

Jason S. Brookner (TX Bar No. 24033684)  
Lydia R. Webb (TX Bar No. 24083758)  
Sean R. Burns (TX Bar No. 24139177)  
**GRAY REED**  
1601 Elm Street, Suite 4600  
Dallas, Texas 75201  
Telephone: (214) 954-4135  
Facsimile: (469) 953-1332  
Email: jbrookner@grayreed.com  
lwebb@grayreed.com  
sburns@grayreed.com

Robert A. Britton (*pro hac vice* pending)  
Claudia R. Tobler (*pro hac vice* pending)  
Xu Pang (*pro hac vice* pending)  
**PAUL, WEISS, RIFKIND, WHARTON &  
GARRISON LLP**  
1285 Avenue of the Americas  
New York, New York 10019  
Telephone: (212) 373-3000  
Facsimile: (212) 757-3990  
Email: rbritton@paulweiss.com  
ctobler@paulweiss.com  
xpang@paulweiss.com

*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, <i>et al.</i> , <sup>1</sup>	)	
	)	Case No. 24-33617 (SGJ)
	)	
Debtors in a Foreign Proceeding.	)	(Joint Administration Requested)
	)	

---

**NOTICE OF FILING OF (I) INITIAL ORDER  
AND (II) ENDORSEMENT IN THE CCAA PROCEEDINGS**

**PLEASE TAKE NOTICE** that, on November 7, 2024, Sandvine Corporation, as the duly authorized foreign representative (the “Foreign Representative”) of the above-captioned debtors (collectively, the “Debtors”), subject to proceedings (the “CCAA Proceedings”) commenced under the Companies’ Creditors Arrangement Act, R.S.C. 1985, c. C-36 in the Ontario Superior Court of Justice (Commercial List) (the “Canadian Court”) filed the *Verified Petition for Entry of an Order (I) Recognizing Foreign Main Proceedings, or in the Alternative, Foreign Nonmain*

---

<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>.

*Proceedings, (II) Recognizing the Foreign Representative, and (III) Granting Related Relief* pursuant to 11 U.S.C. §§ 1504, 1515, and 1517, with the United States Bankruptcy Court for the Northern District of Texas (Dallas Division) (the “Court”), commencing cases under chapter 15 of title 11 of the United States Code.

**PLEASE TAKE FURTHER NOTICE** that, on November 7, 2024, the Canadian Court entered the *Initial Order* (the “Initial Order”) in the CCAA Proceedings providing certain relief, including, *inter alia*, a stay of proceedings against the Debtors until and including November 17, 2024. A certified copy of the Initial Order is attached hereto as **Exhibit A**.

**PLEASE TAKE FURTHER NOTICE** that, the Canadian Court entered an endorsement (the “Endorsement”) of the Initial Order in the CCAA Proceedings. A copy of the Endorsement is attached hereto as **Exhibit B**.

**PLEASE TAKE FURTHER NOTICE** that copies of all documents filed in the Court are available (a) for a fee on the Court’s electronic case filing system, which can be accessed from the 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.

Respectfully submitted this 7th day of November, 2024.

**GRAY REED**

By: /s/ Jason S. Brookner

Jason S. Brookner (TX Bar No. 24033684)

Lydia R. Webb (TX Bar No. 24083758)

Sean R. Burns (TX Bar No. 24139177)

1601 Elm Street, Suite 4600

Dallas, Texas 75201

Telephone: (214) 954-4135

Facsimile: (214) 953-1332

Email: jbrookner@grayreed.com

lwebb@grayreed.com

sburns@grayreed.com

-and-

**PAUL, WEISS, RIFKIND, WHARTON &  
GARRISON LLP**

Robert A. Britton (*pro hac vice* pending)

Claudia R. Tobler (*pro hac vice* pending)

Xu Pang (*pro hac vice* pending)

1285 Avenue of the Americas

New York, New York 10019

Telephone: (212) 373-3000

Facsimile: (212) 757-3990

Email: rbritton@paulweiss.com

ctobler@paulweiss.com

xpang@paulweiss.com

*Counsel to the Foreign Representative*

**Certificate of Service**

I certify that on November 7, 2024, 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.

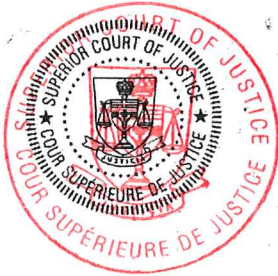
/s/ Jason S. Brookner

Jason S. Brookner

**Exhibit A**

**Initial Order**





Click or tap here to enter text.

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

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

THE HONOURABLE

JUSTICE OSBORNE

)  
)  
)

THURSDAY, THE 7TH

DAY OF NOVEMBER 2024

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**")

**INITIAL ORDER**

**THIS APPLICATION**, made by the Applicants for an initial order (this "**Order**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), was heard this day by videoconference at 330 University Avenue, Toronto, Ontario.

**ON READING** the affidavit of Jeffrey A. Kupp sworn November 6, 2024 and the Exhibits thereto (the "**Kupp Affidavit**"), the pre-filing report of the proposed monitor, KSV Restructuring Inc. ("**KSV**"), dated November 6, 2024, and on hearing the submissions of counsel for the Applicants and Procera II LP (collectively, the "**Sandvine Entities**"), counsel for KSV as proposed monitor and such other counsel that were present, and on reading the consent of KSV to act as the monitor (in such capacity, the "**Monitor**"),

THIS IS TO CERTIFY THAT THIS  
DOCUMENT, EACH PAGE OF  
WHICH IS STAMPED WITH THE  
SEAL OF THE SUPERIOR COURT  
OF JUSTICE AT TORONTO, IS A  
TRUE COPY OF THE DOCUMENT  
ON FILE IN THIS OFFICE

LA PRÉSENT ATTESTE QUE CE  
DOCUMENT, DONT CHACUNE  
DES PAGES EST REVÊTUE DU  
SCEAU DE LA COUR SUPÉRIEURE  
DE JUSTICE À TORONTO, EST UNE  
COPIE CONFORME DU DOCUMENT  
CONSERVÉ DANS CE BUREAU

DATED AT TORONTO THIS  
FAIT À TORONTO LE

7

DAY OF  
JOURNÉE

November 20 24

REGISTRAR

GREFFIER

## SERVICE

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

## DEFINED TERMS

2. **THIS COURT ORDERS** that unless otherwise defined herein, capitalized terms that are used in this Order shall have the meaning given to them in the Kupp Affidavit.

## APPLICATION

3. **THIS COURT ORDERS AND DECLARES** that the Applicants are companies to which the CCAA applies. Although not an Applicant, Procera II LP shall enjoy the benefits of the protections and authorizations provided by this Order.

## POSSESSION OF PROPERTY AND OPERATIONS

4. **THIS COURT ORDERS** that the Sandvine Entities shall remain in possession and control of their respective current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”). Subject to further Order of this Court, the Sandvine Entities shall continue to carry on business in a manner consistent with the preservation of their business (the “**Business**”) and the Property. The Sandvine Entities are each authorized and empowered to continue to retain and employ the employees, contractors, consultants, agents, experts, accountants, advisors, counsel and such other persons (collectively “**Assistants**”) currently retained or employed by them, with liberty to retain such

THIS IS TO CERTIFY THAT THIS  
DOCUMENT, EACH PAGE OF  
WHICH IS STAMPED WITH THE  
SEAL OF THE SUPERIOR COURT  
OF JUSTICE AT TORONTO, IS A  
TRUE COPY OF THE DOCUMENT  
ON FILE IN THIS OFFICE

LA PRÉSENT ATTESTE QUE CE  
DOCUMENT, DON'T CHACUNE  
DES PAGES EST REVÊTUE DU  
SCEAU DE LA COUR SUPÉRIEURE  
DE JUSTICE À TORONTO, EST UNE  
COPIE CONFORME DU DOCUMENT  
CONSERVÉ DANS CE BUREAU

DATED AT TORONTO THIS 7 DAY OF November 20 24  
FAIT À TORONTO LE

7 DAY OF November 20 24  
JOUR DE

REGISTRAR

GREFFIER

further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. **THIS COURT ORDERS** that the Sandvine Entities shall be entitled to continue to utilize the central cash management system currently in place as described in the Kupp Affidavit or replace it with another substantially similar central cash management system with the consent of the Monitor (the “**Cash Management System**”) and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Sandvine Entities of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Sandvine Entities, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under any plan of compromise or arrangement (a “**Plan**”) with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

6. **THIS COURT ORDERS** that the Sandvine Entities shall be entitled but not required to pay the following amounts whether incurred prior to, on, or after the date of this Order:

- (a) all outstanding and future wages, salaries, commissions, retention payments, employee benefits (including, without limitation, employee medical, dental and similar benefit plans or arrangements), amounts owing under corporate credit cards issued to management and employees of the Sandvine Entities, any director fees

THIS IS TO CERTIFY THAT THIS DOCUMENT, WHICH IS STAMPED WITH THE SEAL OF THE SUPERIOR COURT OF JUSTICE AT TORONTO, IS A TRUE COPY OF THE DOCUMENT ON FILE IN THIS OFFICE.

LA PRÉSENT ATTESTE QUE CE DOCUMENT, QUI CHACUNE DES PAGES EST REVÊTUE DU SCAU DE LA COUR SUPÉRIEURE DE JUSTICE À TORONTO, EST UNE COPIE CONFORME DU DOCUMENT CONSERVÉ DANS CE BUREAU.

