures from each applicable NewCo Entity to the Transition Services Agreement; and
- (f) such other agreements, documents and instruments as may be reasonably required by the Sellers to complete the Transactions contemplated in this Agreement and the Implementation Steps, all of which shall be in form and substance satisfactory to the Sellers and NewCo Parent, each acting reasonably.

## 7.3 Seller Closing Deliverables

At or before the Closing (as applicable), the Sellers shall, as applicable, deliver or cause to be delivered to NewCo Parent, the following:

- (a) a true copy of each of the Approval and Vesting Order, any Assignment Order, and the Vesting Recognition Order;
- (b) a certificate dated as of the Closing Date and executed by an executive officer of each Seller confirming and certifying that each the conditions in Sections 8.2(b), 8.2(c) and 8.2(d) have been satisfied in respect of such Seller;
- (c) the election referred to in Section 5.8(e)(i) duly executed by Sandvine;
- (d) counterpart signatures from each Seller to the applicable Assignment and Assumption Agreement;
- (e) counterpart signatures from each applicable Company Party to the Transition Services Agreement;
- (f) such other agreements, documents and instruments as may be reasonably required by NewCo Parent to complete the Transactions provided for in this Agreement and the Implementation Steps, all of which shall be in form and substance satisfactory to the Sellers and NewCo Parent, each acting reasonably; and

- (g) (i) a duly executed and properly completed Internal Revenue Service Form W-9 with respect to Procera, (ii) a duly completed and executed statement conforming to the requirements of U.S. Treasury Regulations Section 1.1445-2(c) and Section 1.897-2(h) certifying that the interests of Procera is not a U.S. real property interest and (iii) a duly executed and properly completed Internal Revenue Service Form W-8 with respect to Sandvine.

## ARTICLE 8 CONDITIONS OF CLOSING

### 8.1 Mutual Conditions

The respective obligations of each Party to consummate the Transactions are subject to the satisfaction of, waiver of, or compliance with, at or prior to the Closing Time, each of the conditions listed below:

- (a) No Violation of Orders or Law. During the Interim Period, no Governmental Entity shall have enacted, issued or promulgated any final or non-appealable Order or Law which has: (i) the effect of making any of the Transactions illegal, or (ii) the effect of otherwise prohibiting, preventing or restraining the consummation of any of the Transactions;
- (b) No Termination of Restructuring Support Agreement. The following conditions shall have been met: (i) the Restructuring Support Agreement shall not have been terminated and shall remain in full force and effect with respect to the parties thereto, and (ii) there shall not be any event, occurrence, or condition that would, after the expiration of any applicable notice or cure period, permit any of the Consenting Stakeholders or the Company Parties to terminate the Restructuring Support Agreement in accordance with its terms (where notice of such event, occurrence, or condition has been timely provided in accordance with the Restructuring Support Agreement);
- (c) Definitive Documents. The definitive documents related to this Agreement shall (i) have been duly executed, delivered, acknowledged, filed, and/or effectuated, as applicable, and (ii) be in full force and effect, and any conditions precedent related thereto or contained therein shall have been satisfied prior to or contemporaneously with the occurrence of the Closing Date or otherwise waived;
- (d) Authorizations Obtained. All authorizations, consents, regulatory approvals (including Antitrust and Foreign Investment Approvals), rulings, or documents that are necessary to implement and effectuate this Agreement or the Transactions shall have been obtained, and all applicable regulatory or government-imposed waiting periods, including applicable waiting periods under Antitrust and Foreign Investment Laws shall have expired, lapsed or been terminated (as appropriate);
- (e) NewCo Entities' Organizational Documents. The NewCo Entities' Organizational Documents shall: (i) be in form and substance consistent with the Restructuring Support Agreement, (ii) have been executed, delivered, acknowledged, filed, and/or effectuated, as applicable, and (iii) any conditions precedent related thereto or

contained therein shall have been satisfied prior to or contemporaneously with the occurrence of the Closing Date or otherwise waived;

- (f) CCAA Court Approval. The following conditions shall have been met: (i) the Approval and Vesting Order shall have been issued by the CCAA Court, have become a Final Order, and shall not have been vacated, set aside or stayed; and (ii) the Amended and Restated Initial CCAA Order and the SISP Order shall not have been vacated, set aside or stayed;
- (g) Chapter 15 Court Approval. The following conditions shall have been met: (i) the Vesting Recognition Order shall have been issued by the Chapter 15 Court and shall not have been vacated, set aside, or stayed, and (ii) the Proceeding Recognition Order shall not have been vacated, set aside or stayed;
- (h) Exit Term Loans Issued. The Exit Term Loans shall have been validly issued by the Closing Date;
- (i) New Parent Equity Issued. The New Parent Equity shall have been validly issued by NewCo Parent by the Closing Date and as contemplated in the Implementation Steps; and
- (j) All Necessary Actions Effected. All actions, definitive documents, and agreements necessary to implement and consummate the Transactions shall have been effected and executed.

The Parties acknowledge that the foregoing conditions are for the mutual benefit of the Parties. To the extent permitted by Law, any condition in this Section 8.1 may be waived by the Parties (in the case of the Sellers, with the consent of the Monitor), in whole or in part, without prejudice to any of their respective rights of termination in the event of non-fulfillment of any other condition in whole or in part. Any such waiver will be binding on the other Party, as applicable, only if made in writing. Notwithstanding anything to the contrary contained herein, the Parties shall take all such commercially reasonable actions, steps and proceedings as are reasonably within its control to ensure that the conditions listed in this Section 8.1 are fulfilled at or before the commencement of the first step of the Implementation Steps to occur on the Closing Date.

## **8.2 NewCo Parent's Conditions**

NewCo Parent shall not be obligated to complete the Transactions, unless each of the conditions listed below in this Section 8.2 have been satisfied, it being understood that the said conditions are included for the exclusive benefit of NewCo Parent, and may be waived by NewCo Parent in whole or in part, without prejudice to any of its rights of termination in the event of non-fulfillment of any other condition in whole or in part. Any such waiver shall be binding on NewCo Parent only if made in writing, provided that if NewCo Parent does not waive a condition(s) and completes the Closing, such condition(s) shall be deemed to have been waived by NewCo Parent. Each Seller shall take all such commercially reasonable actions, steps and proceedings as are reasonably within its control to ensure that the conditions listed below in this Section 8.2 are fulfilled at or before the commencement of the first step of the Implementation Steps to occur on the Closing Date.



- (a) Seller Deliverables. The Sellers shall have executed and delivered or caused to have been executed and delivered to NewCo Parent at the Closing all the documents contemplated in Section 7.3.
- (b) Material Adverse Effect. There shall not have been any Material Adverse Effect since the date hereof.
- (c) No Breach of Representations and Warranties. Except as such representations and warranties may be affected by the occurrence of events or transactions specifically contemplated by this Agreement (including the Approval and Vesting Order), each of the representations and warranties contained in Section 4.1 shall be true and correct in all material respects (unless qualified by materiality, in which case the foregoing qualification shall not apply): (i) as of the Closing Date as if made on and as of such date; or (ii) if made as of a date specified therein, as of such date.
- (d) No Breach of Covenants. Each Seller shall have performed in all material respects (unless qualified by materiality, in which case the foregoing qualification shall not apply) all covenants, obligations and agreements contained in this Agreement required to be performed by such Seller on or before the Closing Time.
- (e) Implementation Steps. The Sellers shall have completed or shall have caused the other Company Parties to have completed the Implementation Steps that are required to be completed by the Sellers and the other Company Parties prior to the Closing Date, in a manner consistent with Exhibit "A" (as may be amended from time to time pursuant to Section 2.7).

NewCo Parent acknowledges and agrees that (i) its obligations to consummate the Transactions are not conditioned or contingent in any way upon receipt of financing from a third party, and (ii) failure to consummate the Transactions as a result of the failure to obtain financing shall constitute a breach of this Agreement by NewCo Parent which will give rise, *inter alia*, to the Sellers' recourses for breach.

### **8.3 Sellers' Conditions**

The Sellers shall not be obligated to complete the Transactions unless each of the conditions listed below in this Section 8.3 have been satisfied, it being understood that the said conditions are included for the exclusive benefit of the Sellers, and may be waived by any Seller (with the consent of the Monitor) in whole or in part, without prejudice to any of their rights of termination in the event of nonfulfillment of any other condition in whole or in part. Any such waiver shall be binding on the Seller only if made in writing, provided that if a Seller does not waive a condition(s) and completes the Closing, such condition(s) shall be deemed to have been waived by the applicable Seller. NewCo Parent and each applicable Purchaser shall take all such commercially reasonable actions, steps and proceedings as are reasonably within its control as may be necessary to ensure that the conditions listed below in this Section 8.3 are fulfilled at or before the commencement of the first step of the Implementation Steps to occur on the Closing Date.

- (a) NewCo Parent's Deliverables. NewCo Parent shall have executed and delivered or caused to have been executed and delivered to the Sellers (with a copy to the

Monitor) at the Closing all the documents and payments for NewCo Parent contemplated in Section 7.2.

- (b) No Breach of Representations and Warranties. Except as such representations and warranties may be affected by the occurrence of events or transactions specifically contemplated by this Agreement (including the Approval and Vesting Order), each of the representations and warranties contained in Section 4.2 shall be true and correct in all material respects: (i) as of the Closing Date as if made on and as of such date; or (ii) if made as of a date specified therein, as of such date.
- (c) No Breach of Covenants. NewCo Parent shall have performed (or caused the Purchasers to perform) in all material respects all covenants, obligations and agreements contained in this Agreement required to be performed by NewCo Parent or the Purchasers on or before the Closing Time.
- (d) Implementation Steps. NewCo Parent shall have completed or caused to be completed the Implementation Steps that are required to be completed by NewCo Parent or the Purchasers (or other NewCo Entities) prior to the Closing Date, in a manner consistent with Exhibit “A” (as may be amended from time to time pursuant to Section 2.7), including by effectuating the formation of the Purchasers and the joinder of the Purchasers to this Agreement as a Party pursuant to Section 5.13 of this Agreement.

#### **8.4 Monitor’s Certificate**

When the conditions to Closing set out in Section 8.1, 8.2 and 8.3 have been satisfied and/or waived by the Sellers or NewCo Parent, as applicable, the Sellers, NewCo Parent or their respective counsel will each deliver to the Monitor confirmation in writing, in form and substance acceptable to the Monitor, acting reasonably, that such conditions of Closing, as applicable, have been satisfied and/or waived and that the Parties are prepared for the Implementation Steps (except for those steps in the Implementation Steps that are required to be completed prior to Closing) to commence (the “**Conditions Certificates**”). Upon receipt of the Conditions Certificates, the Monitor shall: (i) issue forthwith its Monitor’s Certificate concurrently to the Sellers and NewCo Parent, at which time the Implementation Steps to occur on the Closing Date will be deemed to commence and be completed in the order set out in the Implementation Steps, and Closing will be deemed to have occurred; and (ii) file as soon as practicable a copy of the Monitor’s Certificate with the CCAA Court (and shall provide a true copy of such filed certificate to the Sellers and NewCo Parent). In the case of: (i) and (ii) above, the Monitor will be relying exclusively on the Conditions Certificates without any obligation whatsoever to verify, independently investigate or inquire into the satisfaction or waiver of the applicable conditions, and the Monitor will have no liability to the Sellers, NewCo Parent or any Purchaser as a result of filing the Monitor’s Certificate.

#### **8.5 Sandvine UK’s Condition**

Sandvine UK shall not be obligated to complete the Transactions, unless each of the conditions listed in Section 8.1 and 8.3 have been satisfied, it being understood that, solely for the purpose of this Section 8.5, said conditions are included for the exclusive benefit of Sandvine UK, and may be waived by Sandvine UK in whole or in part, without prejudice to any of Sandvine UK’s rights

of termination in the event of non-fulfillment of any other condition in whole or in. Any such waiver shall be binding on Sandvine UK only if made in writing, provided that if Sandvine UK does not waive a condition(s) and completes the Closing, such condition(s) shall be deemed to have been waived by Sandvine UK.

## ARTICLE 9 TERMINATION

### 9.1 Grounds for Termination

- (a) Subject to Section 9.1(b), this Agreement may be terminated as to all Parties on or prior to the Closing Date:
  - (i) by the mutual agreement of the Sellers and NewCo Parent;
  - (ii) by NewCo Parent or the Sellers, if this Agreement is not the Successful Bid (as determined pursuant to the SISP) and the transaction contemplated by the Successful Bid is closed;
  - (iii) by either Party, upon the termination, dismissal, or conversion of the CCAA Proceedings; *provided* that neither Party may terminate this Agreement pursuant to this Section 9.1(a)(iii) if the termination, dismissal, or conversion of the CCAA Proceedings was caused by a breach of this Agreement by the Party proposing to terminate this Agreement;
  - (iv) by either Party, if the CCAA Court grants relief terminating the stay with regard to any material assets or business of the Sellers and any appeal periods relating thereto shall have expired;
  - (v) by either Party, if the CCAA Court approves any Alternative Restructuring Proposal that is not provided by NewCo Parent or its Affiliates;
  - (vi) by either Party, upon notice to the other Party, if the CCAA Court or the Chapter 15 Court, as applicable, declines at any time to grant the Approval and Vesting Order or the Vesting Recognition Order, as applicable, provided that (A) the reason for the Approval and Vesting Order or the Vesting Recognition Order not being approved by the CCAA Court or the Chapter 15 Court, as applicable, is not due to any act, omission or breach of this Agreement by the Party proposing to terminate this Agreement, and (B) NewCo Parent may not terminate this Agreement while any decision of the CCAA Court or the Chapter 15 Court declining to grant the Approval and Vesting Order or the Vesting Recognition Order, as applicable, is under appeal by the Debtors, provided that notwithstanding clause (B) of this Section 9.1(a)(vi), this Agreement may be terminated under Section 9.1(a)(ix);
  - (vii) by any Seller, if the board of directors (or similar governing body) of such Seller determines that proceeding with the transactions contemplated by this Agreement or failing to terminate this Agreement would be inconsistent

with its or such body's fiduciary duties; provided that the Sellers shall not be permitted to exercise a termination right pursuant to this Section 9.1(a)(vii) from and after the time that both the Approval and Vesting Order and the Vesting Recognition Order become Final Orders;

- (viii) by either Party, if a Governmental Entity issues a final, non-appealable Order permanently restraining, enjoining or otherwise prohibiting consummation of the Transactions where such Order was not requested, encouraged or supported by the Party proposing to terminate the Agreement; *provided* that the right to terminate this Agreement under this Section 9.1(a)(viii) shall not apply to a Purchaser if such Purchaser has assumed another Purchaser's obligations hereunder in a manner that the restraint, injunction or other prohibition on the consummation of the Transactions would no longer apply;
  - (ix) by either Party, at any time following the Outside Date, if Closing has not occurred on or prior to 11:59 p.m. (Eastern Time) on the Outside Date; *provided* that the reason for the Closing not having occurred is not due to any act or omission, or breach of this Agreement, by the Party seeking termination;
  - (x) by the Sellers, if there has been a material violation or breach by NewCo Parent or a Purchaser of any agreement, covenant, representation or warranty of NewCo Parent or a Purchaser in this Agreement which would prevent the satisfaction of, or compliance with, any condition set forth in Section 8.1 or Section 8.3, as applicable, by the Outside Date and such violation or breach has not been waived by the Sellers or cured by NewCo Parent or the applicable Purchaser, or NewCo Parent or some or all of the non-breaching Purchasers have not assumed NewCo Parent's or such Purchaser's obligations under this Agreement and the Restructuring Support Agreement, as the case may be, within 15 Business Days of the Sellers providing notice to the applicable Purchaser of such breach, unless the Sellers are in material breach of their own obligations under this Agreement at such time; or
  - (xi) by NewCo Parent, if there has been a material violation or breach by the Sellers of any agreement, covenant, representation or warranty of the Sellers in this Agreement which would prevent the satisfaction of, or compliance with, any conditions set forth in Section 8.1 or Section 8.2, as applicable, by the Outside Date and such violation or breach has not been waived by NewCo Parent or cured by the Sellers within 15 Business Days of NewCo Parent providing written notice to the applicable Seller of such breach, unless NewCo Parent or any Purchaser is itself in material breach of its own obligations under this Agreement at such time.
- (b) Prior to the Sellers agreeing or electing to any termination pursuant to Section 9.1(a), the Sellers shall first obtain the prior written consent of the Monitor.