DATED AT TORONTO THIS 7 DAY OF November 20 24  
FAIT À TORONTO LE 7 JOUR DE NOVEMBRE 20 24

REGISTRAR *[Signature]* GREFFIER



and expenses, termination and severance pay (or other analogous amounts), vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing practices, compensation policies and arrangements, and all other payroll processing and servicing expenses;

- (b) all outstanding and future amounts owing to or in respect of other workers and independent contractors providing services in connection with the Business and payable on or after the date of this Order, incurred in the ordinary course of business and consistent with existing practices and arrangements;
- (c) the fees and disbursements of any Assistants retained or employed by the Sandvine Entities or the Agent (as hereinafter defined) in respect of these proceedings, at their standard rates and charges;
- (d) with the consent of the Monitor, amounts owing for goods or services actually provided to the Sandvine Entities prior to the date of this Order by:
  - (i) vendors providing hardware or software or similar products and services to the Sandvine Entities that are essential to the products and services sold and distributed by the Sandvine Entities to their customers;
  - (ii) distributors and resellers of the Sandvine Entities' products and services; and
  - (iii) other third parties up to a maximum amount of USD\$250,000, if, in the opinion of the Sandvine Entities, such third party is critical to the Business and ongoing operations of the Sandvine Entities;
- (e) any taxes (including, without limitation, sales, use, withholding, unemployment, and excise) not covered by paragraph 8 of this Order, and where by the nonpayment

THIS IS A TRUE COPY OF THE DOCUMENT, EACH PAGE OF WHICH IS STAMPED WITH THE SEAL OF THE SUPERIOR COURT OF JUSTICE AT TORONTO. IS A TRUE COPY OF THE DOCUMENT ON FILE IN THIS OFFICE

DOCUMENT, DONT CHACUNE DES PAGES EST REVÊTUE DU SCAU DE LA COUR SUPÉRIEURE DE JUSTICE A TORONTO, EST UNE COPIE CONFORME DU DOCUMENT CONSERVÉ DANS CE BUREAU

DATED AT TORONTO THIS 7 DAY OF November 20 24  
FAIT A TORONTO LE 7 JOUR DE NOVEMBRE 20 24

REGISTRAR *Maggie* GREFFIER

of which by any of the Sandvine Entities could result in a responsible person associated with any of the Sandvine Entities being held personally liable for such nonpayment; and

- (f) taxes related to revenue, State income or operations incurred or collected by any Sandvine Entities in the ordinary course of business.

7. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Sandvine Entities shall be entitled but not required to pay all reasonable expenses incurred by the Sandvine Entities in carrying on the Business in the ordinary course after the date of this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors' and officers' insurance and any tail insurance coverage), maintenance and security services; and
- (b) payment for goods or services actually supplied to the Sandvine Entities following the date of this Order.

8. **THIS COURT ORDERS** that the Sandvine Entities shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from the Sandvine Entities' employees' wages, including, without limitation, amounts in respect of (i) employment insurance; (ii) Canada Pension

THIS IS TO CERTIFY THAT THIS DOCUMENT, EACH PAGE OF WHICH IS A TRUE COPY OF THE DOCUMENT ON FILE IN THIS OFFICE, IS A TRUE COPY OF THE DOCUMENT ON FILE IN THIS OFFICE. LA PRÉSENT ATTESTE QUE CE DOCUMENT, DONNÉ CHACUNE DES PAGES EST REVERBÉ DU SÉAL DE LA COUR SUPÉRIEURE DE JUSTICE À TORONTO, EST UNE COPIE CONFORME DU DOCUMENT CONSERVÉ DANS CE BUREAU.

DATED AT TORONTO THIS 7 DAY OF November 2024  
FAIT À TORONTO LE 7 JOUR DE NOVEMBRE 2024

REGISTRAR *[Signature]* GREFFIER

Plan; (iii) income taxes; (iv) statutory deductions in the United States; and (v) 401(k) contributions in respect of employees domiciled in the United States;

- (b) all goods and services or other applicable sales taxes (collectively, "Sales Taxes") required to be remitted by the Sandvine Entities in connection with the sale of goods and services by the Sandvine Entities, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order; and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Sandvine Entities.

9. **THIS COURT ORDERS** that, except as specifically permitted herein, the Sandvine Entities are hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Sandvine Entities to any of their creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of the Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Sandvine Entities' Business.

THIS IS TO CERTIFY THAT THIS DOCUMENT, EACH PAGE OF WHICH IS STAMPED WITH THE SEAL OF THE SUPERIOR COURT OF JUSTICE AT TORONTO, IS A TRUE COPY OF THE DOCUMENT ON FILE IN THIS OFFICE

LA PRÉSENT ATTESTE QUE CE DOCUMENT, DONT CHACUNE DES PAGES EST REVÊTUE DU SCAU DE LA COUR SUPÉRIEURE DE JUSTICE À TORONTO, EST UNE COPIE CONFORME DU DOCUMENT CONSERVÉ DANS CE BUREAU

DATED AT TORONTO THIS 7 DAY OF November 20 24  
FAIT À TORONTO LE

DAY OF November 20 24  
JOUR DE

REGISTRAR

GREFFIER



**NO PROCEEDINGS AGAINST THE SANDVINE ENTITIES, THE NON-APPLICANT STAY PARTIES OR THE PROPERTY**

10. **THIS COURT ORDERS** that until and including November 17, 2024 or such later date as this Court may order (the “**Stay Period**”), no proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”) shall be commenced or continued against or in respect of any of the Sandvine Entities or the Monitor or their respective employees, advisors or representatives acting in such capacities, or affecting the Business or the Property, except with the prior written consent of the Sandvine Entities and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of any Sandvine Entity or their employees, advisors and representatives acting in such capacities or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

11. **THIS COURT ORDERS** that during the Stay Period, no Proceeding shall be commenced or continuing against or in respect of Sandvine Sweden AB, Sandvine Technologies Malaysia Sdn Bhd, Sandvine Australia Pty Ltd., Sandvine Singapore Pte. Ltd., Sandvine Japan K.K. and Sandvine Technologies (India) Private Limited (collectively, the “**Non-Applicant Stay Parties**”), or their respective directors, managers, officers, advisors or representatives acting in such capacities, or against or in respect of any of the Non-Applicant Stay Parties’ current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate, and including all proceeds thereof (collectively, the “**Non-Applicant Stay Parties’ Property**”) except with the written consent of the Sandvine Entities and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Non-Applicant Stay Parties or affecting the Non-Applicant Stay Parties’ Property or the Non-Applicant Stay Parties’ business

THIS IS TO CERTIFY THAT THIS DOCUMENT, EACH PAGE OF WHICH IS STAMPED WITH THE SEAL OF THE SUPERIOR COURT OF JUSTICE AT TORONTO, IS A TRUE COPY OF THE DOCUMENT ON FILE IN THIS OFFICE

LA PRÉSENT ATTESTE QUE CE DOCUMENT, DON'T CHACUNE DES PAGES EST REVÊTUE DU SCAU DE LA COUR SUPÉRIEURE DE JUSTICE À TORONTO, EST UNE COPIE CONFORME DU DOCUMENT CONSERVÉ DANS CE BUREAU

DATED AT TORONTO THIS 7 DAY OF November 20 24  
FAIT À TORONTO LE

JOUR DE

REGISTRAR

GREFFIER

are hereby stayed and suspended pending further Order of this Court or the written consent of the Sandvine Entities and the Monitor.

### NO EXERCISE OF RIGHTS OR REMEDIES

12. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental, body or agency, or any other entities (all of the foregoing, collectively being “Persons” and each being a “Person”) against or in respect of any of the Sandvine Entities or the Monitor, or their respective employees, advisors and representatives acting in such capacities, or affecting the Business (including any leasehold or equity interests) or the Property, are hereby stayed and suspended except with the prior written consent of the Sandvine Entities and the Monitor, or leave of this Court, provided that nothing in this Order shall: (i) empower any of the Sandvine Entities to carry on any business which they are not lawfully entitled to carry on; (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA; (iii) prevent the filing of any registration to preserve or perfect a security interest; or (iv) prevent the registration of a claim for lien.

13. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any Person against or in respect of the Non-Applicant Stay Parties, or their respective directors, managers, officers, employees, advisors and representatives acting in such capacities, or affecting the Non-Applicant Stay Parties’ Property and the Non-Applicant Stay Parties’ business, are hereby stayed and suspended except with the prior written consent of the Sandvine Entities and the Monitor, or leave of this Court, provided that nothing in this Order shall: (i) empower the Non-Applicant Stay Parties to carry on any business which they are not lawfully entitled to carry on; (ii) affect such investigations, actions, suits or proceedings by regulatory body are permitted by

THIS IS TO CERTIFY THAT THIS DOCUMENT, EACH PAGE OF WHICH IS STAMPED WITH THE SEAL OF THE SUPERIOR COURT OF JUSTICE AT TORONTO, IS A TRUE COPY OF THE DOCUMENT ON FILE IN THIS OFFICE

LA PRÉSENTE CERTIFICATION CONCERNE LE DOCUMENT, DON'T CHACUNE DES PAGES EST REVÊTUE DU SCAU DE LA COUR SUPÉRIEURE DE JUSTICE À TORONTO, EST UNE COPIE CONFORME DU DOCUMENT CONSERVÉ DANS CE BUREAU

DATED AT TORONTO THIS 7 DAY OF November 20 24  
FAIT À TORONTO LE 7 JOUR DE NOVEMBRE 20 24

REGISTRAR *[Signature]* GREFFIER



Section 11.1 of the CCAA; (iii) prevent the filing of any registration to preserve or perfect a security interest; or (iv) prevent the registration of a claim for lien.