- (c) The Party desiring to terminate this Agreement pursuant to this Section 9.1 (other than pursuant to Section 9.1(a)(i)) shall give written notice of such termination to the other Party or Parties, as applicable, specifying in reasonable detail the basis for such Party's exercise of its termination rights.
- (d) A Party desiring to terminate this Agreement Pursuant to this Section 9.1 shall give written notice of such termination to the Monitor.

## **9.2 Effect of Termination**

- (a) If this Agreement is terminated pursuant to Section 9.1, all further obligations of the Parties under this Agreement will terminate and no Party will have any Liability or further obligations to any other Party hereunder, except, as contemplated in Sections 10.3 (Expenses), 10.4 (Confidentiality); 10.5 (Public Announcements), 10.6 (Notices), 10.10 (Waiver and Amendment), 10.13 (Governing Law), 10.14 (Dispute Resolution), 10.15 (Attornment), 10.16 (Successors and Assigns), 10.17 (Assignment), 10.18 (No Liability; Monitor Holding or Disposing Funds), and 10.19 (Third Party Beneficiaries), which shall survive such termination.

## **ARTICLE 10 GENERAL**

### **10.1 [Reserved]**

### **10.2 Survival**

All representations, warranties, covenants and agreements of the Parties made in this Agreement or any other agreement, certificate or instrument delivered pursuant to this Agreement, except to the extent such Agreements expressly survive, shall not survive the Closing except where, and only to the extent that, the terms of any such covenant or agreement expressly provide for rights, duties or obligations extending after the Closing, or as otherwise expressly provided in this Agreement.

### **10.3 Expenses**

Except as otherwise set forth herein, or if otherwise agreed in writing upon amongst the Parties, each Party shall be responsible for its own costs and expenses (including any Taxes imposed on such expenses) incurred in connection with the negotiation, preparation, execution, delivery and performance of this Agreement and the Transactions (including the fees and disbursements of legal counsel, bankers, agents, investment bankers, accountants, brokers and other advisers). On the Closing Date, the Purchasers shall pay, or cause their Affiliates to pay, the Consenting Stakeholder Representative the actual out-of-pocket expenses it has incurred in connection with the formation of the NewCo Entities and the consummation of the Transactions and any fee for serving as the Consenting Stakeholder Representative as agreed to between the Consenting Stakeholder Representative and the Consenting Stakeholders.

#### 10.4 Confidentiality

- (a) Except to the extent otherwise specifically provided in this Section 10.4, each Party, on behalf of itself and its Affiliates, agrees to keep the other Party's Confidential Information confidential and not to use the other Party's Confidential Information in any manner except as required to perform the obligations set out in this Agreement. Each Party agrees to be responsible for any breach of this Section 10.4 by any of its Affiliates and its and their respective directors, employees, advisors, agents and representatives.
- (b) Notwithstanding anything to the contrary herein, each Party maintains the right to disclose the other Party's Confidential Information if required to do so by Applicable Laws or the requirement of a Governmental Entity (including, in order to describe the Tax treatment and Tax structure of the Transaction); *provided* that the disclosure of such Confidential Information will be limited only to that purpose and; *provided further* that it will use reasonable efforts to cooperate with the other Party in limiting the disclosure of the Confidential Information.
- (c) At the other Party's request, a Party will destroy all of the other Party's Confidential Information, provided that it is permitted to retain one copy of any Confidential Information to the extent required by Applicable Laws or its internal recordkeeping policies.
- (d) Any Confidential Information of the Sellers that constitutes part of the Business, the Purchased Assets and the Assumed Liabilities will cease to be Confidential Information of the Sellers and will become Confidential Information of NewCo Parent and the Purchasers at the Closing Time.

#### 10.5 Public Announcements

- (a) All public announcements made in respect of the Transactions shall be made solely by the Sellers, provided that such public announcements shall be in form and substance satisfactory to NewCo Parent, acting reasonably. Notwithstanding the foregoing, nothing herein shall prevent a Party from making public disclosure in respect of the Transactions to the extent required by Applicable Law, *provided* that if any disclosure is to reference a Party hereto, such Party will be provided notice of such requirement so that such Party may seek a protective order or other appropriate remedy.
- (b) Subject to the above, NewCo Parent will agree to the existence and factual details of this Agreement, the Restructuring Support Agreement and the Transactions generally being set out in any public disclosure made by the Sellers, including, without limitation, press releases and court materials, and to the filing of this Agreement with the CCAA Court in connection with the CCAA Proceedings.

#### 10.6 Notices

- (a) Mode of Giving Notice. Any notice, direction, certificate, consent, determination or other communication required or permitted to be given or made under this

Agreement shall be in writing and shall be effectively given and made if: (i) delivered personally; (ii) sent by prepaid courier service; or (iii) sent by e-mail, in each case, to the applicable address set out below:

if to the Sellers to:

Procera Networks, Inc.  
5800 Granite Parkway, Suite 170  
Plano, TX 75024

Attention: Jeff Kupp, Chief Financial Officer  
E-mail: [jkupp@sandvine.com](mailto:jkupp@sandvine.com)

with a copy to:

Osler, Hoskin & Harcourt LLP  
First Canadian Place  
100 King St. W Suite 6200  
Toronto, ON M5X 1B8

Attention: Marc Wasserman / Martino Calvaruso  
E-mail: [MWasserman@osler.com](mailto:MWasserman@osler.com) / [MCalvaruso@osler.com](mailto:MCalvaruso@osler.com)

with a copy to:

Paul, Weiss, Rifkind, Wharton & Garrison LLP  
1285 Avenue of the Americas  
New York, NY 10019-6064

Attention: Robert Britton / Claudia Tobler / Xu Pang  
E-mail: [rbritton@paulweiss.com](mailto:rbritton@paulweiss.com) / [ctobler@paulweiss.com](mailto:ctobler@paulweiss.com) / [xpang@paulweiss.com](mailto:xpang@paulweiss.com)

If to the Monitor to:

KSV Restructuring Inc.  
220 Bay Street, Suite 1300  
Toronto, ON M5J 2W4

Attention: Noah Goldstein / Murtaza Tallat  
E-mail: [ngoldstein@ksvadvisory.com](mailto:ngoldstein@ksvadvisory.com) / [mtallat@ksvadvisory.com](mailto:mtallat@ksvadvisory.com)

with a copy to:

Cassels, Brock & Blackwell LLP  
Bay Adelaide Centre – North Tower  
40 Temperance Street, Suite 3200  
Toronto, ON M5H 0B4

Attention: Ryan Jacobs / Michael Wunder  
Email: [rjacobs@cassels.com](mailto:rjacobs@cassels.com) / [mwunder@cassels.com](mailto:mwunder@cassels.com)

If to NewCo Parent:

c/o Brigade Agency Services LLC  
399 Park Avenue, 15th Floor  
New York, NY 10022

Attention: Patrick Criscillo / Aaron Daniels  
Email: [PC@brigadecapital.com](mailto:PC@brigadecapital.com) / [AD@brigadecapital.com](mailto:AD@brigadecapital.com)

- (b) Deemed Delivery of Notice. Any such communication so given or made shall be deemed to have been given or made and to have been received on the day of delivery if delivered, or on the day of e-mailing, provided that such day in either event is a Business Day and the communication is so delivered, e-mailed or sent before 5:00 p.m. (Eastern Time) on such day. Otherwise, such communication shall be deemed to have been given and made and to have been received on the next following Business Day.
- (c) Change of Address. Any Party may from time to time change its address under this Section 10.6 by notice to the other Parties given in the manner provided by this Section 10.6.

## 10.7 Time of Essence

Time shall be of the essence of this Agreement in all respects.

## 10.8 Further Assurances

The Sellers, on the one hand, and NewCo Parent (or its applicable Affiliate), on the other hand, shall, at the sole expense of the requesting Party, from time to time promptly execute and deliver or cause to be executed and delivered all such further documents and instruments and shall do or cause to be done all such further acts and things in connection with this Agreement that the other Parties may reasonably require as being necessary or desirable in order to effectively carry out or better evidence or perfect the full intent and meaning of this Agreement or any provision hereof.

## 10.9 Entire Agreement

This Agreement and the deliverables delivered by the Parties in connection with the Transactions constitute the entire agreement between the Parties or any of them pertaining to the subject matter of this Agreement and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, with respect to the subject matter herein. There are no conditions, representations, warranties, obligations or other agreements between the Parties with respect to the subject matter of this Agreement (whether oral or written, express or implied, statutory or otherwise) except as explicitly set out in this Agreement.



#### **10.10 Waiver and Amendment**

Except as expressly provided in this Agreement, no amendment or waiver of this Agreement shall be binding unless: (a) executed in writing by the Sellers and NewCo Parent (including by way of email); and (b) the Monitor shall have provided its prior consent. No waiver of any provision of this Agreement shall constitute a waiver of any other provision nor shall any waiver of any provision of this Agreement constitute a continuing waiver unless otherwise expressly provided.

#### **10.11 Severability**

Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction will, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and will be severed from the balance of this Agreement, all without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

#### **10.12 Remedies Cumulative**

The rights, remedies, powers and privileges herein provided to a Party are cumulative and in addition to and not exclusive of or in substitution for any rights, remedies, powers and privileges otherwise available to that Party.

#### **10.13 Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

#### **10.14 Dispute Resolution**

If any dispute arises with respect to the interpretation or enforcement of this Agreement, including as to what constitutes a breach or material breach of this Agreement for the purposes of Article 8 hereof, such dispute shall be determined by the CCAA Court within the CCAA Proceedings, or by such other Person or in such other manner as the CCAA Court may direct. The Parties irrevocably submit and attorn to the exclusive jurisdiction of the CCAA Court.

#### **10.15 Attornment**

Each Party agrees: (a) that any Action relating to this Agreement shall be brought in the CCAA Court, and for that purpose now irrevocably and unconditionally attorns and submits to the jurisdiction of the CCAA Court; (b) that it irrevocably waives any right to, and shall not, oppose any such Action in the CCAA Court on any jurisdictional basis, including *forum non conveniens*; and (c) not to oppose the enforcement against it in any other jurisdiction of any Order duly obtained from the CCAA Court as contemplated by this Section 10.15. Each Party agrees that service of process on such Party as provided in this Section 10.15 shall be deemed effective service of process on such Party.

#### **10.16 Successors and Assigns**

This Agreement shall enure to the benefit of, and be binding on, the Parties and their respective successors and permitted assigns.

### **10.17 Assignment**

None of the Sellers or Sandvine UK may assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of NewCo Parent. Prior to Closing, NewCo Parent may assign, upon written notice to the Sellers and the Monitor, all or any portion of its rights and obligations under this Agreement to an Affiliate thereof provided that such Affiliate is, in the opinion of the Sellers and the Monitor, capable of completing the Transactions by the Outside Date and does make the same representations and warranties herein. Any purported assignment or delegation in violation of this Section 10.17 is null and void. No assignment or delegation shall relieve the assigning or delegating party of any of its obligations hereunder.

### **10.18 No Liability; Monitor Holding or Disposing Funds**

Any obligation of or direction to the Monitor to disburse or hold funds or take any action shall be subject to the Approval and Vesting Order or other order of the CCAA Court in all respects. NewCo Parent and the Sellers acknowledge and agree that the Monitor, acting in its capacity as the Monitor of the Sellers in the CCAA Proceedings, and the Monitor's Affiliates and their respective former and current directors, officers, employees, agents, advisors, lawyers and successors and assigns will have no Liability under or in connection with this Agreement, the Approval and Vesting Order or any other related CCAA Court orders whatsoever, whether in its capacity as Monitor, in its personal capacity or otherwise. If, at any time, there shall exist, in the sole and absolute discretion of the Monitor, any dispute between the Sellers on the one hand, and NewCo Parent on the other hand, with respect to any obligation of the Monitor with respect to any funds received by the Monitor hereunder, or its proper actions with respect to its obligations with respect to any funds received by the Monitor hereunder, then the Monitor may in its sole discretion (i) make a motion to the CCAA Court for direction with respect to such dispute or uncertainty and, to the extent required by law or otherwise at the sole and absolute discretion of the Monitor, pay all or any portion of funds received into the CCAA Court for holding and disposition in accordance with the instructions of the CCAA Court, or (ii) hold any funds received or any portion thereof and not make any disbursement thereof until: (a) the Monitor receives a written direction signed by the Sellers and NewCo Parent directing the Monitor to disburse, as the case may be, such funds or any portion thereof in the manner provided for in such direction, or (b) the Monitor receives an Order from the CCAA Court, which is not stayed or subject to leave to appeal or appeal and for which the applicable appeal period has expired, instructing it to disburse, as the case may be, the funds received or any portion thereof in the manner provided for in the Order.

### **10.19 Third Party Beneficiaries**

Except with respect to the Monitor as expressly set forth in this Agreement (including but not limited to Section 10.18) as it relates to all rights, covenants, obligations and benefits in favour of the Sellers under this Agreement that survive Closing, this Agreement is for the sole benefit of the Parties, and nothing in this Agreement, express or implied, is intended to or shall confer upon any other Person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

### **10.20 Counterparts**


This Agreement may be executed in counterparts, each of which shall be deemed to be an original and both of which taken together shall be deemed to constitute one and the same instrument. To

evidence its execution of an original counterpart of this Agreement, a Party may send a copy of its original signature on the execution page hereof to the other Parties by e-mail in pdf format or by other electronic transmission and such transmission shall constitute delivery of an executed copy of this Agreement to the receiving Party.