#### NO INTERFERENCE WITH RIGHTS

14. **THIS COURT ORDERS** that during the Stay Period, no Person shall accelerate, suspend, discontinue, fail to honour, alter, interfere with, repudiate, rescind, terminate or cease to perform any right, renewal right, contract, agreement, lease, sublease, licence, authorization or permit in favour of or held by any of the Sandvine Entities or the Non-Applicant Stay Parties except with the written consent of the Sandvine Entities and the Monitor, or leave of this Court.

#### CONTINUATION OF SERVICES

15. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with any of the Sandvine Entities or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, hardware and support services, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to any of the Sandvine Entities or the Business, are hereby restrained until further order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by any of the Sandvine Entities, and that the Sandvine Entities shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Sandvine Entities in accordance with normal payment practices of the Sandvine Entities or such other practices as may be agreed upon by the supplier or

THIS IS TO CERTIFY THAT THIS  
DOCUMENT, EACH PAGE OF  
WHICH IS STAMPED WITH THE  
SEAL OF THE SUPERIOR COURT  
OF JUSTICE AT TORONTO, IS A  
TRUE COPY OF THE DOCUMENT  
ON FILE IN THIS OFFICE

LA PRÉSENT ATTESTE QUE CE  
DOCUMENT, DON'T CHACUNE  
DES PAGES EST REVÊTUE DU  
SCEAU DE LA COUR SUPÉRIEURE  
DE JUSTICE À TORONTO, EST UNE  
COPIE CONFORME DU DOCUMENT  
CONSERVÉ DANS CE BUREAU

DATED AT TORONTO THIS  
FAIT À TORONTO LE

7 DAY OF November 2024  
JOUR DE

REGISTRAR

GREFFIER

service provider and the applicable Sandvine Entity and the Monitor, or as may be ordered by this Court.

### NON-DEROGATION OF RIGHTS

16. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to any of the Sandvine Entities. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

### NO PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

17. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors, managers or officers of any of the Sandvine Entities with respect to any claim against the directors, managers or officers that arose before the date hereof and that relates to any obligations of any of the Sandvine Entities whereby the directors, managers or officers are alleged under any law to be liable in their capacity as directors, managers or officers for the payment or performance of such obligations.

### DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

18. **THIS COURT ORDERS** that the Sandvine Entities shall indemnify each of their respective directors, managers and officers against obligations and liabilities that they may incur as directors, managers or officers of any of the Sandvine Entities after the commencement of the within proceedings, except to the extent that, with respect to any director, manager or officer, the

THIS IS TO CERTIFY THAT THIS DOCUMENT, EACH PAGE OF WHICH IS STAMPED WITH THE SEAL OF THE COURT SUPERIEUR OF JUSTICE AT TORONTO, IS A TRUE COPY OF THE DOCUMENT ON FILE IN THIS OFFICE

LA PRESENT ATTESTE QUE CE DOCUMENT, DONT CHACUNE DES PAGES EST MUNIT DU SCEL DE LA COUR SUPERIEUR DE JUSTICE A TORONTO, EST UNE COPIE CONFORME DU DOCUMENT CONSERVE DANS CE BUREAU

DATED AT TORONTO THIS 7 DAY OF November 20 24  
FAIT A TORONTO LE 7 JOUR DE NOVEMBRE 20 24

REGISTRAR *Hayden* GREFFIER

obligation or liability was incurred as a result of the director's, manager's or officer's gross negligence or wilful misconduct.

19. **THIS COURT ORDERS** that the directors, managers and officers of the Sandvine Entities shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of USD\$4,440,000, as security for the indemnity provided in paragraph 18 of this Order. The Directors' Charge shall have the priority set out in paragraphs 36-38 herein.

20. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Sandvine Entities' directors, managers and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors', managers' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 18 of this Order.

#### **APPOINTMENT OF FINANCIAL ADVISOR**

21. **THIS COURT ORDERS** that the agreement dated as of June 29, 2024, engaging GLC Advisors & Co., LLC and GLC Securities, LLC (collectively, the "**Financial Advisor**") as independent financial advisor to the Sandvine Entities, in the form attached as Exhibit "X" to the Kupp Affidavit (the "**GLC Engagement Letter**"), and the retention of the Financial Advisor pursuant to the terms thereof, is hereby ratified and approved, *nunc pro tunc*, and the Sandvine Entities are authorized and directed to make the payments contemplated thereunder in accordance with the terms and conditions of the GLC Engagement Letter.

THIS IS TO CERTIFY THAT THIS  
DOCUMENT, EACH PAGE OF  
WHICH IS STAMPED WITH THE  
SEAL OF THE SUPERIOR COURT  
OF JUSTICE AT TORONTO, IS A  
TRUE COPY OF THE DOCUMENT  
ON FILE IN THIS OFFICE

LA PRÉSENT ATTESTE QUE CE  
DOCUMENT, DON'T CHACUNE  
DES PAGES EST REVÊTUE DU  
SCÉAU DE LA COUR SUPÉRIEURE  
DE JUSTICE À TORONTO, EST UNE  
COPIE CONFORME DU DOCUMENT  
CONSERVÉ DANS CE BUREAU

DATED AT TORONTO THIS 7 DAY OF November 20 24  
FAIT À TORONTO LE

DAY OF  
JOUR DE

REGISTRAR

GREFFIER



22. **THIS COURT ORDERS** that the Financial Advisor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of the GLC Engagement Letter, save and except for any gross negligence or wilful misconduct on its part.

#### **APPOINTMENT OF MONITOR**

23. **THIS COURT ORDERS** that KSV is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of the Sandvine Entities with the powers and obligations set out in the CCAA or set forth herein and that the Sandvine Entities and their shareholders, officers, directors, managers, and Assistants shall advise the Monitor of all material steps taken by the Sandvine Entities pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

24. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Sandvine Entities' receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist the Sandvine Entities, to the extent required by the Sandvine Entities, in their dissemination to the DIP Secured Parties (as hereinafter defined) of financial and other information in accordance with the Definitive Documents (as defined below),

THIS IS TO CERTIFY THAT THIS DOCUMENT, EACH PAGE OF WHICH IS STAMPED WITH THE SEAL OF THE SUPERIOR COURT OF JUSTICE AT TORONTO, IS A TRUE COPY OF THE DOCUMENT ON FILE IN THIS OFFICE

LA PRÉSENT ATTESTE QUE CE DOCUMENT, CHAQUE PAGES EST REVÊTUE DU Sceau de la Cour Supérieure de Justice à Toronto, est une copie conforme du document conserve dans ce bureau.

DATED AT TORONTO THIS 7 DAY OF November 20 24  
FAIT A TORONTO LE 7 JOUR DE NOVEMBRE 20 24

REGISTRAR *Maggy Ouel* GREFFIER

or as may otherwise be agreed between the Sandvine Entities and the DIP Secured Parties, which may be used in these proceedings including reporting on a basis to be agreed with the DIP Secured Parties;

- (d) advise the Sandvine Entities in their preparation of the Sandvine Entities' cash flow statements and reporting required by the DIP Secured Parties under the Definitive Documents, which information shall be reviewed with the Monitor and delivered to the DIP Secured Parties in accordance with the Definitive Documents;
- (e) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Sandvine Entities, wherever located and to the extent that is necessary to adequately assess the Sandvine Entities' business and financial affairs or to perform its duties arising under this Order;
- (f) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (g) perform such other duties as are required by this Order, such other orders of the Court, or as otherwise required by this Court from time to time.

25. **THIS COURT ORDERS** that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

THIS IS TO CERTIFY THAT THIS  
COPY IS A TRUE COPY OF  
WHICH IS STAMPED WITH THE  
SEAL OF THE SUPERIOR COURT  
OF JUSTICE AT TORONTO. IS A  
TRUE COPY OF THE DOCUMENT  
ON FILE IN THIS OFFICE

DATED AT TORONTO THIS 7 DAY OF November 20 24  
FAIT A TORONTO LE 7 JOUR DE

REGISTRAR

LA PRÉSENT ATTESTE QUE CE  
DOCUMENT, DON'T CHACUNE  
DES PAGES EST REVÊTUE DU  
SCÉAU DE LA COUR SUPÉRIEURE  
DE JUSTICE À TORONTO, EST UNE  
COPIE CONFORME DU DOCUMENT  
CONSERVÉ DANS CE BUREAU

GREFFIER

26. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, “**Possession**”) of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (collectively, the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor’s duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

27. **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Sandvine Entities, including without limitation, the DIP Secured Parties, with information provided by the Sandvine Entities in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Sandvine Entities is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Sandvine Entities may agree.