***[Remainder of page intentionally left blank. Signature page follows.]***

**IN WITNESS WHEREOF** the Parties have executed this Agreement as of the date first above written.


**Procera Networks, Inc.,**  
as Seller

By:   
\_\_\_\_\_  
Name: Jeffrey A. Kupp  
Title: Chief Financial Officer

**Sandvine Corporation,**  
as Seller

By:   
\_\_\_\_\_  
Name: Jeffrey A. Kupp  
Title: Chief Financial Officer

**Sandvine Holdings UK Limited**

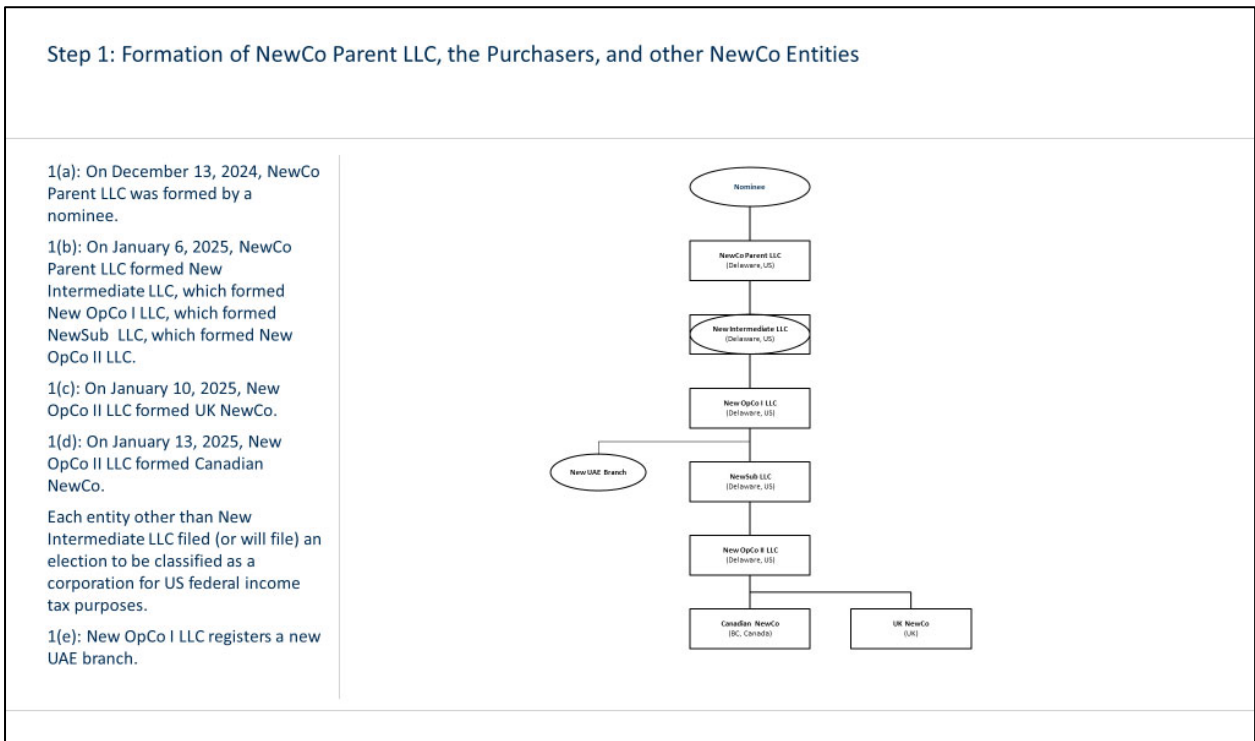
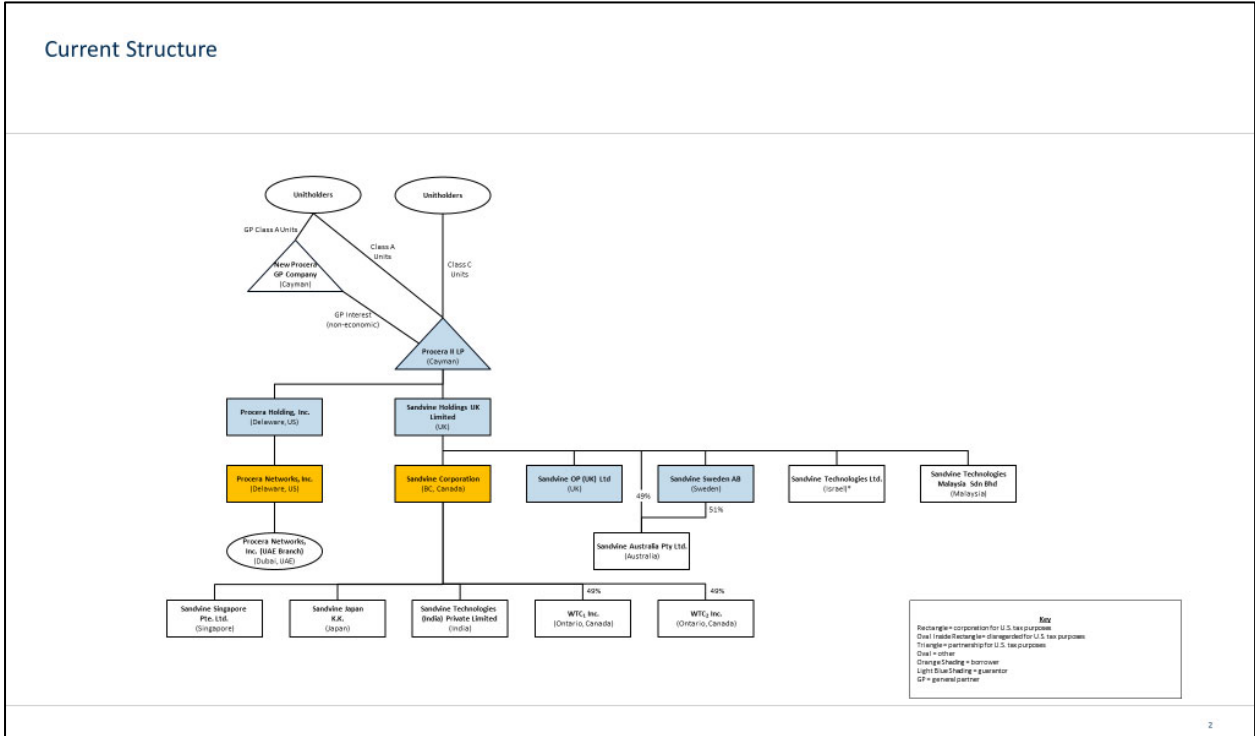
By:   
\_\_\_\_\_  
Name: Jeffrey A. Kupp  
Title: Chief Financial Officer

**Dune Parent LLC**  
as NewCo Parent

By: Brigade Agency Services LLC, as Sole Member

By: \_\_\_\_\_  
Name: Aaron Daniels  
Title: Authorized Signatory

## EXHIBIT "A" IMPLEMENTATION STEPS



**Step 2: Pre-Closing Internal Reorganization**

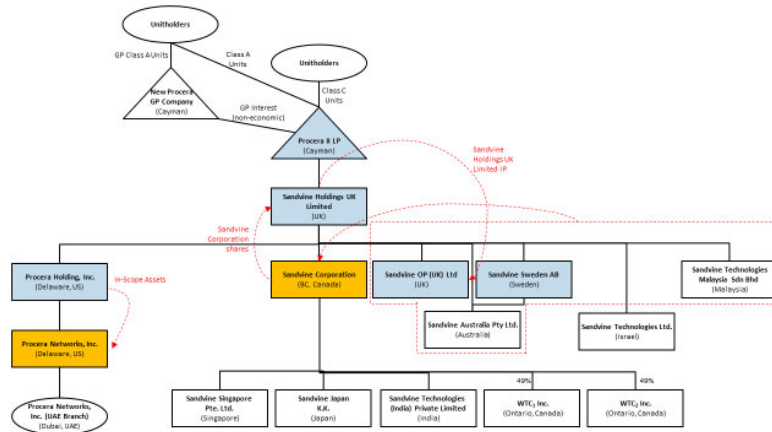
2(a): Sandvine Holdings UK Limited contributes IP and any other in-scope assets (if any) to Sandvine OP (UK) Ltd as a contribution to capital.\*

2(b): Sandvine Holdings UK Limited contributes stock of (1) Sandvine OP (UK) Ltd, (2) Sandvine Sweden AB, (3) Sandvine Technologies Malaysia Sdn Bhd, and (4) Sandvine Australia Pty Ltd. to Sandvine Corporation in exchange for additional shares of Sandvine Corporation.

2(c): Procera Holding, Inc. contributes in-scope assets (if any) to Procera Networks, Inc.

2(d): Certain intercompany accounts are eliminated in whole or in part, via contributions, distributions, setoff, cancellation or otherwise.

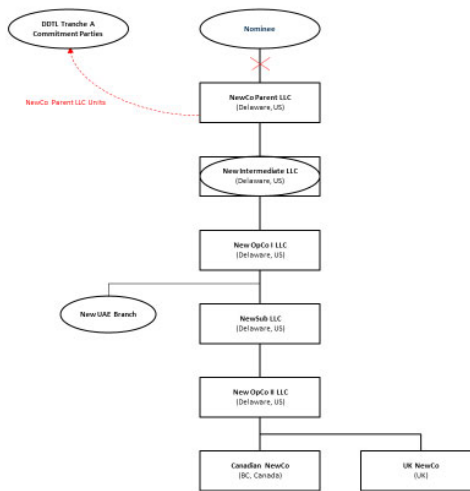
\*Steps 2 through 8 to occur on the Closing Date, substantially concurrently but in the order set forth in this Exhibit "A".



**Step 3: Issuance of NewCo Parent LLC Units to DDTL Tranche A Sandvine Commitment Parties in Payment of DDTL Commitment Fee**

3(a): NewCo Parent LLC Units are issued to the DDTL Tranche A Commitment Parties in satisfaction of the DDTL Commitment Fee (in an amount equal to 50% of post-restructuring NewCo Parent LLC Units).

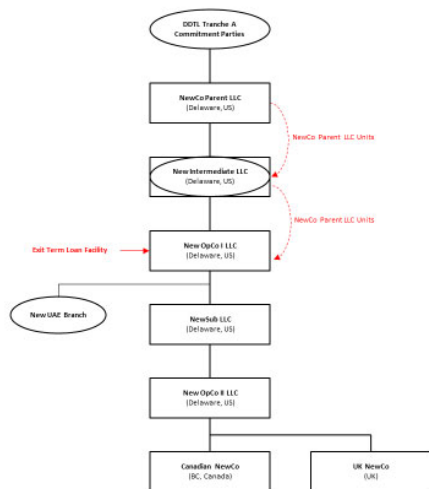
3(b): Nominee's equity is cancelled for no consideration.



**Step 4: Contribution of NewCo Parent LLC Units to New OpCo I LLC; Issuance of Exit Term Loans**

4(a): Newly-issued NewCo Parent LLC Units are contributed (through New Intermediate LLC) to New OpCo I LLC (equal to number of NewCo Parent LLC Units to be used in Step 5).

4(b): New OpCo I LLC issues Exit Term Loans under the Exit Term Loan Facility (equal to Exit Term Loans to be used in Step 5).

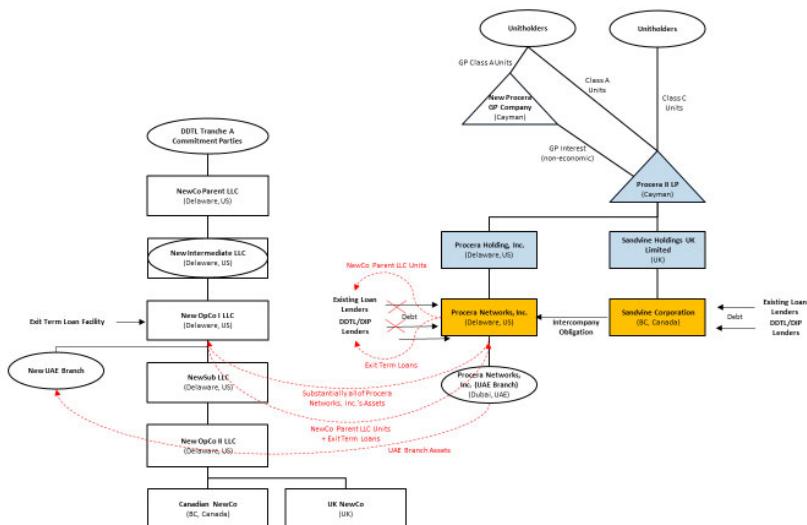


**Step 5: Acquisition of Assets of Procera Networks, Inc. by New OpCo I LLC; Distribution to Creditors**

5(a): New OpCo I LLC acquires substantially all of Procera Networks, Inc.'s assets (including assets of the UAE Branch) in exchange for NewCo Parent LLC Units and a portion of Exit Term Loans.\*

\* Number of NewCo Parent LLC Units to be delivered in Step 5(a) will be equal to the portion of NewCo Parent LLC Units not issued in Step 3 or Step 9(c). The portion of Exit Term Loans to be delivered in Step 5(a) will be equal to the DDTL/DIP Claims allocable to Procera Networks, Inc.

5(b): Procera Networks, Inc. distributes (i) the NewCo Parent LLC Units received in Step 5(a) to the Existing Loan Lenders in full satisfaction of Existing Loan Claims against Procera Networks, Inc. and (ii) the Exit Term Loans received in Step 5(a) to the DDTL/DIP Lenders in full satisfaction of DDTL/DIP Claims against Procera Networks, Inc.





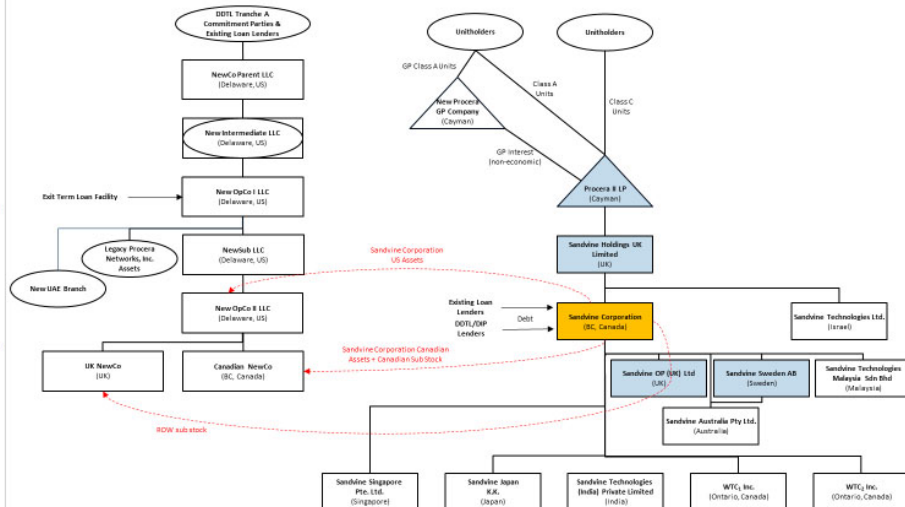
### Step 6: Acquisition of Sandvine Corporation Assets

6(a): Sandvine Corporation sells all in-scope assets (other than (i) assets that need to be sold to a Canadian corporation and (ii) stock of in-scope subsidiaries) to New OpCo II LLC for Exit Term Loans and Excess Value Debt of commensurate value (consideration will be delivered in Step 8).

6(b): Sandvine Corporation enters into a tripartite agreement with New OpCo II LLC and Canadian NewCo under which Sandvine Corporation sells (i) all assets that need to be sold to a Canadian corporation (e.g., assets physically located in Canada) and (ii) stock of Canadian subsidiaries (WTC<sub>1</sub> Inc. and WTC<sub>2</sub> Inc.) to Canadian NewCo in exchange for New OpCo II LLC delivering Exit Term Loans of commensurate value (consideration will be delivered in Step 8).

6(c): Sandvine Corporation sells stock of ROW subs to UK NewCo in exchange for Exit Term Loans of commensurate value (consideration will be delivered in Step 8).

The asset transfers in steps 6(a) to 6(c) occur simultaneously.



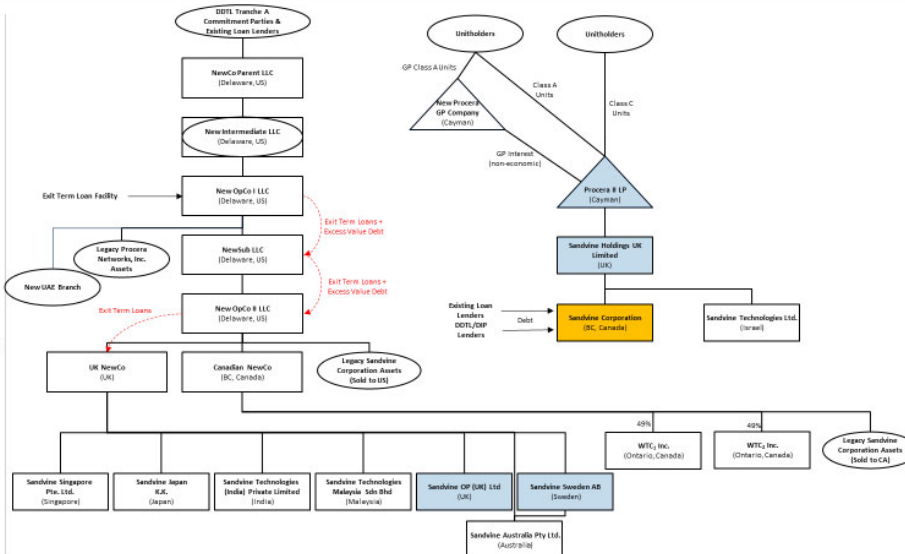
### Step 7: Contribution of Exit Term Loans and Excess Value Debt to OpCo II LLC, and UK NewCo

7(a): Simultaneous with the asset transfers in steps 6(a) to 6(c), New OpCo I LLC agrees to make a capital contribution to NewSub LLC, and New OpCo I LLC issues Exit Term Loans\* and a note payable by New OpCo I LLC ("Excess Value Debt"\*\*) to NewSub LLC as payment of the capital contribution; NewSub LLC in turn contributes Exit Term Loans and Excess Value Debt to New OpCo II LLC.

\*Exit Term Loans issued in Step 7(a) to be equal to the DDTL/DIP Claims allocable to Sandvine Corporation.

\*\*The Excess Value Debt will equal the FMV of the assets purchased from Sandvine Corporation in Step 6, less the value of the Exit Term Loans issued in Step 7(a).

7(b): New OpCo II LLC contributes a portion of the Exit Term Loans received in Step 7(a) to UK NewCo (equal to the FMV of the subsidiaries purchased by UK NewCo in Step 6(c)).

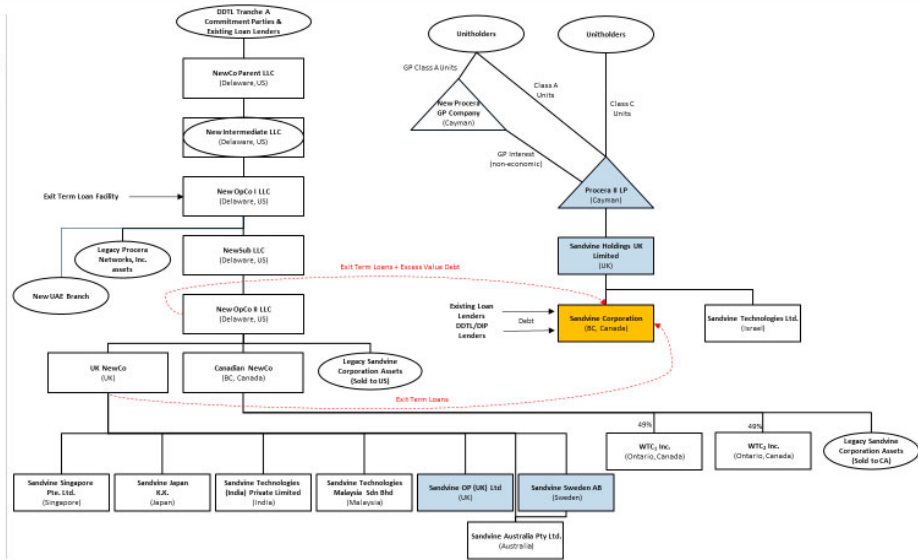


**Step 8: Payment of Consideration for Sandvine Corporation Assets**

8(a): New OpCo II LLC delivers Exit Term Loans\* and the Excess Value Debt of commensurate value for assets purchased in Step 6(a) and 6(b). Canadian NewCo delivers additional Canadian NewCo Units to New OpCo II LLC equal to the value of the Exit Term Loans used to pay for the assets purchased in Step 6(b).

8(b): UK NewCo delivers the Exit Term Loans\* to Sandvine Corporation for the assets purchased in Step 6(c).

\* Exit Term Loans to be delivered in Steps 8(a) and 8(b) to equal to the Exit Term Loans issued in Step 7(a).



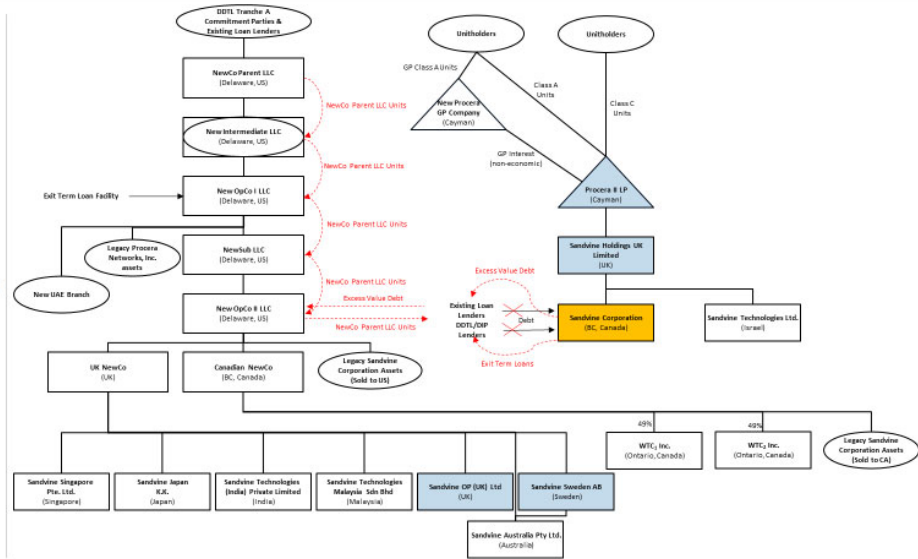
**Step 9: Distribution to Sandvine Corporation Creditors**

9(a): Sandvine Corporation distributes Exit Term Loans to the DDTL/DIP Lenders in full satisfaction of DDTL/DIP Claims against Sandvine Corporation.

9(b): Sandvine Corporation distributes Excess Value Debt to Existing Loan Lenders in full satisfaction of Existing Loan Claims against Sandvine Corporation.

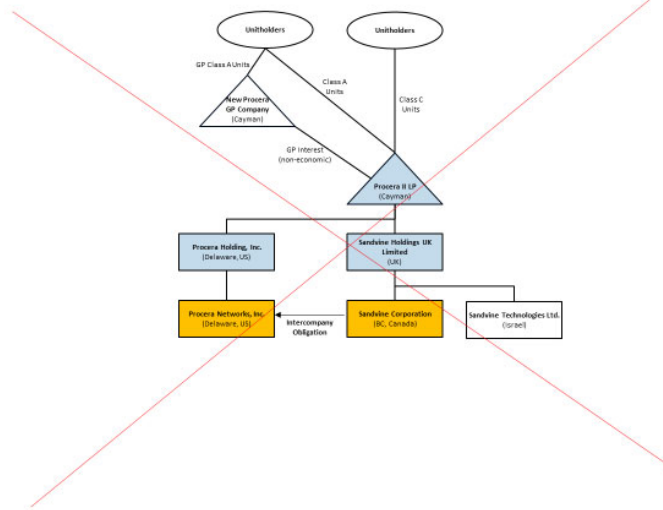
9(c): NewCo Parent LLC contributes newly issued NewCo Parent LLC Units to New Intermediate LLC, which in turn contributes the NewCo Parent LLC Units to New OpCo I LLC, which in turn contributes the NewCo Parent LLC Units to NewSub LLC, which in turn contributes the NewCo Parent LLC Units to New OpCo II LLC.

9(d): New OpCo II LLC acquires Excess Value Debt held by Existing Loan Lenders in exchange for NewCo Parent LLC Units received in Step 9(c). Excess Value Debt will remain outstanding as an obligation of New OpCo I LLC to New OpCo II LLC.

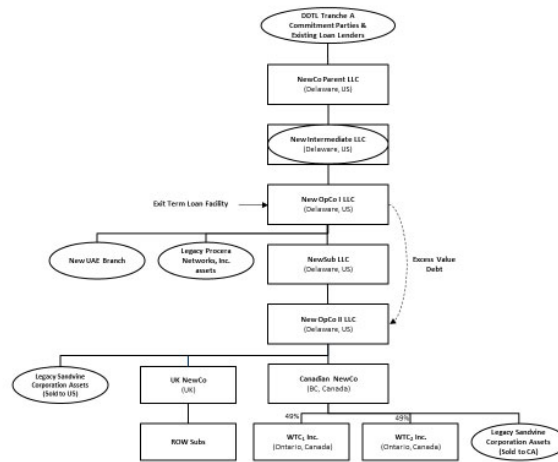


Step 10: Liquidation of Legacy Entities Not Transferred

As part of the same plan as the Implementation Steps, as soon as reasonably practicable following the Closing Date, all legacy Sandvine/Procera entities not transferred to NewCo Entities liquidate, via insolvency proceeding or otherwise.



Ending Structure



**SCHEDULE "A"**  
**ACQUIRED SUBSIDIARIES**

1. Sandvine OP (UK) Ltd.
2. Sandvine Sweden AB
3. Sandvine Australia Pty Ltd.
4. Sandvine Technologies Malaysia Sdn. Bhd.
5. Sandvine Singapore Pte. Ltd.
6. Sandvine Japan K.K.
7. Sandvine Technologies (India) Private Limited
8. WTC<sub>1</sub> Inc.
9. WTC<sub>2</sub> Inc.

**SCHEDULE "B"**  
**FORM OF APPROVAL AND VESTING ORDER**

(See attached)

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

THE HONOURABLE ) THURSDAY, THE 30TH  
 )  
JUSTICE OSBORNE ) DAY OF JANUARY 2025

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  
(collectively, the "**Applicants**")

**ASSIGNMENT, APPROVAL AND VESTING ORDER**

**THIS MOTION**, made by the Applicants pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), for an order, *inter alia*, (i) approving the Transaction Agreement dated December 18, 2024 (as amended and including the exhibits and schedules attached thereto, the "**Transaction Agreement**") between Sandvine Corporation and Procera Networks, Inc., as sellers (collectively, the "**Sellers**"), Sandvine Holdings UK Limited ("**Sandvine UK**") and Dune Parent LLC ("**NewCo Parent**"), for entities to be formed or that have been formed in accordance with the Implementation Steps (as defined in the Transaction Agreement and attached as Exhibit "A" thereto) (collectively, the "**Purchasers**"), a copy of which is attached as Exhibit "[●]" to the Second Kupp Affidavit (as defined below), the transactions contemplated therein, including the Implementation Steps, and the Transition Services Agreement (as defined in the Transaction Agreement) (collectively, the "**Transactions**"), (ii) vesting in the applicable Purchaser all of the applicable Sellers' right, title and interest in and to the

applicable Purchased Assets (as defined in the Transaction Agreement) free and clear of all Claims and Encumbrances (each as defined below) other than any Assumed Liabilities and Permitted Encumbrances (each as defined in the Transaction Agreement), (iii) assigning the Assigned Contracts (as defined in the Transaction Agreement) to the applicable Purchaser pursuant to section 11.3 of the CCAA, (iv) sealing the Confidential Exhibit “B” to the Seller Affidavit (as defined below) (the “**Confidential Exhibit**”), and (iv) granting related relief, was heard this day by videoconference at 330 University Avenue, Toronto, Ontario.

**ON READING** the affidavit of Jeffrey A. Kupp sworn January [●], 2025 and the exhibits attached thereto (the “**Second Kupp Affidavit**”), the affidavit of Michael Sellinger and the exhibits attached thereto sworn January [●], 2025 (the “**Sellinger Affidavit**”), the Second Report of KSV Restructuring Inc. in its capacity as Court-appointed Monitor (in such capacity, the “**Monitor**”) dated January [●], 2025, and on hearing the submissions of counsel for the Applicants and Procera II LP (collectively, the “**Sandvine Entities**”), the Monitor and such other counsel that were present, no one else appearing although duly served as appears from the affidavit of service of [●], sworn January [●], 2025,

## **SERVICE AND DEFINITIONS**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

2. **THIS COURT ORDERS** that all capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Amended and Restated Initial Order of this Court dated November 15, 2024 (the “**ARIO**”) or the Transaction Agreement, as applicable.

### **TRANSACTION APPROVAL**

3. **THIS COURT ORDERS** that the Transaction Agreement, the Transition Services Agreement and the Transactions (including the Implementation Steps in the sequence and manner set out in Exhibit “A” to the Transaction Agreement, the Existing Loan Lender Credit Bid and Release and the DDTL/DIP Lender Credit Bid and Release) are hereby approved, and the execution of the Transaction Agreement and the Transition Services Agreement by each of the Sellers and Sandvine UK, as applicable, is hereby authorized, ratified and approved, with such amendments as the Sellers and NewCo Parent, with the consent of the Monitor, may deem necessary or as the Transaction Agreement may permit in accordance with its terms. The Sellers, Sandvine UK and the Monitor are hereby authorized and empowered to perform their respective obligations under the Transaction Agreement, the Transition Services Agreement and any ancillary documents related thereto, as applicable. The Sellers, Sandvine UK and the Monitor are hereby authorized and empowered to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transactions, the conveyance of the applicable Purchased Assets to the applicable Purchasers and the provision of the Transition Services (as defined in the Transition Services Agreement).

4. **THIS COURT ORDERS** that this Order shall constitute the only authorization required by the Sellers and Sandvine UK to proceed with the Transactions and that no shareholder, unitholder, member, partner, director or other approval shall be required in connection therewith (including for the transfer of shares of any Acquired Subsidiary in accordance with the Transaction) other than to the extent contemplated by the Transaction Agreement or the Transition Services Agreement.



5. **THIS COURT ORDERS** that each of the NewCos (as defined in the Transition Services Agreement) are hereby authorized and empowered to comply with and perform their respective obligations under the Transition Services Agreement and any ancillary documents related thereto, as applicable.

6. **THIS COURT ORDERS** that, except as expressly provided otherwise in the Transition Services Agreement, the NewCos, and each of their respective current, future and former directors, officers, managers, shareholders, members, employees, consultants, legal counsel, partners and advisors, as applicable, shall incur no liability or obligation whatsoever relating to, arising out of, or in respect of the Transition Services Agreement, the Transition Services or the Transition Customers (each as defined in the Transition Services Agreement), save and except for any fraud, gross negligence or wilful misconduct on their part, as determined by a final order of this Court.