THIS IS TO CERTIFY THAT THIS  
DOCUMENT, EACH PAGE OF  
WHICH IS STAMPED WITH THE  
SEAL OF THE SUPERIOR COURT  
OF JUSTICE AT TORONTO, IS A  
TRUE COPY OF THE DOCUMENT  
ON FILE IN THIS OFFICE

LA PRÉSENT ATTESTE QUE CE  
DOCUMENT, DON'T CHACUNE  
DES PAGES EST REVÊTUE DU  
SCEAU DE LA COUR SUPÉRIEURE  
DE JUSTICE À TORONTO, EST UNE  
COPIE CONFORME DU DOCUMENT  
CONSERVÉ DANS CE BUREAU

DATED AT TORONTO THIS  
FAIT À TORONTO LE

7 DAY OF November 20 24  
JOUR DE

REGISTRAR

GREFFIER



28. **THIS COURT ORDERS** that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, neither the Monitor nor its respective employees, advisors and representatives acting in such capacities shall incur any liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

29. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor in Canada and the United States (collectively, the “**Monitor Counsel**”), counsel to the Sandvine Entities in Canada and the United States (collectively, the “**Sandvine Counsel**”) and counsel to the Agent in Canada and the United States (collectively, the “**Agent Counsel**”) shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to, on, or after the date of this Order, by the Sandvine Entities as part of the costs of these proceedings. The Sandvine Entities are hereby authorized and directed to pay the accounts of the Monitor, the Monitor Counsel, the Sandvine Counsel and the Agent Counsel on a bi-weekly basis or pursuant to such other arrangements agreed to between the Sandvine Entities and such parties and, in addition, the Sandvine Entities are hereby authorized to pay the Monitor, the Monitor Counsel and Sandvine Counsel’s retainers, *nunc pro tunc*, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

30. **THIS COURT ORDERS** that the Monitor and its Canadian legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its Canadian legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

THIS IS TO CERTIFY THAT THIS DOCUMENT, EACH PAGE OF WHICH IS STAMPED WITH THE SEAL OF THE SUPERIOR COURT OF JUSTICE AT TORONTO, IS A TRUE COPY OF THE DOCUMENT ON FILE IN THIS OFFICE

LA PRÉSENT ATTESTE QUE CE DOCUMENT, DON'T CHACUNE DES PAGES EST REVÊTUE DU SCEAU DE LA COUR SUPÉRIEURE DE JUSTICE À TORONTO, EST UNE COPIE CONFORME DU DOCUMENT CONSERVÉ DANS CE BUREAU

DATED AT TORONTO THIS 7 DAY OF November 20 24  
FAIT À TORONTO LE

DAY OF November 20 24  
JOUR DE

REGISTRAR

GREFFIER

**ADMINISTRATION CHARGE**

31. **THIS COURT ORDERS** that the Monitor, the Monitor Counsel, the Sandvine Counsel, and the Financial Advisor (solely to the extent of the Financial Advisor's Monthly Advisory Fees, as defined in the GLC Engagement Letter) shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of USD\$2,500,000, as security for their professional fees and disbursements incurred at their standard rates and charges, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 36-38 herein.

**DIP FINANCING**

32. **THIS COURT ORDERS** that the Amendment No. 1 to Super Senior Credit Agreement, dated as of November 6, 2024, by and among Sandvine Corporation and Procera Networks, Inc., as borrowers, and the lenders party thereto (the "**First Amendment**"), which amended the DDTL Credit Agreement and re-titled it as "Super-Senior Debtor-in-Possession Credit Agreement" (as further amended, amended and restated, supplemented, or otherwise modified from time to time, the "**DIP Credit Agreement**"), by and among Sandvine Corporation and Procera Networks, Inc., as borrowers, Procera II LP, as ultimate parent, the Specified Term Lenders (as defined in the DIP Credit Agreement), the Delayed Draw DIP Term Lenders (as defined in the DIP Credit Agreement) (the "**DIP Lenders**"), Seaport Loan Products LLC, as co-administrative agent, and Acquiom Agency Services LLC, as co-administrative agent and collateral agent (collectively, the "**Agent**", and together and collectively with the DIP Lenders, the "**DIP Secured Parties**"), attached as Exhibits "U" and "V" to the Kupp Affidavit, is hereby approved, in respect of the Delayed Draw DIP Term Loan Obligations (as defined in the DIP Credit Agreement). For the avoidance of doubt,

THIS IS TO CERTIFY THAT THIS DOCUMENT, EACH PAGE OF WHICH IS STAMPED WITH THE SEAL OF THE SUPERIOR COURT OF JUSTICE AT TORONTO, IS A TRUE COPY OF THE DOCUMENT ON FILE IN THIS OFFICE.

LA PRÉSENT ATTESTE QUE CE DOCUMENT, DON'T CHACUNE DES PAGES EST STAMPÉE DU SCAU DE LA COUR SUPÉRIEURE DE JUSTICE À TORONTO, EST UNE COPIE CONFORME DU DOCUMENT CONSERVÉ DANS CE BUREAU.

DATED AT TORONTO THIS 7 DAY OF November 20 24  
FAIT À TORONTO LE 7 JOUR DE NOVEMBRE 20 24

REGISTRAR Haggard GREFFIER



no draws are permitted under the Delayed Draw DIP Term Facility (as defined in the DIP Credit Agreement) without further Order of the Court.

33. **THIS COURT ORDERS** that the Sandvine Entities are hereby authorized and empowered to execute and deliver such amendments, credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively with the First Amendment and the DIP Credit Agreement, the “**Definitive Documents**”), as are contemplated by the DIP Credit Agreement or as may be reasonably required by the DIP Secured Parties pursuant to the terms thereof, notwithstanding any other provision of this Order.

34. **THIS COURT ORDERS** that the DIP Secured Parties shall be entitled to the benefit of and are hereby granted a charge (the “**DIP Charge**”) on the Property, as security for any and all post-filing obligations of the Sandvine Entities in respect of the Delayed Draw DIP Term Facility and the Definitive Documents (including on account of post-filing principal, interest, fees, expenses and other liabilities) (the aggregate of all such obligations being the “**DIP Obligations**”), which DIP Charge shall be in the aggregate amount of the outstanding DIP Obligations. The DIP Charge shall not secure an obligation that exists before this Order is made. The DIP Charge shall have the priority set out in paragraphs 36-38 hereof.

35. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order, the DIP Secured Parties may take such steps from time to time as they may deem necessary or appropriate to file, register, record or perfect the DIP Charge or any of the Definitive Documents.

#### **VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER**

36. **THIS COURT ORDERS** that the priorities of the Administration Charge, the Directors’ Charge and the DIP Charge (collectively, the “**Charges**”) and the Encumbrances securing the

Document. Each page of which is stamped with the seal of the Court of Justice at Toronto, is a true copy of the document on file in this office.

Je présente attesté que ce document, dont chacune des pages est revêtue du sceau de la Cour de justice à Toronto, est une copie conforme du document conservé dans ce bureau.

DATED AT TORONTO THIS 7 DAY OF November 20 24  
FAIT A TORONTO LE 7 JOUR DE Novembre 20 24

REGISTRAR *[Signature]* GREFFIER

Specified Term Loan Obligations (as defined in the DIP Credit Agreement) (the “**Specified Term Loan Security**”) as among them, shall be as follows:

- (a) First – Administration Charge (to the maximum amount of USD\$2,500,000);
- (b) Second – Directors’ Charge (to the maximum amount of USD\$4,440,000); and
- (c) Third – DIP Charge (to the maximum amount of the outstanding DIP Obligations) and Specified Term Loan Security (to the maximum amount of the outstanding Specified Term Loan Obligations), on a *pari passu* basis.

37. **THIS COURT ORDERS** that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be effective as against the Property and shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

38. **THIS COURT ORDERS** that each of the Charges shall constitute a charge on the Property and such Charges shall, except as otherwise set out in paragraph 36 hereof, rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, “**Encumbrances**”) in favour of any Person, other than any Person with a properly perfected purchase money security interest under the *Personal Property Security Act* (Ontario) or such other applicable legislation that has not been served with notice of this Order. The Sandvine Entities and the beneficiaries of the Charges shall be entitled to seek priority of the Charges ahead of such Encumbrances on a subsequent motion on notice to those parties.

THIS IS TO CERTIFY THAT THIS  
DOCUMENT, EACH PAGE OF  
WHICH IS STAMPED WITH THE  
SEAL OF THE SUPERIOR COURT  
OF JUSTICE AT TORONTO, IS A  
TRUE COPY OF THE DOCUMENT  
ON FILE IN THIS OFFICE

DATED AT TORONTO THIS 7 DAY OF November 20 24  
FAIT A TORONTO LE

REGISTRAR

LA PRÉSENT ATTESTE QUE CE  
DOCUMENT, DON'T CHACUNE  
DES PAGES EST REVÊTUE DU  
SCEAU DE LA COUR SUPÉRIEURE  
DE JUSTICE A TORONTO, EST UNE  
COPIE CONFORME DU DOCUMENT  
CONSERVÉ DANS CE BUREAU

7 DAY OF November 20 24  
JOUR DE

GREFFIER

39. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Sandvine Entities shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges unless the Sandvine Entities also obtain the prior written consent of the Monitor and the beneficiaries of the affected Charges, or further order of this Court.

40. **THIS COURT ORDERS** that the Charges and Definitive Documents shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the “**Chargees**”) shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to the *Bankruptcy and Insolvency Act* (the “**BIA**”), or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan document, lease, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) which binds any of the Sandvine Entities and notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the Definitive Documents shall create or be deemed to constitute a breach by any of the Sandvine Entities of any Agreement to which they are a party;

THIS IS TO CERTIFY THAT THIS DOCUMENT, EACH PAGE OF WHICH IS STAMPED WITH THE SEAL OF THE SUPERIOR COURT OF JUSTICE AT TORONTO, IS A TRUE COPY OF THE DOCUMENT ON FILE IN THIS OFFICE

LA PRÉSENT ATTESTE QUE CE DOCUMENT, DON'T CHACUNE DES PAGES EST REVÊTUE DU SŒAU DE LA COUR SUPÉRIEURE DE JUSTICE À TORONTO, EST UNE COPIE CONFORME DU DOCUMENT CONSERVÉ DANS CE BUREAU

DATED AT TORONTO THIS 7 DAY OF November 20 24  
FAIT À TORONTO LE

DAY OF November 20 24  
JOUR DE

REGISTRAR

GREFFIER



- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Sandvine Entities entering into the Definitive Documents the creation of the Charges or the execution, delivery or performance of any of the other Definitive Documents; and
- (c) the payments made by the Sandvine Entities pursuant to this Order or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

41. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the applicable Sandvine Entity's interest in such real property leases.