7. **THIS COURT ORDERS** that, upon the delivery of a Monitor's certificate (the "**Monitor's Certificate**") to each Seller and to NewCo Parent (the time of such delivery, the "**Effective Time**") substantially in the form attached as Schedule "A" hereto, in the sequence and manner set out in the Implementation Steps, all of each Seller's right, title and interest in and to the applicable Purchased Assets shall vest absolutely in the applicable Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, rights of distraint, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the ARIO or any other Order of this Court in these CCAA proceedings (the "**CCAA Charges**"); and (ii) all charges, security interests or claims evidenced by registrations

pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system (all of which are collectively referred to as the “**Encumbrances**”), other than the Assumed Liabilities and Permitted Encumbrances and that all of the Encumbrances other than the Assumed Liabilities and Permitted Encumbrances affected or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets; *provided* that, notwithstanding anything to the contrary herein, the Administration Charge (but not the Directors’ Charge, the DIP Charge or the Transaction Fee Charge) shall continue to attach to the Administrative Expense Reserve, the Priority Payments / Disputed Cures Costs / CCAA Charges Reserve and the Transition Services Fees Reserve which shall be held by the Monitor in accordance with the terms and conditions of the Transaction Agreement, the Post-Closing Administration Order, or any further Order(s) of this Court.

8. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims and Encumbrances, the net proceeds from the sale of the Purchased Assets (if any), shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Monitor’s Certificate all Claims and Encumbrances, other than the Assumed Liabilities and Permitted Encumbrances, shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the Person having that possession or control immediately prior to the sale.

9. **THIS COURT ORDERS** that the Sellers and any other applicable Sandvine Entities shall be authorized and directed to accept the credit bids made by the Existing Loan Agents and the DDTL/DIP Agents pursuant to the Existing Loan Lender Credit Bid and Release and the DDTL/DIP Lender Credit Bid and Release, respectively, and that:

- (a) following the consummation of the Existing Loan Lender Credit Bid and Release, all of the Loan Parties' obligations, guarantees, liens, and security interests in connection with the Existing Loan Claims shall be discharged and deemed satisfied in full without any action on the part of any Person and all agreements, documents, and instruments in connection with the Existing Loan Claims shall be automatically cancelled except for the provisions contained therein in connection with indemnification, contribution, payment of fees, and expense reimbursement for the Existing Loan Agents or allowing the Existing Loan Agents or any Loan Party to make any distribution pursuant to this Order, which shall continue in effect, and in exchange, the Existing Loan Lenders shall receive the Existing Loan Claimholders Consideration free and clear of any and all Claims and Encumbrances; and
- (b) following the consummation of the DDTL/DIP Lender Credit Bid and Release, all of the Loan Parties' obligations, guarantees, liens, and security interests in connection with the DDTL/DIP Claims shall be discharged and deemed satisfied in full without any action on the part of any Person and all agreements, documents, and instruments in connection with the DDTL/DIP Claims shall be automatically cancelled except for the provisions contained therein in connection with indemnification, contribution, payment of fees, and expense reimbursement for the DDTL/DIP Agents or allowing the DDTL/DIP Agents or any Loan Party to make any distribution pursuant to this Order, which shall continue in effect, and in exchange, the DDTL/DIP Lenders shall receive the DDTL/DIP Claimholders Consideration free and clear of any and all Claims and Encumbrances.

10. **THIS COURT ORDERS AND DIRECTS** the Monitor to file with the Court a copy of the Monitor's Certificate, forthwith after delivery thereof.

11. **THIS COURT ORDERS** that the Monitor and its counsel may rely on written notice from the Sellers and NewCo Parent regarding the satisfaction or waiver of conditions to closing under the Transaction Agreement and shall have no liability with respect to delivery of the Monitor's Certificate.

#### **ASSIGNMENT OF ASSUMED CONTRACTS**

12. **THIS COURT ORDERS** that, at the Effective Time, but subject to the payment of the applicable Cure Costs (if any) in accordance with paragraph 15 herein, all of the rights and obligations of each Seller under, to and in connection with, the applicable Assigned Contracts shall be assigned, conveyed, transferred to, and assumed by, the applicable Purchaser pursuant to section 11.3 of the CCAA, and such assignment is valid and binding upon all of the counterparties to the Assigned Contracts, notwithstanding any restriction, condition or prohibition contained in any such Assigned Contracts relating to the assignment thereof, including without limiting the generality of the foregoing, any transfer restrictions or provisions relating to a change of control or requiring the consent of, or notice for any period in advance of the assignment to, any party to such Assigned Contracts.

13. **THIS COURT ORDERS** that, at the Effective Time, but subject to the payment of the applicable Cure Costs (if any) in accordance with paragraph 15 herein, each Seller's right, title and interest in and to the applicable Assigned Contracts shall vest absolutely in the applicable Purchaser free and clear of all Claims and Encumbrances other than the Assumed Liabilities and Permitted Encumbrances.

14. **THIS COURT ORDERS** that (i) each counterparty to the Assigned Contracts (an “**Assigned Contract Counterparty**”), and (ii) each counterparty to a contract with an Assigned Contract Counterparty where such Assigned Contract Counterparty acts as a distributor or reseller of the Sandvine Entities’ products and services (together the contracts referred to (i) and (ii), the “**Protected Contracts**”), is prohibited from exercising any right or remedy (including, without limitation, any right of set-off or termination) or pursuing any demand, claim, action or suit under, to and in connection with any Protected Contract, and shall be forever barred, enjoined and estopped from taking such action by reason of:

- (a) any circumstance that existed or event that occurred on or prior to the Effective Time that would have entitled such counterparty to the Protected Contract to enforce those rights or remedies or caused an automatic termination to occur;
- (b) the insolvency of any of the Sandvine Entities;
- (c) the commencement of these CCAA proceedings or the ancillary recognition proceedings (the “**Chapter 15 Proceedings**”) commenced by the Foreign Representative (as defined below) pursuant to chapter 15 of title 11 of the United States Code in the United States Bankruptcy Court for the Northern District of Texas (Dallas Division) (the “**U.S. Bankruptcy Court**”);
- (d) any restriction, condition or prohibition contained in any such Protected Contract relating to the assignment of any Assigned Contract, including without limiting the generality of the foregoing, any transfer restrictions or provisions relating to a change of control or which requires the consent of, or notice of any period in advance of the assignment to, any party to such Assigned Contract;

- (e) the Transaction Agreement, the Transition Services Agreement, the Restructuring Support Agreement, the Restructuring Term Sheet, and any agreement, document, instrument, matter or transaction involving the Sandvine Entities arising in connection with or pursuant to any of the foregoing, and/or the consummation of the Transactions or any parts thereof (including the assignment of the Assigned Contracts and any default or obligation arising as a result of such assignment); or
- (f) any of the Sellers having breached a non-monetary obligation under any of the Assigned Contracts,

and the counterparties to the Protected Contracts are hereby deemed to waive any defaults relating thereto.

15. **THIS COURT ORDERS** that all Cure Costs related to the Assigned Contracts, if any, shall be in the amounts set out in Schedule “B” hereto (unless otherwise agreed to between the applicable Purchaser, the contract counterparty and the Monitor) and other than in respect of such amounts, the Purchasers shall not be liable for any other amounts or monetary obligations of any kind due or accrued in respect of such Assigned Contracts arising or relating to the period prior to the Effective Time except to the extent provided in the Transaction Agreement. All Cure Costs in relation to the Assigned Contracts shall be paid by the Purchasers within fifteen (15) calendar days following the Effective Time, or such later date as may be agreed to by the applicable Purchaser and the counterparty to such Assigned Contract on prior written notice to the Monitor.

16. **THIS COURT ORDERS** that to the extent any dispute exists regarding the amount of Cure Costs payable to the counterparty to an Assigned Contract, the Sellers or the Monitor, as applicable, in consultation with NewCo Parent, are authorized and empowered to elect to (a) not

assign such Assigned Contract; (b) postpone the assignment of such Assigned Contract until the resolution of such dispute in accordance with the Transaction Agreement; or (c) hold the claimed amount in the Priority Payments / Disputed Cures Costs / CCAA Charges Reserve pending resolution of such dispute, and notwithstanding the dispute, the assignment and assumption of the Assigned Contract pursuant to this Order is valid and binding in all respects and the Assigned Contract Counterparty's recourse is limited to the funds held in reserve pending resolution of the dispute.

17. **THIS COURT ORDERS** that, except as otherwise dealt with herein, there shall be no assignment fees, increases, rent-acceleration, or any other fees charged to the applicable Purchaser or the Sellers as a result of the assumption and assignment of an Assigned Contract. All counterparties to the Assigned Contracts are forever barred, estopped and permanently enjoined from raising or asserting against the Sellers or the applicable Purchaser any assignment fee, default, breach, claim, pecuniary loss, or condition to assignment, arising under or related to the Assigned Contracts, existing as of the date that such Assigned Contracts are assumed or arising by reason of the Closing.

#### **ACQUIRED SUBSIDIARIES**

18. **THIS COURT ORDERS** that, at the Effective Time and in the sequence and manner set out in the Implementation Steps, Sandvine OP (UK) Ltd. ("**Sandvine OP**") shall cease being an Applicant in these CCAA proceedings and shall be deemed to be released from the purview of the ARIO and all other Orders of this Court granted in respect of these CCAA proceedings, save and except for this Order, the provisions of which (as they relate to Sandvine OP) shall continue to apply in all respects, and the Monitor shall have been discharged as Monitor of Sandvine OP. At the Effective Time, the CCAA Charges shall be expunged and discharged as against Sandvine OP's

Property. Pursuant to paragraph 32 of this Order, the Foreign Representative (as defined below) may seek an order from the U.S. Bankruptcy Court to close Sandvine OP's Chapter 15 Proceeding.

19. **THIS COURT ORDERS** that the stay of proceedings and protections granted in respect of the Non-Applicant Stay Parties, their respective directors, managers, officers, advisors or representatives acting in such capacities, and the Non-Applicant Stay Parties' Property pursuant to paragraphs 17, 18, 20 and 21 of the ARIO, are hereby terminated and of no further force and effect as of the Effective Time.

20. **THIS COURT ORDERS** that, from and after the Effective Time, all Persons shall be deemed to have waived any and all defaults then existing or previously committed by any Acquired Subsidiary, or caused by any Acquired Subsidiary, directly or indirectly, or noncompliance with any covenant, warranty, representation, undertaking, positive or negative pledge, term, provision, condition or obligation, expressed or implied, in any contract existing between any such Person and any Acquired Subsidiary, resulting directly or indirectly from (a) the insolvency of any of the Sandvine Entities; (b) the commencement of these CCAA proceedings or the Chapter 15 Proceedings; and (c) the Transaction Agreement, the Transition Services Agreement, the Restructuring Support Agreement, the Restructuring Term Sheet, and any agreement, document, instrument, matter or transaction involving the Sandvine Entities arising in connection with or pursuant to any of the foregoing, and/or the consummation of the Transactions or any parts thereof, and any and all notices of default or demands for payment or any step or proceeding taken or commenced in connection with any of the foregoing under any such contract shall be deemed to have been rescinded and of no further force or effect; *provided* that, nothing herein shall be deemed to excuse the Sellers, Sandvine UK, and the Purchasers, as applicable, from performing their respective obligations under, or be a waiver of any defaults by any such party under, the Transaction



Agreement and any related agreements or documents, or affect the validity of the Implementation Steps.

### **ADDITIONAL PROVISIONS**

21. **THIS COURT ORDERS** that upon the registration in the Canadian Intellectual Property Office of a copy of this Order, the applicable Registrar is hereby directed to transfer all of the applicable Seller's right, title and interest in and to the intellectual property owned by it (including, without limitation, the intellectual property set out in Section 2.1(i) of the Transaction Agreement) to the applicable Purchaser, free and clear of all Claims and Encumbrances other than any Permitted Encumbrances.

22. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act (Canada)*, each Seller is authorized and permitted to disclose and transfer to the Purchasers all human resources and payroll information in such Seller's records pertaining to the Assumed Employees, subject to and in accordance with the terms and conditions of the Transaction Agreement. The Purchasers shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by each such Seller.

23. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these CCAA proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act (Canada)* (the "BIA") in respect of any of the Sandvine Entities and any bankruptcy order issued pursuant to any such applications; and

(c) any assignment into bankruptcy under the BIA made in respect of any of the Sandvine Entities,

the vesting of the Purchased Assets and the assignment of the Assigned Contracts in and to the Purchasers pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of any of the Sandvine Entities and shall not be void or voidable by creditors of any of the Sandvine Entities, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the CCAA, the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

24. **THIS COURT ORDERS** that (a) on or after the Effective Time, each of the Sandvine Entities is hereby permitted to execute and file articles of amendment or such other documents or instruments as may be required to change its legal name, and such articles, documents or other instruments shall be deemed to be duly authorized, valid and effective without any requirement to obtain shareholder, unitholders, manager, member, or partner consent; and (b) upon the official change to the legal name of any of the Sandvine Entities that may occur, the name of Sandvine Entity in the within title of proceeding shall be deleted and replaced with the new legal name of such Sandvine Entity, and any document filed thereafter in this proceeding (other than the Monitor's Certificate and the certificate to be filed by the Monitor in respect of the termination of these CCAA proceedings) shall be filed using such revised title of proceeding.

## TITLE OF PROCEEDINGS

25. **THIS COURT ORDERS** that, following the Effective Time, the title of these CCAA proceedings shall be hereby amended to the following:

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. AND NEW  
PROCERA GP COMPANY

## RELEASES

26. **THIS COURT ORDERS** that, at the Effective Time, (a) the current and former directors, managers, officers, advisors, legal counsel or representatives of the Sandvine Entities; (b) the Consenting Stakeholders; (c) each current or former shareholder (or holder of any other Interest (as defined in the Restructuring Support Agreement)) of the Sandvine Entities; (d) each current or former holder of any current or previous funded debt Claim against the Sandvine Entities (including but not limited to the Existing Loan Lenders and the DDTL/DIP Lenders); (e) the Existing Loan Agents and the DDTL/DIP Agents and their respective legal counsel; (f) the Monitor and its legal counsel; (g) the NewCo Entities (including the Purchasers) and any shareholder or member of NewCo Parent (solely in its capacity as such); and (h) with respect to each Person listed or described in any of the foregoing (b) through (g), each such Person's current and former Affiliates (other than the Sandvine Entities), and each such Person's and their current and former Affiliates' current and former directors, managers, officers, employees, consultants, legal counsel, partners and advisors (in such capacities, collectively, the "**Released Parties**") shall be deemed to be forever irrevocably released by all Persons and discharged from 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 on or prior to the Effective Time, or undertaken or completed in connection with or pursuant to the terms of this Order, in respect of, relating to, or arising out of (i) the Sandvine Entities, the business, operations, assets, property and affairs of the Sandvine Entities wherever or however conducted or governed, the administration and/or management of the Sandvine Entities, these CCAA proceedings and/or the Chapter 15 Proceedings, or (ii) the Transaction Agreement, the Transition Services Agreement, the Restructuring Support Agreement, the Restructuring Term Sheet, and any agreement, document, instrument, matter or transaction involving the Sandvine Entities arising in connection with or pursuant to any of the foregoing, and/or the consummation of the Transactions or any parts thereof (the “**Released Claims**”), which Released Claims shall be deemed to be fully, finally, irrevocably and forever waived, discharged, released, cancelled and barred as against the Released Parties; *provided* that, nothing in this paragraph shall waive, discharge, release, cancel or bar (w) any claim that is not permitted to be released pursuant to section 5.1(2) of the CCAA, (x) any claim with respect to any act or omission that is determined by final order of a court of competent jurisdiction to have constituted actual fraud, willful misconduct, or gross negligence, or (y) any claim by any Person relating to the right to enforce against any of the Released Parties its post-Effective Time obligations under the Transaction

Agreement, the Transition Services Agreement, and any other agreement, document, or instrument executed to implement the Transactions.