#### **SERVICE AND NOTICE**

42. **THIS COURT ORDERS** that the Monitor shall (i) without delay, publish in *The Globe and Mail* (National Edition) and *The New York Times* a notice containing the information prescribed under the CCAA, (ii) within five days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, or cause to be sent, in the prescribed manner or by electronic message to the e-mail addresses as last shown on the records of the Sandvine Entities, a notice to every known creditor who has a claim against any of the Sandvine Entities of more than \$1,000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made

THIS IS TO CERTIFY THAT THIS DOCUMENT, EACH PAGE OF WHICH IS STAMPED WITH THE SEAL OF THE SUPERIOR COURT OF JUSTICE AT TORONTO, IS A TRUE COPY OF THE DOCUMENT ON FILE IN THIS OFFICE

LA PRÉSENT ATTESTE QUE CE DOCUMENT, DON'T CHACUNE DES PAGES EST REVÊTUE DU Sceau de la Cour Supérieure de Justice à Toronto, est une copie conforme du document conservé dans ce bureau

DATED AT TORONTO THIS 7 DAY OF November 20 24  
FAIT À TORONTO LE 7 JOUR DE NOVEMBRE 20 24

REGISTRAR *[Signature]* GREFFIER

thereunder, provided that the Monitor shall not make the claim amounts, names and addresses of any individuals who are creditors publicly available.

43. **THIS COURT ORDERS** that the Monitor shall create, maintain and update as necessary a list of all Persons appearing in person or by counsel in this proceeding (the “**Service List**”). The Monitor shall post the Service List, as may be updated from time to time, on the Monitor’s website as part of the public materials to be recorded thereon in relation to this proceeding. Notwithstanding the foregoing, the Monitor shall have no liability in respect of the accuracy of or the timeliness of making any changes to the Service List.


44. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the “**Protocol**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <https://www.ontariocourts.ca/scj/practice/regional-practice-directions/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a case website shall be established in accordance with the Protocol with the following URL: <https://www.ksvadvisory.com/experience/case/sandvine>.

45. **THIS COURT ORDERS** that the Sandvine Entities and the Monitor and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile or

THIS IS TO CERTIFY THAT THIS DOCUMENT, EACH PAGE OF WHICH IS STAMPED WITH THE SEAL OF THE SUPERIOR COURT OF JUSTICE AT TORONTO, IS A TRUE COPY OF THE DOCUMENT ON FILE IN THIS OFFICE

LA PRÉSENT ATTESTE QUE CE DOCUMENT, CHAQUE PAGE DES PAGES EST REVÊTUE DU SCAU DE LA COUR SUPÉRIEURE DE JUSTICE À TORONTO, EST UNE COPIE CONFORME DU DOCUMENT CONSERVÉ DANS CE BUREAU

DATED AT TORONTO THIS 7 DAY OF November 20 24  
FAIT À TORONTO LE 7 JOUR DE NOVEMBRE 20 24

REGISTRAR  GREFFIER



other electronic transmission to the Sandvine Entities' creditors at their address as last shown on the records of the Sandvine Entities or other interested parties and their advisors and that any such service, distribution or notice shall be deemed to be received: (a) if delivered by personal delivery or facsimile or other electronic transmission, on the day so delivered, (b) if sent by courier, on the next business day following the date of forwarding thereof, and (c) if sent by ordinary mail, on the third business day after mailing. Any such distribution or service shall be deemed to be in satisfaction of a legal or judicial obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

#### CHAPTER 15 PROCEEDINGS


46. **THIS COURT ORDERS** that the Applicant, Sandvine Corporation, is hereby authorized and empowered, but not required, to act as the foreign representative (in such capacity, the "Foreign Representative") in respect of the within proceedings for the purpose of having these proceedings recognized and approved in a jurisdiction outside of Canada.

47. **THIS COURT ORDERS** that the Foreign Representative is hereby authorized to apply for recognition of these proceedings, as necessary, in any jurisdiction outside of Canada, including in the United States Bankruptcy Court for the Northern District of Texas (Dallas Division) (the "Foreign Bankruptcy Court") pursuant to chapter 15 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532.

48. **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 Foreign Bankruptcy Court, to give effect to this Order and to assist the Sandvine Entities, the Monitor and their respective agents in carrying out the terms of this Order. All courts,

THIS IS TO CERTIFY THAT THIS DOCUMENT, EACH PAGE OF WHICH HAS BEEN REPRODUCED FROM THE ORIGINAL, IS A TRUE COPY OF THE DOCUMENT ON FILE IN THIS OFFICE. LA PRÉSENT ATTESTE QUE CE DOCUMENT, DONT CHACUNE DES PAGES EST REPRODUITE DU SCÉAU DE LA COUR SUPÉRIEURE DE JUSTICE À TORONTO, EST UNE COPIE CONFORME DU DOCUMENT CONSERVÉ DANS CE BUREAU.

DATED AT TORONTO THIS 7 DAY OF November 20 24  
FAIT À TORONTO LE 7 JOUR DE Novembre 20 24

REGISTRAR  GREFFIER

tribunals, regulatory and administrative bodies and agencies are hereby respectfully requested to make such orders and to provide such assistance to 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.

### COMEBACK HEARING

49. **THIS COURT ORDERS** that the comeback motion in these proceedings shall be heard on November 15, 2024 (the “Comeback Hearing”).

### GENERAL

50. **THIS COURT ORDERS** that any interested party (including the Sandvine Entities and the Monitor) may apply to this Court to vary or amend this Order at the Comeback Hearing on not less than five (5) calendar days’ notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order; provided, however, that the Chargees shall be entitled to rely on this Order as issued and entered and on the Charges and priorities set out in paragraphs 36-38 hereof, including with respect to any fees, expenses and disbursements incurred and in respect of advances made under the Definitive Documents until the date this Order may be amended, varied or stayed.

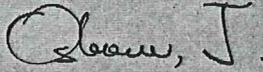
51. **THIS COURT ORDERS** that the Sandvine Entities or the Monitor may from time to time apply to this Court to amend, vary or supplement this Order or for advice and directions in the discharge of their powers and duties under this Order or in the interpretation or application of this Order.

IN THE SUPERIOR COURT OF JUSTICE  
DOCUMENT, EACH PAGE OF WHICH IS STAMPED WITH THE SEAL OF THE SUPERIOR COURT OF JUSTICE AT TORONTO, IS A TRUE COPY OF THE DOCUMENT ON FILE IN THIS OFFICE  
DOCUMENT, DON'T CHACUNE DES PAGES EST REVÊTUE DU SCAU DE LA COUR SUPÉRIEURE DE JUSTICE À TORONTO, EST UNE COPIE CONFORME DU DOCUMENT CONSERVÉ DANS CE BUREAU  
DATED AT TORONTO THIS 7 DAY OF November 20 24  
FAIT À TORONTO LE 7 JOUR DE NOVEMBRE 20 24  
REGISTRAR *Maggie Ouellet* GREFFIER

52. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of any of the Sandvine Entities, the Business or the Property.

53. **THIS COURT ORDERS** that each of the Sandvine Entities and the Monitor be at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body or agency, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that Sandvine Corporation is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

54. **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, and is enforceable without any need for entry and filing.



Digitally signed  
by Osborne J.

Date:

2024.11.07

10:49:11<sup>-05'00'</sup>

THIS IS TO CERTIFY THAT THIS  
DOCUMENT, EACH PAGE OF  
WHICH IS STAMPED WITH THE  
SEAL OF THE SUPERIOR COURT  
OF JUSTICE AT TORONTO, IS A  
TRUE COPY OF THE DOCUMENT  
ON FILE IN THIS OFFICE

LA PRESENT ATTESTE QUE CE  
DOCUMENT, DON'T CHACUNE  
DES PAGES EST REVÊTUE DU  
SCEAU DE LA COUR SUPÉRIEURE  
DE JUSTICE A TORONTO, EST UNE  
COPIE CONFORME DU DOCUMENT  
CONSERVÉ DANS CE BUREAU

DATED AT TORONTO THIS 7  
FAIT A TORONTO LE

JAY OF November 20 24  
JOUR DE

REGISTRAR

GREFFIER



IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED Court File No: [●]  
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SANDVINE CORPORATION, SANDVINE HOLDINGS UK LIMITED,  
PROCERA NETWORKS, INC., PROCERA HOLDING, INC., NEW PROCERA GP COMPANY AND SANDVINE OP (UK) LTD

Applicants

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

PROCEEDING COMMENCED AT TORONTO

**INITIAL ORDER**

**OSLER, HOSKIN & HARCOURT LLP**

100 King Street West  
1 First Canadian Place  
Suite 6200, P.O. Box 50  
Toronto ON M5X 1B8

**Marc Wasserman (LSO# 44066M)**

Tel: 416.862.4908  
Email: mwasserman@osler.com

**Jeremy Dacks (LSO# 41851R)**

Tel: 416.862.4923  
Email: jdacks@osler.com

**Martino Calvaruso (LSO# 57359Q)**

Tel: 416.862.6665  
Email: mcalvaruso@osler.com

**Karin Sachar (LSO# 59944E)**

Tel: 416.862.5949  
Email: ksachar@osler.com

Lawyers for the Applicants

DRAFT

**Exhibit B**

**Endorsement**



**SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**ENDORSEMENT**

COURT FILE NO.: CV-24-00730836-00CL DATE: November 7, 2024

NO. ON LIST: 1

**TITLE OF PROCEEDING:**

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.