27. **THIS COURT ORDERS** that, notwithstanding anything set out in any of the Orders made by the Court in these CCAA proceedings, any Released Claim asserted against the current or former directors, managers and officers of the Sandvine Entities (collectively, the “**Sandvine D&Os**”) that is covered by any insurance policy maintained by the Sandvine Entities (each, an “**Insured Claim**”), but only to the extent of any such available insurance, shall not be compromised, released, discharged, cancelled or barred by this Order, and any person having an Insured Claim shall be irrevocably limited to recovery in respect of such Insured Claim solely from the proceeds of the applicable insurance policies, and persons with Insured Claims shall have no right to, and shall not, directly or indirectly, seek any recoveries in respect thereof from the Sandvine D&Os, other than enforcing such person’s rights to be paid by the applicable insurer(s) from the proceeds of the applicable insurance policies. Nothing herein shall prejudice, compromise, release or otherwise affect any rights or defences of any insurer with respect to any Insured Claim.

#### **SEALING ORDER**

28. **THIS COURT ORDERS** that the Confidential Exhibit is hereby sealed and shall not form part of the public record, subject to further order of this Court sought on not less than seven (7) days’ notice to the Purchasers and, provided it has not been discharged, the Monitor.

#### **GENERAL**

29. **THIS COURT ORDERS** that the Sandvine Entities or the Monitor may from time to time apply to this Court to amend, vary or supplement this Order or for advice and directions in the

discharge of their powers and duties under this Order or in the interpretation or application of this Order.

30. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada.

31. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body or agency, having jurisdiction in Canada or in the United States, including the U.S. Bankruptcy Court, to give effect to this Order and to assist the Sandvine Entities and the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies and agencies are hereby respectfully requested to make such orders and to provide such assistance to Sandvine Corporation, in its capacity as the foreign representative in respect of the within proceedings (in such capacity, the “**Foreign Representative**”), the Sandvine Entities and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant foreign representative status to Sandvine Corporation, in any foreign proceeding, or to assist the Sandvine Entities and the Monitor and their respective agents in carrying out the terms of this Order.

32. **THIS COURT ORDERS** that the Sandvine Entities, the Foreign Representative and the Monitor be at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

33. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order without any need for entry and filing.

*(to be completed by registrar)*

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*(Signature of judge, officer or registrar)*

**SCHEDULE “A”**

**FORM OF MONITOR’S CERTIFICATE**

Court File No. CV-24-00730836-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**(COMMERCIAL LIST)**

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  
(collectively, the “**Applicants**”)

**MONITOR’S CERTIFICATE**

**RECITALS**

1. Pursuant to the Initial Order of the Honourable Justice Osbourne of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated November 7, 2024 (as amended and restated on November 15, 2024, and as may be further amended, restated or supplemented from time to time), the Applicants were granted protection from their creditors pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), and KSV Restructuring, Inc. was appointed as the monitor (the “**Monitor**”).

2. Pursuant to an Assignment, Approval and Vesting Order of the Court dated January 30, 2025, the Court *inter alia*: approved the Transaction Agreement dated December 18, 2024 (as amended and including the exhibits and schedules attached thereto, the “**Transaction Agreement**”) between Sandvine Corporation and Procera Networks, Inc., as sellers (collectively,



the “**Sellers**”), Sandvine Holdings UK Limited (“**Sandvine UK**”) and Dune Parent LLC (“**NewCo Parent**”), for entities to be formed or that have been formed in accordance with the Implementation Steps (as defined in the Transaction Agreement and attached as Exhibit “A” thereto) (the “**Purchasers**”), the transactions contemplated therein, including the Implementation Steps, and the Transition Services Agreement (as defined in the Transaction Agreement) (collectively, the “**Transactions**”), and provided for (i) the vesting in the applicable Purchaser all of the applicable Sellers’ right, title and interest in and to the applicable Purchased Assets (as defined in the Transaction Agreement), free and clear of all Claims and Encumbrances other than the Assumed Liabilities and Permitted Encumbrances (each as defined in the Transaction Agreement) upon the delivery by the Monitor to the Sellers and NewCo Parent of a certificate confirming: (x) that the Monitor has received confirmation in writing in accordance with the provisions of Section 8.4 of the Transaction Agreement from the Sellers and NewCo Parent that the conditions of closing in the relevant party’s favour have been satisfied or waived by the Sellers and NewCo Parent, as applicable; and (y) the Transaction has been completed to the satisfaction of the Monitor, and (ii) the assignment of the Assigned Contracts (as defined in the Transaction Agreement) to the applicable Purchaser pursuant to Section 11.3 of the CCAA.

3. Unless otherwise indicated herein, capitalized terms have the meanings set out in the Transaction Agreement.

**THE MONITOR HEREBY CERTIFIES** the following:

1. The Monitor has received written confirmation from each Seller and NewCo Parent, in form and substance satisfactory to the Monitor, that all conditions of closing under the Transaction Agreement in the relevant party’s favour have been satisfied or waived by the Sellers and NewCo

Parent, as applicable.

2. This Certificate was delivered by the Monitor at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

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**KSV RESTRUCTURING INC., solely in its  
capacity as Monitor of the Applicants, and not  
in its personal capacity**

**SCHEDULE "B"**

**CURE COSTS**

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

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT TORONTO

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**ASSIGNMENT, APPROVAL AND VESTING ORDER**

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Lawyers for the Applicants

**SCHEDULE "C"**  
**ASSIGNED VENDOR CONTRACTS**

(See attached)

## Assigned Vendor Contracts

### Compliance

1. Internal Audit Services Proposal with Corporate Prime Solutions Inc. dated October 9, 2024.

### CTSP

2. Master Services Agreement between Sandvine Corporation and AnswerPlus Inc. dated December 4, 2024.
3. Niagara Networks Evaluation Loan Agreement between Sandvine Corporation and Niagara Networks, Inc. dated as of December 10, 2021.
4. Niagara Networks Evaluation Loan Agreement between Sandvine Corporation and Niagara Networks, Inc. dated as of November 25, 2022.

### Facilities

5. Agreement with Citron Hygiene pertaining to sanitization services.
6. Agreement with Kitchener Clean Inc. pertaining to sanitizations services.
7. Agreement between with Owl Technologies Inc. pertaining to security services.
8. Agreement with Shred-it International Inc. pertaining to document destruction services.
9. Agreement with Sunset Quality Cleaning Inc. pertaining to sanitization services.
10. Agreement with Al Jasmi Building Cleaning Services pertaining to cleaning services.
11. Agreement with Total Power pertaining to equipment servicing.
12. Lease Agreement between Sandvine Incorporated and Pitney Bowes of Canada Ltd executed on July 13, 2024 for 60 months.
13. Lease Agreement between Procera Networks, Inc. and Business Central Towers FZ-LLC (Heirs of Mohd Amin Al Kazem) dated February 18, 2020.
14. Office Lease between Procera Networks, Inc. and Granite Park NM/GP I, LP dated May 14, 2020.
15. Second Lease Amending Agreement between Sandvine Incorporated, ULC and WTC1 Inc. dated December 8, 2020.
16. Third Lease Amending Agreement between Sandvine Incorporated, ULC and WTC1 Inc. dated December 15, 2020.

### Finance

17. Agreement with Keenberg & Company pertaining to legal arbitration service work.
18. Agreement with Purves Redmond Limited pertaining to insurance services.
19. Consulting Agreement between Paul, Weiss, Rifkind, Wharton & Garrison LLP (lawyers for Sandvine Corporation and Procera Networks, Inc.) and Kroll, LLC dated December 13, 2024.

20. Customer Agreement between Sandvine and Iron Mountain Canada Corporation dated February 21, 2013.
21. Customer Agreement between Sandvine Incorporated ULC and Iron Mountain Canada Corporation dated December 15, 2010.
22. Engagement Letter between Procera Holdings, Inc., Procera Networks, Inc. and Doane Grant Thornton LLP dated December 17, 2024.
23. Engagement Letter between Sandvine Corporation and Ernst & Young LLP dated October 24, 2024.
24. Engagement Letter between Sandvine Corporation and Grant Thornton Advisors LLC dated July 18, 2024.
25. Engagement Letter between Paul, Weiss, Rifkind, Wharton & Garrison LLP (Counsel for New Procera GP Company) and Prosek LLC dated August 29, 2024.
26. Engagement Letter between Procera Holdings, Inc. and Doane Grant Thornton LLP dated January 13, 2025.
27. Invoice from New York-Alliant Ins Svc Inc. to Procera Networks, Inc. dated June 28, 2024.
28. Invoice between Sandvine Inc. and TeamViewer Germany GmbH dated January 2, 2024.
29. Master Service Collection Agency Agreement between Sandvine Corporation and Global Hawk Resources LLC dated April 25, 2023.
30. Master Tax Services Agreement between Sandvine Corporation and Doane Grant Thornton LLP dated January 9, 2025.
31. Order Form between Sandvine Corporation LumiQ Inc. dated December 5, 2024.
32. Order Form between Sandvine Corp and Workday Limited dated October 28, 2024.
33. Order Form between Sandvine Corporation and Concur Technologies, Inc. dated December 13, 2019.
34. Premium Bill between Procera Holdings and USI Insurance Services LLC dated July 15, 2024.
35. Premium Bill between Procera Holdings, Inc. and USI Insurance Services LLC dated August 1, 2024.
36. Proposal for Auditing of Accounts (Engagement Letter) between Procera Networks, Inc. and Hallmark International Auditors dated January 23, 2024.
37. Proposal Letter for Goodwill Impairment Study between Sandvine Corporation and Valuation Research Corporation dated June 18, 2024.
38. Proposal Letter for Valuation between Sandvine Corporation and Valuation Research Corporation dated August 26, 2024.
39. Statement of Work between Sandvine Corporation and Ernst & Young LLP dated September 20, 2024.
40. Statement of Work – Transaction Accounting Services between Sandvine Corporation and Grant Thornton Advisors LLC dated July 18, 2024.

41. Subcontractor Master Agreement between Sandvine Corporation and Maser Technology Group Pty Ltd dated April 5, 2021.
42. Tax Insurance between Procera Networks, Inc. and Ryan Transactional Risk dated June 28, 2024.
43. Business Interruption Policy with Emirates Insurance.
44. Cargo Policy between Procera Networks, Inc. and Falvey Insurance Group dated August 26, 2024.
45. General/Products Liability Insurance Schedule between Sandvine Corporation, Procera Networks, Inc. and Emirates Insurance Company (PSC) dated August 23, 2024.
46. Letter Regarding Arbitration Clause of Policy No. 906/1162/90/22/00064/02 with Emirates Insurance Company (PSC).
47. Letter Regarding Arbitration Clause of Policy No. 906/1131/15/22/00020/02 with Emirates Insurance Company (PSC).
48. Letter Regarding Industrial and Commercial Property Insurance with Emirates Insurance Company (PSC).
49. Liability Policy with Chubb European Group SE.
50. Liability Policy between Sandvine Holdings UK Limited, Sandvine Limited, Sandvine OP (UK) Ltd. and Chubb European Group SE dated August 1, 2024.
51. Management Liability Insurance Proposal between Procera Holding Inc. and USI Insurance Services LLC dated June 17, 2024.
52. MasterKey Series Commercial Coverage between Sandvine Corporation and Chubb Insurance co. of Canada dated August 1, 2024.
53. Property All Risk with Emirates Insurance.
54. Third Party Liability with Emirates Insurance.
55. Tax Insurance between Procera Networks, Inc. and Ryan Transactional Risk dated June 28, 2024.
56. Workers Compensation and Employers Liability Insurance Policy between Procera Networks, Inc. and Berkley Technology Underwriters dated August 1, 2024.
57. Workmen's Compensation with Emirates Insurance.
58. Workmen's Compensation/Employer's Liability Schedule between Sandvine Corporation, Procera Networks, Inc. and Emirates Insurance Company (PSC) dated August 23, 2024

#### **Global IT & IS**

59. Agreement with Canhost/ I-Guru pertaining to network administration consulting services.
60. Agreement with Kandji, Inc. pertaining to MacOS device management services.
61. Agreement between Sandvine and T A Networks pertaining to fortigate application services.
62. Invoice from T.A. Networks Inc. to Sandvine Corporation dated April 3, 2023.



63. Invoice from T.A. Networks Inc. to Sandvine Corporation dated August 22, 2023.
64. Quote between Sandvine Corporation and T.A. Networks Inc. dated November 28, 2024.
65. Agreement with URM Consulting Services Ltd pertaining to supplier risk management services.
66. Certificate of Subscriptions between Sandvine Ltd and Barracuda Networks dated December 24, 2024.
67. Conga Master Subscription Agreement with AppExtremes, LLC dba Conga dated August 16, 2022.
68. Order Form between Sandvine Corporation and AppExtremes, LLC dba Conga dated November 14, 2024.
69. Coterm Quote between Sandvine Inc and Fortinet, Inc. dated November 28, 2024.
70. Invoice from Vicasso to Sandvine dated October 5, 2023.
71. Invoice from Qualtrics, LLC to Sandvine, Inc. dated March 15, 2024.
72. Invoice #252578 from Aha! Labs Inc to Sandvine dated June 14, 2024.
73. Invoice #252571 from Aha! Labs Inc to Sandvine dated June 14, 2024.
74. Invoice LCIX Cloud Systems Inc. to Sandvine Incorporated dated March 22, 2022.
75. Invoice from HostPapa, Inc. to Procera Networks, Inc. and dated September 5, 2024.
76. Invoice from Gearset to Sandvine Corporation dated November 1, 2024.
77. Invoice from Descartes Systems (USA) LLC to Sandvine Corporation dated October 1, 2024.
78. Invoice from Boomi LP to Sandvine Corporation dated July 2, 2024.
79. Invoice from Securicore Infosec Division of Hiveradar Inc. to Sandvine dated December 2, 2024.
80. Main Services Agreement with Salesforce.com Canada Corp dated October 16, 2023.
81. Order Form from Salesforce.com Canada Corp to Sandvine Corporation dated October 31, 2023.
82. Order Form from Salesforce.com Canada Corp to Sandvine Corporation dated November 6, 2023. Invoice from Salesforce.com Canada Corp to Sandvine Corporation dated January 30, 2024.
83. Invoice from Salesforce.com Canada Corp to Sandvine Corporation dated February 13, 2024.
84. Order Form and Term Plan between Sandvine – Plano and Airespring, Inc. dated November 23, 2023.
85. Order Form between Sandvine and Zoom Video Communications Inc. dated November 20, 2024.
86. Order Form between Sandvine Corporation and Dropbox dated September 8, 2024.
87. Quote between Sandvine and Delinea Inc. dated September 18, 2024.
88. Quote between Sandvine and IPCONNECTX Corp dated May 24, 2024.
89. Preventative Maintenance Proposals between Sandvine Inc. and AAA Airconditioning Inc. dated March 21, 2024.

90. Purchase Order between Sandvine Corporation and Precisely Software Incorporated dated February 9, 2024.
91. Renewal between Sandvine and dbt Labs, Inc. dated October 21, 2024.
92. Renewal Order Form between Sandvine and GitLab Inc. dated May 30, 2024.
93. Subscription Agreement between Sandvine Corporation and GitLab Inc. dated June 3, 2024.
94. Subscription Order Form between Sandvine Corporation and FOSSA, Inc. dated November 5, 2023.
95. SAP Support Agreement between Sandvine Corporation and CONTAX Inc. dated January 1, 2024.
96. Statement of Work between Sandvine Corporation and CONTAX Inc. dated January 18, 2024.
97. Invoice from CONTAX Inc. to Sandvine Corporation dated July 9, 2024.
98. Statement of Work between Sandvine Corporation and CONTAX Inc. dated October 7, 2024.

#### **Global Services**

99. Order Form between Sandvine and Udemy, Inc. dated December 13, 2024
100. Invoice from Udemy, Inc. to Sandvine dated January 7, 2024.
101. Order Form between Sandvine and Docebo Inc. dated October 21, 2024.
102. Invoice from Docebo Inc. to Sandvine dated June 21, 2024.
103. Non-Disclosure Agreement between Sandvine Corporation and BSA Limited dated July 7, 2021.
104. Subcontractor Agreement between Sandvine Corporation and BSA Limited dated as of September 23, 2021.

#### **HR**

105. Agreement with Aon Consulting – Radford pertaining to market compensation study services.
106. Engagement Letter between Procera Networks, Inc. and Aon Consulting, Inc. dated March 25, 2024.
107. Invoice from Aon Consulting, Inc. to Sandvine dated February 19, 2024.
108. Agreement with Bespoke Partners, LLC pertaining to employee recruitment services.
109. Agreement with HireRight, LLC pertaining to employee background verification services.
110. Agreement with Homewood Health Inc. pertaining to employee assistance program services.
111. Agreement with HRDownloads Inc. pertaining to employee compliance training services.
112. Agreement with Indeed Canada Corp pertaining to employee recruitment services.
113. Agreement with Insperity pertaining to OPRT license.

114. Agreement with Lighthouse Services, LLC pertaining to compliance hotline services.
115. Agreement with LinkedIn Ireland Limited pertaining to employee recruitment services.
116. Agreement with Manulife Financial pertaining to employee benefits.
117. Agreement with WEX Health pertaining to employee benefits.
118. Agreement with KISHIN VASANDANI DOC CLEARING SERV pertaining to UAE employee services.
119. Agreement with Makeen Recruitment pertaining to employee payroll services.
120. Agreement with Orient pertaining to UAE employee benefits.
121. Administrative Services Contract (Level Funding) between Procera Networks, Inc. and Cigna Health and Life Insurance Company dated January 1, 2025.
122. Administrative Services Contract between Procera Networks, Inc. and Cigna Health and Life Insurance Company dated January 1, 2025.
123. DPPO Choice Plan between Procera Networks, Inc. and Cigna Health and Life Insurance Company pertaining to dental benefits.
124. Open Access Plus Buy-Up Plan between Procera Networks, Inc. and Cigna Health and Life Insurance Company dated January 1, 2025.
125. Open Access Plus HAS Base Plan between Procera Networks, Inc. and Cigna Health and Life Insurance Company dated January 1, 2025.
126. Rate Confirmation between Procera Networks, Inc. and Cigna Health and Life Insurance Company dated January 1, 2025.
127. Stop Loss Policy between Procera Networks, Inc. and Cigna Health and Life Insurance Company dated May 1, 2020.
128. Vision Benefit Plan Information between Cigna Health and Life Insurance Company dated January 1, 2023.
129. Vision Eyemed between Procera Networks, Inc. and Cigna Health and Life Insurance Company dated January 1, 2025.
130. Amendment One to the Global Benefits Statement of Work "SOW" between Sandvine Inc. and Lockton-Dunning Series of Lockton Companies, LLC dated November 1, 2022.
131. Group Benefits Master Application between Sandvine Corporation and the Manufacturers Life Insurance Company dated June 1, 2021.
132. Insurance Policy between Procera Networks, Inc. and Hartford Life and Accident Insurance Company dated May 1, 2020.
133. Amendment to Group Policy between Procera Networks, Inc. and Hartford Life and Accident Insurance Company dated July 12, 2024.
134. Invoice from Carta, Inc. to Sandvine LP dated July 30, 2024.
135. Invoice from Awardco, Inc. to Procera Networks, Inc. dated October 28, 2024.
136. Invoice from Awardco, Inc. to Procera Networks, Inc. dated April 17, 2023.
137. Master Agreement between Procera Networks Inc. and Globalization Partners LLC dated January 19, 2024.

138. Master Services Agreement between Sandvine Incorporated ULC and SafeGuard World International LLC dated January 29, 2016.
139. Renewal Notice between Sandvine Corporation and Certinia Canada Inc. (formerly FinancialForce) dated June 20, 2024.
140. SaaS Agreement between Procera Networks, Inc. and The Ultimate Software Group Inc. dated as of February 17, 2020.
141. Tax Invoice # UWP906-2401699 between Procera Networks Inc and Emirates Insurance Company (PSC) dated August 23, 2024.
142. Tax Invoice #UWP906-2401697 between Procera Networks Inc and Emirates Insurance Company (PSC) dated August 23, 2024.

### **Legal**

143. Agreement with Amarok IP Inc. pertaining to legal service work for IP matters.
144. Agreement with Amarok IP LLP pertaining to legal service work for IP matters.
145. Agreement with Antony Miller pertaining to legal service work.
146. Agreement with Berliner, Corcoran & Rowe, LLP pertaining to legal service work.
147. Agreement with Bird & Bird pertaining to legal service work.
148. Agreement with Bird & Bird Szepietowski pertaining to legal service work.
149. Agreement with COLLIERS INTERNATIONAL NORTH pertaining to legal service work.
150. Agreement with Erise IP, P.A. pertaining to legal service work for IP matters.
151. Agreement with Kutak Rock LLP pertaining to legal service work.
152. Agreement with McCarthy Tetrault LLP pertaining to legal service work for export control matters.
153. Agreement with McCarthy Tetrault LLP, In Trust pertaining to legal service work for export control matters.
154. Agreement with Norton Rose Fulbright Canada LLP pertaining to legal service work.
155. Agency Agreement (Acknowledgment of Privilege) between Sandvine Corporation, Osler, Hoskin & Harcourt LLP and Ernst & Young LLP dated October 24, 2024.
156. Engagement Letter between Sandvine Corporation and Covington & Burling LLP dated June 27, 2024.
157. Invoice from NCC Group Software Resilience (NA) LLC to Sandvine Corporation dated March 5, 2024.

### **Manufacturing**

158. Arrow Intelligent Solutions ISV Partner Agreement between Procera Networks, Inc. and Arrow Electronics, Inc. dated September 2, 2024.
159. Statement of Work No. 1 between Procera Networks, Inc. and Arrow Electronics, Inc. dated September 2, 2024.

160. OEM Partner Agreement between Procera Networks, Inc. and Silicom Ltd. dated July 6, 2009.

### **Marketing**

161. Invoice from HubSpot Inc. to Sandvine dated May 18, 2024.
162. Order Form between Sandvine Corporation and Cvent Canada, Inc. dated December 5, 2024.
163. Invoice from Cvent Canada, Inc. to Sandvine dated March 7, 2024.
164. Order Form between Sandvine Corporation and 6Sense Insights, Inc. dated October 28, 2022.
165. Service Order between Sandvine, Inc and Shufflrr, LLC dated January, 2025.
166. TrustArc Privacy Solutions Order between Sandvine Corporation and TrustArc Inc. dated February 27, 2024.

### **PLM**

167. Strategic Partnership and Referral Agreement between Procera Networks Inc. and ALPS System Integration Co., Ltd. dated April 2017.
168. Amendment between Sandvine Corporation and Digital Envoy, Inc. dated February 23, 2022.
169. Software OEM Agreement between Procera Networks, Inc. Hewlett-Packard Company dated July 29, 2014
170. Amendment No. Two to Software OEM Agreement between Sandvine Corporation and Micro Focus Software Solutions Canada Co. f/k/a Entco Software Canada Co. dated as of July 29, 2021.
171. Amendment No. Three to Software OEM Agreement between Sandvine Corporation and Micro Focus Software Solutions Canada Co. f/k/a Entco Software Canada Co. dated as of September 27, 2024.
172. Invoice between Sandvine Corporation and Micro Focus Software Solutions Canada Co. dated October 22, 2024.
173. Amendment 1 to Internet Watch Foundation Notice between Procera Networks Inc. and Internet Watch Foundation dated January 31, 2019.
174. Internet Watch Foundation Licence between Procera Networks Inc. and Internet Watch Foundation dated August 1, 2013.
175. Invoice from Internet Watch Foundation to Sandvine Corporation dated August 29, 2024.
176. Membership Agreement between Procera Networks Inc. and Internet Watch Foundation dated September 1, 2013.
177. OEM License Agreement between Procera Networks, Inc. and Alps System Integration Co., Ltd. dated June 15, 2015.
178. This Product – Electronic Database and License Agreement between Sandvine Incorporated ULC and Digital Envoy, Inc. dated December 15, 2017.

## **R&D**

179. AWS Enterprise Agreement between Sandvine Corporation, Amazon Web Services, Inc. and Amazon Web Services EMEA SARL dated as of August 11, 2020.
180. Strategic Collaboration Agreement between Sandvine Corporation, Amazon Web Services, Inc. and Amazon Web Services EMEA SARL dated November 4, 2020.
181. Ubuntu Pro Order Form between Sandvine and Canonical Group Limited dated January 30, 2024.
182. Customer Invoice between Sandvine Corporation and Canonical Group Limited dated November 20, 2024.
183. Down Payment Invoice / Proforma Invoice between Sandvine Corporation and X-Formation Sp. z o. o. dated September 5, 2024.
184. Initiative Addendum No. 1 between Sandvine Corporation, Amazon Web Services, Inc. and Amazon Web Services EMEA SARL dated November 4, 2020.
185. Invoice from McObject to Sandvine Inc. dated November 11, 2024.
186. Master Services Agreement between Sandvine Corporation and Coalfire Systems, Inc. dated as of January 7, 2021.
187. QT Frame Agreement between Sandvine Corporation and The QT Company Oy. dated as of November 9, 2024.
188. Software License Agreement between Sandvine Corporation and Metaswitch Networks Limited dated November 29, 2019.

and in each case including all amendments, restatements, addendums, modifications, work orders, revisions, statements of work and other documentation, agreements or supplements issued thereunder.

**SCHEDULE "D"**  
**PERMITS AND LICENCES**

None.

**SCHEDULE "E"**  
**PERMITTED ENCUMBRANCES**

- a) Encumbrances permitted in writing by the Purchasers.
- b) The terms and conditions of any of the Assigned Contracts and the Personal Property Leases, including any purchase options, rights of first refusal, rights of first offer or any other pre-emptive contractual rights applicable to any such Seller's interest in and to any of the Assigned Contracts or the Personal Property Leases.
- c) Any liens for Taxes that arise after the Closing Date, not yet due or delinquent or, if delinquent, that are being contested in good faith in the ordinary course of business.
- d) Any right reserved to or vested in any Governmental Entity by the terms of any of the Permits and Licenses, including any requirement to terminate, to require annual or other periodic payments or any action, omission or other compliance obligation or requirement as a condition to the continuance, status or effectiveness thereof.



**SCHEDULE "F"**  
**PRE-FILING TRADE AMOUNTS**

None.

**SCHEDULE "G"**  
**FORM OF TRANSITION SERVICES AGREEMENT**

(See attached)

**TRANSITION SERVICES AGREEMENT**

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

**BETWEEN:**

[●], a corporation governed by the laws of [●] (the “**CA NewCo**”)

**AND:**

[●], a limited liability company governed by the laws of [●] (the “**New OpCo I**”)

**AND:**

[●], a limited liability company governed by the laws of [●] (the “**New OpCo II**”)

**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) (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 order (as may be amended and restated from time to time, the “**Initial Order**”);

- D. Pursuant to the Initial Order, KSV Restructuring Inc., a licensed insolvency trustee, was appointed as 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 “**Chapter 15 Proceedings**”);
- F. on December 4, 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 which, among other things, (i) approved the SISF; (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 SISF 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**”);
- H. in connection with the CCAA Proceedings and the Chapter 15 Proceedings, the Sandvine Entities pursued the SISF with a view to implementing a transaction that would allow the continuation of the Business as a going concern;
- I. in accordance with the SISF, the Stalking Horse 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
- K. in order to support Transition Customers (as defined below) with discontinuing use of solutions currently provided under the Transition Contracts in an orderly manner, the Parties have agreed that 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 in accordance with the terms and conditions herein.

**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 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);

“**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]%, provided that the OldCos Revenue Share cannot exceed the Transition Customer Revenue for a Transition Period;

“**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, 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 “B”

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.

## 1.2 Other Definitions

<b>Term</b>	<b>Defined in Section</b>
<b>"Agreement"</b>	Preamble herein
<b>"Additional Amount"</b>	Section 3.6 herein
<b>"Applicants"</b>	Recitals herein
<b>"Books and Records"</b>	Section 3.2 herein
<b>"Business"</b>	Recitals herein
<b>"CA NewCo"</b>	Preamble herein
<b>"CA OldCo"</b>	Preamble herein
<b>"CCAA"</b>	Recitals herein
<b>"CCAA Court"</b>	Recitals herein
<b>"CCAA Proceedings"</b>	Recitals herein
<b>"Company Parties" or "Company Party"</b>	Recitals herein
<b>"Effective Date"</b>	Preamble herein
<b>"Initial Order"</b>	Recitals herein
<b>"Licensed Name"</b>	Section 2.3 herein
<b>"Losses"</b>	Section 2.10 herein
<b>"Monitor"</b>	Recitals herein
<b>"NewCos"</b>	Preamble herein
<b>"OldCos"</b>	Preamble herein
<b>"Party or Parties"</b>	Preamble herein
<b>"Representatives"</b>	Section 2.10 herein
<b>"Sales Taxes"</b>	Section 3.6 herein
<b>"Sandvine Entities"</b>	Recitals herein
<b>"Service Coordinators"</b>	Section 2.13 herein
<b>"SISP"</b>	Recitals herein
<b>"Stalking Horse Transaction Agreement"</b>	Recitals herein
<b>"Stalking Horse Transaction Documents"</b>	Section 2.13 herein
<b>"Transition Service Fees"</b>	Section 3.1 herein
<b>"New OpCo I"</b>	Preamble herein
<b>"New OpCo II"</b>	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 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

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

<u>Schedule</u>	<u>Description</u>
“A”	Transition Customers
“B”	Transition Services

## ARTICLE 2 SERVICES TO BE PROVIDED

### 2.1 Transition Services

The NewCos shall provide, or cause to be provided, the Transition Services to the OldCos 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 request reasonable changes and/or modifications to the manner in which the Transitions Services are performed by the NewCos to the OldCos (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).

### 2.3 Intellectual Property; Licenses

- (a) The NewCos hereby grant to the OldCos a limited, non-exclusive, royalty-free license to use the name “Sandvine” (the “**Licensed Name**”), 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). Any use of the Licensed Name 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 Name, nor shall any of the OldCos use or register the Licensed Name or any name or mark containing such Licensed Name, 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 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 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 performance under the Transition Contracts; and provided, further, that all Intellectual Property invented, created, developed or reduced to practice by the OldCos in connection with such receipt of the Transition Services 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 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 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 Business or the Transition Services, is and shall remain the exclusive property of the NewCos.