**BEFORE: JUSTICE PETER J. OSBORNE**

**PARTICIPANT INFORMATION**

**For Applicants:**

Name of Person Appearing	Name of Party	Contact Info
Marc Wasserman	Counsel to the Applicants	<a href="mailto:mwasserman@osler.com">mwasserman@osler.com</a>
Jeremy Dacks		<a href="mailto:jdacks@osler.com">jdacks@osler.com</a>
Martino Calvaruso		<a href="mailto:mcavaruso@osler.com">mcavaruso@osler.com</a>
Karin Sachar		<a href="mailto:ksachar@osler.com">ksachar@osler.com</a>

**For Respondents; Court Officers:**

Name of Person Appearing	Name of Party	Contact Info
Noah Goldstein	Proposed Court-appointed Monitor	<a href="mailto:ngoldstein@ksvadisvory.com">ngoldstein@ksvadisvory.com</a>
Murtaza Tallat		<a href="mailto:mtallat@ksvadisvory.com">mtallat@ksvadisvory.com</a>
Shayne Kukulowicz	Counsel to the proposed Court-appointed Monitor	<a href="mailto:skukulowicz@cassels.com">skukulowicz@cassels.com</a>
Joseph J. Bellissimo		<a href="mailto:jbellossimo@cassels.com">jbellossimo@cassels.com</a>
Alec Hoy		<a href="mailto:ahoy@cassels.com">ahoy@cassels.com</a>
Andrew Harmes	Counsel to Acquiom Agency Services LLC, as Co-administrative Agent and Collateral Agent	<a href="mailto:aharmes@goodmans.ca">aharmes@goodmans.ca</a>

**ENDORSEMENT OF JUSTICE OSBORNE:**

**Relief Sought**

1. Sandvine Corporation (“Sandvine Canada”), and the other applicant companies (collectively, the “Applicants” and together with the partnership Procera II LP and certain non-filing entities, “Sandvine” or the “Company”), seeks an initial order (the “Initial Order”) and related relief under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “CCAA”).
2. In particular, the Applicants seek an urgent stay of proceedings (the “Stay of Proceedings”) for the permitted initial ten-day period (the “Initial Stay Period”) under s. 11.02(2) of the CCAA, an extension of the Stay of Proceedings to certain Non-Applicant Stay Parties (as defined below), the appointment of KSV Restructuring Inc. as monitor (the “Proposed Monitor”), along with certain other relief necessary to preserve the Applicants’ business and stakeholder value during the Initial Stay Period.
3. The six other corporations that are wholly-owned Sandvine subsidiaries that are not Applicants but are integral to Sandvine’s integrated global operations (the “Non-Applicant Stay Parties”) include Sandvine Sweden A.B. (“Sandvine Sweden”), Sandvine Singapore Pte. Ltd., Sandvine Japan K.K., Sandvine Technologies (India) Private Limited, Sandvine Technologies Malaysia Sdn Bhd, and Sandvine Australia PTY Ltd.

**Background to Application**

4. The Applicants rely on the Affidavit of Jeffrey A. Kupp sworn November 6, 2024 together with Exhibits thereto, and the Pre-Filing Report of KSV Restructuring Inc. (“KSV”) as Proposed Monitor dated November 6, 2024. Defined terms in this Endorsement have the meaning given to them in the Application materials and/or the Pre-Filing Report, unless otherwise stated. References in this Endorsement to dollar amounts are expressed in United States currency.
5. Sandvine is a Canadian application and network optimization company headquartered in Waterloo, Ontario, which provides quality of experience (“QoE”) analysis and performance optimization software applications to its customers, the majority of whom consist of telecommunications service providers around the world. Sandvine operates in approximately 54 countries. Sandvine has approximately 500 employees and contractors and its products allow its customers to understand the application (“app”) traffic flowing in their networks with significantly higher accuracy compared to other products on the market.
6. Sandvine’s software products generate meta data about the quality and usage of over-the-top (“OTT”) apps (i.e., Netflix, Amazon Prime and YouTube) by subscribers. While Sandvine historically also sold proprietary computer hardware to support its software products, it is currently transitioning to a software-only business and today no longer offers hardware services other than limited ongoing maintenance and related support.
7. On February 27, 2024, Sandvine Canada and certain of the other Sandvine entities were designated on the US Department of Commerce’s Entity List (the “Entity List”), which resulted in the added entities being

subject to export restrictions which materially impacted Sandvine's business. To mitigate these impacts, Sandvine submitted a Request for Emergency Authorization to the U.S. Department of Commerce Bureau of Industry and Security ("BIS"), which was granted and subsequently extended to December 31, 2024.

8. On May 1, 2024, Sandvine submitted a proposal for removal from the Entity List, which removal ultimately occurred on October 23, 2024. In conjunction with these requests and discussions, Sandvine has reoriented its business model and will cease operating in non-democratic countries or countries where the threat to digital rights is too high. Sandvine is also making other significant changes to its governance and business model in consultation with BIS and other interagency partners of the U.S. government.
9. Sandvine's business has been significantly impacted by the Entity List designation, as the countries that Sandvine has exited (and is in the process of exiting) represent approximately 45% of Sandvine's 2023 revenue. Sandvine's top line revenue is projected to be reduced by approximately 50% compared to its 2023 revenue due to the country exits and customer attrition related to the Entity List dynamic.
10. In light of potential defaults stemming from the Entity List designation and related impacts, earlier this year Sandvine negotiated a reorganization with its Lenders, pursuant to which the Lenders became the indirect owners of Sandvine and Sandvine's debt was reduced by approximately US \$92 million (the "June 2024 Reorganization").
11. Despite these reductions, Sandvine remained over-leveraged and required additional short-term funding, as well as a plan to address the operational restructuring of its business, including the country exits. Sandvine and certain of the Existing Loan Lenders have therefore negotiated further agreements regarding the financing and restructuring of Sandvine, which provide for:
  - a. US \$45 million in new money financing under the DDTL Facility (as defined below), including a commitment to provide any undrawn portion as a DIP Facility (as defined below) in the event of court-supervised restructuring proceedings;
  - b. a restructuring support agreement (the "RSA") with approximately 97% of the Existing Loan Lenders;
  - c. an agreement by such Existing Loan Lenders to forbear from any default remedies under the First Lien Credit Agreement (as defined below) and other debt documents; and
  - d. a proposed transaction, to be tested through a sales process, whereby Sandvine's funded debt obligations would be converted into a 50% equity share of a restructured company and new first lien financing, and Existing Loan Lenders that provided new money commitments would receive 50% equity of the restructured company as consideration for such commitments. The proposed transaction would result in a US \$337 million reduction of Sandvine's current debt of approximately US \$421 million (in outstanding principal).
12. The RSA requires Sandvine to commence a restructuring proceeding by November 15, 2024, failing which the RSA can be terminated, and the Consenting Stakeholders (as defined below) could commence enforcement proceedings with respect to the DDTL Credit Agreement (as defined below), which would

in turn constitute an event of default under the First Lien Credit Agreement. Sandvine would not be able to pay or otherwise satisfy the amounts due under these agreements and is therefore insolvent.

13. The Applicants require immediate *CCAA* protection so that they will have the necessary breathing space to complete the last step of their balance sheet restructuring, continue to access needed liquidity from the Existing Loan Lenders, and have the time and resources to implement orderly exits from high-risk jurisdictions and restructure their operations accordingly.
14. Prior to the June 2024 Reorganization, Sandvine's primary debt obligations consisted of two secured credit facilities jointly issued to Sandvine Canada and Procera US as borrowers (the "Borrowers") totalling US \$504 million in debt:
  - a. the "First Lien Credit Agreement" between the Borrowers, the First Lien Guarantors, the lenders party thereto (the "First Lien Lenders"), and Jeffries Finance LLC ("Jeffries") as Administrative Agent and Collateral Agent, which prior to June 28, 2024, had an outstanding principal of approximately US \$394 million; and
  - b. the "Second Lien Credit Agreement" between the Borrowers, the Second Lien Guarantors, the lenders party thereto (the "Second Lien Lenders," and together with the First Lien Lenders, the "Lenders") and Barings Finance LLC as Administrative Agent and Collateral Agent, which prior to June 28, 2024, had an outstanding principal of US \$110 million.
15. The Lenders subsequently became the ultimate owners of Sandvine pursuant to the June 2024 Reorganization. As part of the June 2024 Reorganization, the Obligations under the Second Lien Credit Agreement were settled and extinguished in exchange for:
  - a. the issuance by the Borrowers of US \$18 million of Term Loans under the amended First Lien Credit Agreement to the Second Lien Lenders (on a pro rata basis); and
  - b. the issuance of Class C limited partner interests in Procera II LP to the Second Lien Lenders (on a pro rata basis).
16. Sandvine's debt obligations following the June 2024 Reorganization therefore consisted of terms loans in under the First Lien Credit Facility of approximately US \$412 million.
17. Additionally, Sandvine has 17 cash collateralized letters of credit totaling approximately US \$7.2 million, all of which were issued to secure future performance obligations by Sandvine for products and services pre-paid by its customers.
18. At present, Sandvine has drawn US \$20 million under the DDTL Facility.
19. I observe that, as set out in the Application materials and in the Pre-Filing report of the Proposed Monitor, the Lenders, who are owed approximately \$431.8 million in principal secured debt, are the largest economic stakeholders. 97% of the Lenders have entered into the RSA and support both this *CCAA* Application and the substantive relief being sought today and at the proposed comeback hearing, including (as further discussed below), approval of the DIP Facility, the proposed SISP, the proposed stalking horse

transaction, and the various related Charges ranking in priority to the security granted by the Sandvine Entities in favour of the Lenders.

### **Jurisdiction**

20. Subsection 9(1) of the *CCAA* provides that an application for a stay of proceedings under the *CCAA* may be made to the court that has jurisdiction in the province in which the head office or chief place of business of the company in Canada is situated, or, if the company has no place of business in Canada, in any province within which any assets of the company are situated: *Target Canada Co. (Re)*, 2015 ONSC 303 (“*Target*”) paras. 26 to 30; *Bed Bath & Beyond Canada Limited (Re)*, 2023 ONSC 1014 (“*BBB*”) at para. 25.
21. Each of the Applicants fulfils these requirements. Sandvine Canada is incorporated in Canada and headquartered in Waterloo, while the remaining applicants each have assets in Canada in the form of funds on deposit in Canadian bank accounts and funds currently being held on retainer in Canada by counsel. A number of courts have held that funds deposited in bank accounts or held on retainer in this manner are sufficient to satisfy the *CCAA* jurisdiction requirements and have cautioned that the court must not engage in “a qualitative or detailed analysis of the Canadian assets”: *Global Light Telecommunications Inc., (Re)*, 2004 BCSC 745 at para. 17; see also *CanWest Global Communications Corp. (Re)*, 2009 CanLII 55114 (ONSC) (“*CanWest*”) at para. 30. In reference to funds held on retainer by counsel, see *Syncreon Group B.V. (Re)*, 2019 ONSC 5774 at para. 27; and *LTL Management LLC (Re)*, 2021 ONSC 8357 at para. 13.
22. Further, Ontario is the proper forum for the restructuring. Ontario is the chief place of business of the Applicants as a whole, given that: (i) the majority of Sandvine’s North American Employees are in Canada; (ii) the majority of Sandvine’s assets (in particular the majority of its IP assets, cash, customer accounts receivable, inventory, fixed assets, and real estate investments) are in Canada; (iii) Sandvine’s General Counsel resides in Canada; (iv) Sandvine is operationally dependent on the shared services provided by the Accounting and A/R teams, each of which is primarily located in Canada; (v) Sandvine Canada issues all customer invoices; (vi) approximately two thirds of Sandvine’s customer receipts are deposited into Sandvine Canada’s Canadian bank accounts; (vii) in 2023, Sandvine Canada generated approximately two thirds of Sandvine’s revenue; (viii) approximately 69% of Sandvine’s customers contract with Sandvine Canada; (ix) the majority of Sandvine’s patents are held by Sandvine Canada; and (x) Sandvine Canada is party to the majority of Sandvine’s shared services agreements.
23. Canadian courts have accepted that a multinational enterprise such as the Applicants’ business must be restructured as a global unit, even where operating units are located in foreign jurisdictions: See, e.g., *Ted Baker Canada Inc. et al (Re)*, (April 26, 2024), Ont S.C.J. [Commercial List], Court File No. CV-24-718993-00CL at para. 28, in which the court held that the requirements of s. 9(1) of the *CCAA* were satisfied on the basis that the applicants, which included both Canadian and U.S. entities, maintained their head office and much of their business activities in Ontario. See also *Ghana Gold Corp (Re)*, 2013 ONSC 3284 at para. 56, in which the court included foreign applicants within a *CCAA* proceedings on the grounds that doing so was “critical to a restructuring.”
24. If the proposed Initial Order is granted, Sandvine intends to commence a recognition proceeding under Chapter 15 of the US Bankruptcy Code in the United States Bankruptcy Court for the Northern District

of Texas to ensure that actions taken in relation to US entities and US property will be under the supervision of the US courts.

### **The Applicants are Insolvent**

25. The CCAA applies to a “debtor company” or affiliated debtor companies where the total amount of claims against the debtor or its affiliates exceeds \$5 million. The Applicants are each a “company” for the purposes of s. 2 of the CCAA as they do business in or have assets in Canada: *Lydian International Limited (Re)*, 2019 ONSC 7473 at para. 35-36 (“*Lydian*”).
26. A “debtor company” means, *inter alia*, a company that is insolvent: CCAA, ss. 2 and 3(1). The CCAA defines a “debtor company” as, among other things, any company that is insolvent or has committed an act of bankruptcy within the meaning of the *Bankruptcy and Insolvency Act* (“BIA”).
27. The determination of whether a company is insolvent requires consideration of the definition of “insolvent person” in the BIA, and the expanded concept of insolvency adopted in *Stelco Inc., Re*, 2004 CarswellOnt 1211 at para. 26 (“*Stelco*”), in which this court held that a debtor is insolvent where there is a looming liquidity crisis such that it is reasonably foreseeable that the debtor will run out of cash unless its business is restructured. This approach to the insolvency criterion has been applied in other cases, including *Target* at para. 26; *Just Energy Corp. (Re)*, 2021 ONSC 1793 (“*Just Energy*”) at paras. 48 to 51; and *Nordstrom Canada Retail, Inc. (Re)*, 2023 ONSC 1422 (“*Nordstrom*”) at para. 26.
28. I am satisfied that the Applicants here face a liquidity crisis consistent with the *Stelco* test. If they do not commence restructuring proceedings by November 15, 2024, the Applicants would be unable to fulfil their obligations under the First Lien Credit Agreement and the DDTL Credit Agreement. Each of the Applicants is either a borrower or guarantor under those agreements or is the general partner of a guarantor.
29. Accordingly, the Applicants are corporations that collectively owe over \$5 million in outstanding liabilities. They have delivered the documents and financial statements required under s. 10(2) of the CCAA.

### **Stay of Proceedings**

30. Section 11.02(1) of the CCAA provides that the Court may order a stay of proceedings on an initial CCAA application for a period of not more than 10 days. Section 11.001 of the CCAA provides that relief granted on an initial CCAA application shall be limited to relief that is reasonably necessary for the continued operations of the debtor company in the ordinary course of business during that initial 10-day period.
31. In *Lydian*, Chief Justice Morawetz stated that the Initial Stay Period preserves the status quo and allows for operations to be stabilized and negotiations to occur, followed by requests for expanded relief on proper notice to affected parties at the full comeback hearing. Whether particular relief is necessary to stabilize a debtor company’s operations during the Initial Stay Period is an inherently factual determination, based on all of the circumstances of the particular debtor.



32. All of the relief requested in this first-day application meets these criteria. Each aspect of the relief sought by the Applicants in the Initial Stay Period is interdependent, and collectively the relief is critical to allow the Applicants to properly respond to their current circumstances.
33. As set out in the Pre-Filing Report of the Proposed Monitor, the customers of Sandvine include over 130 of the largest global communications service providers, serving hundreds of millions of network users. Any disruption in the services provided by Sandvine could and likely would have serious implications for the continuity and security of services provided by customers of Sandvine, including many of the largest internet service providers in Canada and globally.
34. A stay of proceedings is clearly necessary here if any form of restructuring process is to be successful. The relief sought today is limited to what is reasonably necessary.
35. I further observe that the Applicants have included in these first day materials disclosure of the relief that will be sought on the comeback hearing, if the Initial Order sought today is granted, including approval of a sales and investment solicitation process (“SISP”) with a proposed stalking horse agreement.
36. Finally in this regard, the Applicants have prepared a Cash Flow Forecast for the 13-week period from November 3, 2024 to February 1, 2025, which has been reviewed by the Proposed Monitor. Its statutory report on the Forecast is attached to the Pre-Filing Report as Appendix “C”.

#### **The Stay should be Extended to Procera II LP**

37. I am also satisfied that the stay and the protections and authorizations proposed in the draft Initial Order should be extended to Procera II LP. The *CCAA* expressly applies by its terms to debtor companies but not partnerships. Where the functions and operations of partnerships are integral and closely related to the business and operations of the Applicants, the *CCAA* Court has the jurisdiction to extend the protection of the stay of proceedings to those partnerships in order to ensure that the purposes of the *CCAA* can be achieved. Such relief has been granted on multiple occasions. See: *Target*, at paras 42 and 43; *Just Energy*, at para. 116; and *BBB*, at para. 28.
38. The Applicants submit that it is appropriate to extend the stay of proceedings to Procera II LP. I agree. As guarantor under the Credit Facilities and the ultimate parent company of the Sandvine operating entities (and the vehicle through which certain of the Existing Loan Lenders currently own Sandvine), Procera II LP is insolvent, and the extension of the benefit of the stay of proceedings and the protections and authorizations of the Initial Order to Procera II LP is necessary to maintain stability and value in the *CCAA* process and to complete the proposed Restructuring Transactions.

#### **The Stay should be Extended to the Non-Applicant Stay Parties**

39. I am also satisfied that the stay should be extended to the Non-Applicant Stay Parties. The authority of the Court to extend a stay to non-filing affiliates is derived from the broad jurisdiction given to the Court under ss. 11 and 11.01(2) of the *CCAA* and is commonly granted as part of *CCAA* proceedings, including to foreign non-applicant affiliates: *Chalice Brands Ltd (Re)*., 2023 ONSC 3174, at para. 35.

40. In *JTI-Macdonald Corp.*, this Court outlined the factors determining when it is appropriate to extend a *CCAA* stay over non-filing affiliates, including where the business of the non-filing affiliate is significantly intertwined with that of the debtors and extending the stay would help maintain stability during the *CCAA* process: *JTI-Macdonald Corp. (Re)*, 2019 ONSC 1625 at para. 15 (“*JTI-Macdonald*”).
41. The test as articulated in *JTI-Macdonald* is met here. The business and operations of the Non-Filing Affiliates are functionally and operationally integrated with those of the Applicants, and these entities provide research and development, sales, customer success in marketing services. The Non-Applicant Stay Parties together have approximately 294 employees constituting over half of Sandvine’s global workforce. I am satisfied that the extension of the stay to the Non-Applicant Stay Parties is therefore necessary to maintain stability and value in the *CCAA* process.

### **Appointment of KSV as Monitor**

42. The Applicants propose to have KSV appointed as the Monitor. KSV is a “trustee” within the meaning of subsection 2(1) of the *BIA*, is established and qualified, and has consented to act as Monitor. The involvement of KSV as the court-appointed Monitor will lend stability and assurance to the Applicants’ stakeholders. KSV is not subject to any of the restrictions set out in s. 11.7(2) of the *CCAA*.
43. I am satisfied that KSV should be appointed as Monitor in these *CCAA* Proceedings.