## **2.5 Cooperation and Oversight**

The OldCos shall cooperate fully and provide such assistance as is reasonably necessary for the NewCos to provide the Transition Services 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. NewCos and the OldCos acknowledge that the Monitor will continue to act as monitor of OldCos in the CCAA Proceedings during the 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 or otherwise, and any expanded powers of the Monitor by CCAA Court 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 OldCos during the Transition Period or otherwise or have any independent decision-making authority with respect to the OldCos during the 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 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. Government in connection with, related to, or as a result of, the removal of the OldCos from the U.S. Department of Commerce'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; and
- (b) the aggregate liability of the NewCos, in respect of the Transition Services, shall not exceed the aggregate compensation payable to them for such Transition Services under this Agreement.

## **2.10 Indemnification by OldCos**

Each OldCo will, at its sole cost and expense, defend, indemnify, and hold harmless each NewCo, each of its Affiliates, and each of their respective directors, officers, members, managers, partners, employees, advisors, agents, and other representatives (collectively, "**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 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 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 (i) a breach of any

provision of this Agreement by any NewCo or (ii) any gross negligence or willful misconduct of any NewCo or its Affiliate in the performance of any such Transition Service.

### **2.11 Warranty Disclaimer**

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.

### **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 primary contact person for the OldCos (email: [●] and telephone: [●]) and [●] to act as the 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: [●]) (the “**Service Coordinators**”). Unless otherwise agreed upon by the Parties, all communications relating to the Transition Services provided hereunder shall be directed to and through the Service Coordinators.

### **2.14 Force Majeure**

If the NewCos are rendered unable, wholly or in part, by force majeure to carry out their obligations to provide Transition Services under this Agreement, the NewCos shall give the OldCos prompt written notice of the force majeure with reasonably detailed particulars. Following the delivery of such notice, the obligation of the NewCos to provide the Transition Services, 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 will use commercially reasonable efforts to remove the force majeure situation; *provided, however*, that the NewCos 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

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 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 and its Affiliates' personnel utilize such access: (a) in good faith and in compliance with all applicable laws; and (b) consistent with 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.

## ARTICLE 3 COMPENSATION AND PAYMENT TERMS

### 3.1 Compensation

The NewCos will provide the Transition Services to the OldCos in exchange for an amount equal to (a) the Transition Customer Revenues minus (b) the OldCos Revenue Share (the "**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 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 Transition Contracts, and the Transition Customer Revenue received (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

- (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 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 [●]% 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 provided hereunder, accompanied by reasonably detailed supporting documentation.

### **3.4 Payment Disputes**

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.

### **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.

### **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 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) 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)), 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 [●]% 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, 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.

#### **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 in accordance with Section 4.2, Section 2.1 of this Agreement

shall be in effect with respect to each Transition Service until (and shall terminate with respect thereto upon) the end of the Transition Period for each Transition Contract.

#### **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) upon 30 days' written notice of the applicable NewCo to the applicable OldCos; or
- (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 such Transition Customer's Exit Date, unless the provision of the Transition Service is extended in writing beyond the Exit Date.

#### **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 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, 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 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, 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, (ii) the OldCos' business, operations, assets, property and affairs related to the 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.

## **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.

**CA 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**

(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 “H”  
ASSUMED INTERCOMPANY DEBTS**

<b>Debtor</b>	<b>Creditor</b>	<b>Assumed Amount</b>
Sandvine	Sandvine Singapore Pte. Ltd.	Balance as of the Closing Date
Sandvine	Sandvine Technologies (India) Private Limited	Balance as of the Closing Date
Sandvine	Sandvine OP (UK) Ltd.	Balance as of the Closing Date
Sandvine	Sandvine Sweden AB	Balance as of the Closing Date
Sandvine	Sandvine Australia Pty Ltd.	Balance as of the Closing Date
Sandvine	Sandvine Technologies Malaysia Sdn. Bhd.	Balance as of the Closing Date
Procera	Sandvine Japan K.K.	Balance as of the Closing Date
Procera	Sandvine Technologies (India) Private Limited	Balance as of the Closing Date

**PURCHASED INTERCOMPANY RECEIVABLES**

<b>Debtor</b>	<b>Creditor</b>	<b>Receivable Amount</b>
Sandvine Japan K.K.	Sandvine	Balance as of the Closing Date
Sandvine Singapore Pte. Ltd.	Procera	Balance as of the Closing Date
Sandvine OP (UK) Ltd.	Procera	Balance as of the Closing Date
Sandvine Technologies Malaysia Sdn. Bhd.	Procera	Balance as of the Closing Date
Sandvine Australia Pty Ltd.	Procera	Balance as of the Closing Date
Sandvine Sweden AB	Procera	Balance as of the Closing Date
Sandvine Sweden AB	Procera (UAE branch)	Balance as of the Closing Date

**SCHEDULE "F"**  
**EXCLUDED DEBTS**

None.

**SCHEDULE “J”  
INTENDED U.S. TAX TREATMENT**

**“Intended U.S. Tax Treatment”** means (i) the qualification of the sale by Procera of the Purchased Assets held by Procera to New OpCo I (and the assumption of Assumed Liabilities by New OpCo I) in exchange for New Parent Equity and Exit Term Loans, the receipt of the New Parent Equity and Exit Term Loans by the Existing Loan Claimholders and the DDTL/DIP Claimholders and the Procera Liquidation as a “reorganization” pursuant to Section 368(a)(1)(G) of the Code, (ii) the qualification and adoption of this Agreement as a “plan of reorganization” within the meaning of U.S. Treasury Regulation Section 1.368-2(g), and (iii) the qualification of the sale by Sandvine of the Purchased Assets held by Sandvine to New OpCo II, UK NewCo, and Canadian NewCo (as the case may be), and the assumption of Assumed Liabilities of Sandvine by such entities, in each case, in exchange for Exit Term Loans (and Excess Value Debt, if applicable) as a transaction to which Section 1001 of the Code applies with respect to which gain or loss will be recognized, in each case of clauses (i)-(iii), for U.S. federal (and applicable state and local) income tax purposes,

**Exhibit B**

**Sale Approval Hearing Notice**



**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

In re:	)	
	)	Chapter 15
SANDVINE CORPORATION, <i>et al.</i> , <sup>4</sup>	)	Case No. 24-33617 (SGJ)
	)	
Debtors in a Foreign Proceeding.	)	Jointly Administered
	)	Re: Docket No. [●]

**NOTICE OF SALE APPROVAL HEARING**

**PLEASE TAKE NOTICE THAT** on November 15, 2024, the Ontario Superior Court of Justice (Commercial List) (the “Canadian Court,” and the proceedings before the Canadian Court, the “CCAA Proceedings”) entered the SISP Approval Order (the “SISP Order”), which order (i) approved, among other things, a sale and investment solicitation process (the “SISP”) for the sale of all or substantially all of the assets of the above-captioned debtors (collectively, the “Debtors”) and their subsidiaries and affiliates (collectively, with the Debtors, the “Company”), and (ii) authorized the Debtors’ entry into a stalking horse transaction agreement (the “Stalking Horse Transaction Agreement”) with certain of the Debtors’ secured lenders to serve as a “stalking horse bid” (the “Stalking Horse Transaction”) in the SISP.

**PLEASE TAKE FURTHER NOTICE THAT** consistent with the procedures approved in the SISP Order, the Company launched the SISP on November 18, 2024. Accordingly, on December 18, 2024, the Stalking Horse Transaction Agreement was executed. Also on December 18, 2024, having received no bids other than the Stalking Horse Transaction by the applicable

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<sup>4</sup> The Debtors in these chapter 15 cases, along with the Debtors’ unique identifiers, are: Sandvine Corporation (Business No.: 885025916), New Procera GP Company (Company Registration No.: WC-7044), Sandvine Holdings UK Limited (Company No.: 10533653), Sandvine OP (UK) Ltd. (Company No.: 10791762), Procera Networks, Inc. (EIN: 33-0974674), and Procera Holding, Inc. (EIN: 47-4070338). The location of the Debtors’ service address for purposes of these chapter 15 cases is: 410 Albert St Suite 201, Waterloo, ON N2L 3V3, Canada. Copies of materials filed with the applicable court in the CCAA Proceedings and these chapter 15 cases are available on the website of the CCAA monitor: <https://www.ksvadvisory.com/experience/case/sandvine>.

deadline, the Company terminated the SISP and selected the Stalking Horse Transaction as the successful bid.

**PLEASE TAKE FURTHER NOTICE THAT** on January 16, 2025, the Debtors served, in the CCAA Proceedings, a notice of motion (the “CCAA Sale Motion”) seeking the Canadian Court’s approval of the *Assignment, Approval and Vesting Order* (the “CCAA Approval and Vesting Order”) attached thereto, which order would approve the sale of substantially all of the Debtors’ assets as a going concern (the “Sale”) in accordance with the terms of the Stalking Horse Transaction Agreement.

**PLEASE TAKE FURTHER NOTICE** that the Canadian Court scheduled a hearing on **Thursday, January 30, 2025, at 9:00 a.m. (prevailing Central Time)** (the “CCAA Sale Hearing”) at which it will consider approving the CCAA Sale Motion and issuing the CCAA Approval and Vesting Order. The CCAA Sale Hearing will be in-person before the Canadian Court or by videoconference or such other form of remote communication established by the Canadian Court.

**PLEASE TAKE FURTHER NOTICE** that on January 16, 2025, Sandvine Corporation, in its capacity as the authorized foreign representative (the “Foreign Representative”) for the Debtors, filed the Foreign Representative’s *Motion for Entry of an Order (I) Recognizing and Enforcing the CCAA Approval and Vesting Order, (II) Approving the Sale of Substantially all of the Debtors’ Assets Free and Clear of Liens, Claims, and Encumbrances, and (III) Granting Related Relief* [Docket No. [●]] (the “Motion”) in the United States Bankruptcy Court for the Northern District of Texas (the “Bankruptcy Court”).

**PLEASE TAKE FURTHER NOTICE** that the Foreign Representative will seek recognition and enforcement of the CCAA Approval and Vesting Order in the United States, and

authorization for the Debtors to enter into the Stalking Horse Transaction, at a hearing (the “Sale Approval Hearing”) before the Bankruptcy Court scheduled for **Monday, February 24, 2025, at 9:30 a.m. (prevailing Central Time)**. The Sale Approval Hearing will be in-person before the Bankruptcy Court and by videoconference. Accordingly, any parties who wish to participate in the Sale Approval Hearing may do so in person or virtually.

**PLEASE TAKE FURTHER NOTICE** that hearings in this matter, including the Sale Approval Hearing, shall be held before the Honorable Stacey G.C. Jernigan of the United States Bankruptcy Court for the Northern District of Texas and will be conducted at the Earle Cabell Federal Building, 1100 Commerce Street, 14th Floor, Courtroom 1, Dallas, Texas 75242-1496.

**PLEASE TAKE FURTHER NOTICE** that video communication will be via WebEx. Parties may connect via WebEx by visiting the WebEx hearing link on the Bankruptcy Court’s “Hearing Dates and Calendar” webpage or by using the following link: <https://us-courts.webex.com/meet/jerniga>. Audio communication will be by use of the Bankruptcy Court’s dial-in facility. Parties may access the facility at 1- 650-479-3207, using 2304 154 2638 as the access code.

**PLEASE TAKE FURTHER NOTICE** that any party that objects to the relief requested in the Motion, including to the proposed assumption and assignment, of any contract that will be assigned to the purchasers pursuant to the Stalking Horse Transaction Agreement and the CCAA Approval and Vesting Order, and/or the proposed cure costs (if any) or the proposed adequate assurance of future performance related thereto, must file a written objection (each, an “Objection”) so that such Objection is filed with the Court so as to be actually received by no later than **Monday, February 10, 2025, at 4:00 p.m. (prevailing Central Time)** (the “Objection Deadline”) and such Objection must (a) be in writing, (b) state the name and address of the

objecting party and the nature of the claim or interest of such party, (c) set forth in detail the factual and legal bases for the Objection, (d) conform with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and the Local Bankruptcy Rules of the United States Bankruptcy Court for the Northern District of Texas, and (e) be served on the Foreign Representative's counsel Paul, Weiss, Rifkind, Wharton & Garrison LLP, Attn: Robert A. Britton, Claudia R. Tobler, and Xu Pang, 1285 Avenue of the Americas, New York, NY 10019; and Gray Reed, Attn: Jason S. Brookner, Lydia R. Webb, and Sean R. Burns, 1601 Elm Street, Suite 4600, Dallas, TX 7520 so as to be actually received by **Monday, February 10, 2025, at 4:00 p.m. (prevailing Central Time)**.

**PLEASE TAKE FURTHER NOTICE** that all parties in interest opposed to the relief sought in the Motion or any other relief requested by the Foreign Representative or who wish to have the Court consider their views on any matter requested at the Sale Approval Hearing, must appear at the Sale Approval Hearing.

**CONSEQUENCES OF FAILING TO TIMELY MAKE AN OBJECTION**

**ANY PARTY OR ENTITY WHO FAILS TO TIMELY FILE AN OBJECTION ON OR BEFORE THE OBJECTION DEADLINE, IN ACCORDANCE WITH THIS NOTICE, SHALL BE FOREVER BARRED FROM ASSERTING ANY OBJECTION TO THE SALE, AS APPLICABLE, INCLUDING WITH RESPECT TO THE DISPOSITION OF THE DEBTORS' ASSETS FREE AND CLEAR OF ALL LIENS, CLAIMS, ENCUMBRANCES, AND OTHER INTERESTS, EXCEPT AS SET FORTH IN THE TRANSACTION AGREEMENT WITH THE SUCCESSFUL BIDDER.**

**PLEASE TAKE FURTHER NOTICE** that the Sale Approval Hearing may be adjourned from time to time without further notice except for an in-court announcement at the Sale Approval Hearing or a filing on the docket of this case of the date and time to which the Sale Approval Hearing has been adjourned.

**PLEASE TAKE FURTHER NOTICE** that if no response is timely filed and served as provided above, the Bankruptcy Court may approve the Sale, recognize and enforce the CCAA

Approval and Vesting Order, and/or grant the related relief requested in the Motion without further notice or hearing.

**PLEASE TAKE FURTHER NOTICE** that copies of the Motion, the CCAA Approval and Vesting Order, and all other documents filed in the Court are available (a) for a fee on the Bankruptcy Court's electronic case filing system, which can be accessed from the Bankruptcy Court's website at <http://www.txnb.uscourts.gov/> (a PACER login and password are required to retrieve the documents), (b) free of charge at the website of the monitor appointed in the Debtors' CCAA Proceedings at: <https://www.ksvadvisory.com/experience/case/sandvine>, or (c) upon written request to the Foreign Representative's counsel addressed to (i) Paul, Weiss, Rifkind, Wharton & Garrison LLP, Attn: Robert A. Britton, Claudia R. Tobler, and Xu Pang, 1285 Avenue of the Americas, New York, NY 10019; and (ii) Gray Reed, Attn: Jason S. Brookner, Lydia R. Webb, and Sean R. Burns, 1601 Elm Street, Suite 4600, Dallas, TX 75201.

*[Reminder of page intentionally left blank]*

Respectfully submitted this        day of January 2025

**GRAY REED**

By: /s/ Jason S. Brookner

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