### **The Charges and the DIP**

#### **The DIP and DIP Facility**

44. The DIP Lenders have agreed to provide the proposed DIP Facility up to the amount of USD \$30 million. The Applicants seek an interim financing charge to secure that DIP Facility pursuant to section 11.2 of the *CCAA*. The DIP Charge is proposed to be secured against the Property as defined in the Initial Order, and to rank behind the Administration Charge and the Directors Charge and *pari passu* with amounts owed with respect to the DDTL Tranche A Loans and DDTL Tranche B Loans.
45. Section 11.2(4) of the *CCAA* sets out a non-exhaustive list of criteria that the Court must consider in deciding whether to grant a DIP lender’s charge. Those criteria apply to the period during which the Applicants are expected to be subject to *CCAA* proceedings, how the Applicants’ business and financial affairs are to be managed during the proceedings, whether the Applicants’ management has the confidence of its major creditors, whether the loan would enhance the prospects of a viable compromise or arrangement being made in respect of the Applicants, the nature and value of the Applicants’ property, whether any creditor would be materially prejudiced as a result of the security or charge, and whether the monitor supports the charge.
46. When an application for interim financing is made at the same time as an initial application, the applicant must additionally satisfy the Court that the terms of the loan are “limited to what is reasonably necessary

for the continued operations of the debtor company in the ordinary course of business during that period: s. 11.2(5).

47. It is important that an applicant meet the criteria in section 11.2(1) as well as those in section 11.2(4). (See *CanWest Publishing Inc., Re*, 2010 ONSC 222 (“*CanWest IP*”) at paras. 42-44).
48. These factors favour the requested relief here. Sandvine will need access to debtor-in-possession financing during the *CCAA* proceedings to continue to operate its business and administer its insolvency and has no other immediate options to provide it with the liquidity it needs. Approving the DIP Facility and DIP Lenders’ Charge at this time will provide necessary certainty and stability for Sandvine and its stakeholders – including customers and vendors – that funding will be available to complete the transactions contemplated by the RSA (including any superior transaction received as part of the proposed sale process).
49. As noted above, the DIP Facility (and Charge) are supported by the Lenders and recommended by the Proposed Monitor who is of the professional opinion that the DIP Facility terms are reasonable in the circumstances, and comparable to other DIP facilities approved by Canadian courts in *CCAA* proceedings (see comparison chart attached to the Report as Appendix “D”).
50. Granting the DIP Charge at this time will ensure that the authorizations required to access the DIP Facility are put in place at commencement of the *CCAA* Proceedings, and that the Applicants can seek to have the DIP Charge recognized in a timely manner in the concurrent Chapter 15 proceedings. Further, the relief sought is appropriately limited, as the proposed Initial Order prohibits Sandvine from drawing on the DIP Facility unless approved at the comeback hearing. Sandvine intends to seek that authorization to draw on the DIP Facility at the Comeback Hearing.

### **Administration Charge**

51. The Applicants are seeking an Administration Charge in favour of the Monitor, its Canadian and US Counsel, counsel to the Applicant in Canada and the US, and GLC, as security for their respective fees and disbursements (in the case of GLC, to the extent of the Monthly Advisory Fees, to a maximum of USD \$2.5 million for the duration of the Initial Stay Period).
52. The Administration Charge was developed in consultation with the Proposed Monitor and is proposed to be secured by the Property with first priority over all other charges and security interests.
53. The Court has jurisdiction to grant an administration charge under s. 11.52 of the *CCAA*. It is to consider: the size and complexity of the business being restructured, the proposed role of the beneficiaries of the charge, whether there is an unwarranted duplication of roles, whether the quantum of the proposed charge appears to be fair and reasonable, the position of the secured creditors likely to be affected by the charge, and the position of the Monitor. (See *CanWest*, at para. 54).
54. The proposed Administration Charge sought for the initial 10-day period meets this test and is appropriate. It is supported by the Proposed Monitor.

### **The Directors' Charge**

55. The Court has jurisdiction to grant a directors' charge under section 11.51 of the *CCAA*, provided notice is given to the secured creditors who are likely to be affected by it.
56. To ensure the stability of the business during the restructuring period, the Applicants need the ongoing assistance of their directors, managers and officers, who have considerable institutional knowledge and specialized expertise. They seek a priority directors' charge in favour of the Sandvine Entities directors, managers and officers for the Initial Stay Period, ranking subordinate to the Administration Charge, but in priority to the DIP Charge and all other interests. The managers include the managers of the Cayman entity, Procera II LP, whose roles and responsibilities largely mirror those of directors of Canadian corporations. The Applicants propose a directors' charge in the amount of \$4.44 million.
57. While there is available liability insurance, the policies will likely not provide sufficient coverage for potential liability that the directors, managers and officers could incur in relation to the *CCAA* proceedings.
58. The Monitor supports the Applicants' request for the directors' charge. I am satisfied it is appropriate here.
59. The directors' charge is approved.

### **Engagement of the Financial Advisor**

60. On June 29, 2024, Sandvine engaged GLC Investment Advisors & Co., LLC and GLC Securities, LLC (collectively "GLC") as its independent financial advisor. The Applicants seek the approval of this engagement *nunc pro tunc*.
61. The Court has the jurisdiction to approve the engagement of the Financial Advisor under s. 11 of the *CCAA*, and Courts have approved the engagement of a financial advisor in order to assist the debtors in achieving the objectives of the *CCAA*, to assist the debtor's management in dealing with a crisis situation, and to allow management to focus on the debtor's continued operations: *Walter Energy Canada Holdings, Inc., (Re)*, 2016 BCSC 107 at paras. 35, 39-43, and 48.
62. GLC has significant experience as a financial advisor in North American restructuring and capital market transactions and was instrumental in assisting with both the negotiations that led to the execution of the RSA and the preparations for these *CCAA* proceedings. GLC's continued involvement, including running the proposed sales process on behalf of Sandvine, will be critical to the successful completion of a going concern restructuring transaction that will maximize value for stakeholders.
63. The GLC retainer and the terms of the Engagement Letter are supported by the Lenders and recommended by the Proposed Monitor who is of the opinion that the terms and in particular the fees are appropriate and comparable to the fees for similar engagements.

**Pre-Filing Payments to Critical Third Parties**

64. The Applicants seek authorization, with the consent of the Monitor, to make payments of pre-filing amounts to certain critical third parties. Sandvine relies on several third-party software providers for: (i) products it imbeds into its App QoE software and (ii) for products used in its internal operations, many of which are critical to Sandvine's business and its ability to serve customers.
65. Third-party software for Sandvine's internal needs include, among other things, security solutions for Sandvine's internal IT networks, customer relationship management (CRM) software, software to integrate the Company's IT applications, data storage and business intelligence products, video and messaging software programs for online collaboration, Enterprise Resource Planning (ERP) and finance software, shipping and logistics services, as well as export control and denied party screening essential to complying with export laws. Sandvine also relies on third-party suppliers who provide hardware that is critical for its business.
66. In addition, the proposed Initial Order provides that the Applicants can pay pre-filing amounts to other critical third parties up to a maximum aggregate amount of US \$250,000 with the consent of the Monitor.
67. The Court has exercised its jurisdiction on multiple occasions to grant similar relief in other cases: See, for example, *Target*, at para. 62 to 65; *Nordstrom*, at paras. 50-53; *Just Energy*, at para. 99; *Original Traders Energy Ltd. and 2496750 Ontario Inc. (Re)*, 2023 ONSC 753 at paras. 72-74; and *Boreal Capital* at paras. 20-22.
68. The factors that courts have considered in determining whether to grant such authorization include: (a) whether the goods and services are integral to the business of the applicants; (b) the applicants' dependency on the uninterrupted supply of the goods or services; (c) the fact that no payments will be made without the consent of the Monitor (which is a requirement under the proposed Initial Order); and (d) the effect on the debtors' operations and ability to restructure if it could not make such payments: *Index Energy Mills Road Corporation (Re)*, 2017 ONSC 4944 at para. 31.
69. These factors are fulfilled in this case, as these categories of suppliers are fundamental to the continuing operations of the Applicant.

**Foreign Representative and Foreign Recognition**

70. Because the Applicants have operations, assets and valuable business in the US, the Applicants intend to initiate a proceeding under Chapter 15 of Title 11 of the US Bankruptcy Code seeking an order to recognize and enforce orders made in these CCAA proceedings in the US and protect against any potential adverse action taken by US-based creditors (the "Chapter 15 Proceedings").
71. Jurisdiction to appoint any person or body to act as a representative for the purpose of having these CCAA proceedings recognized in any jurisdiction outside Canada, including but not limited to the United States, is found in section 56 of the CCAA. I am satisfied that the relief sought in this regard is appropriate. (See *Caesars Entertainment Operating Company Inc., Re*, 2015 ONSC 712 at para. 38; and *Payless Holdings LLC, Re*, 2017 ONSC 2242 at para. 35).

72. As noted, US proceedings are contemplated here to enforce the stay of proceedings established by the initial order if granted today, with the result that it is necessary to seek recognition of the initial order by the United States Bankruptcy Court.
73. Courts have consistently encouraged, and do encourage, comity and cooperation between courts in cross-border insolvencies.
74. Here, the operations of the Applicants are functionally and operationally integrated, such that the US business cannot operate independently of the Canadian business. I am satisfied that an order authorizing Sandvine to act as a foreign representative in respect of this proceeding, for the purpose of seeking seek recognition of the orders of this Court in the United States, is appropriate and in the best interests of stakeholders.

**Initial Order and Comeback Hearing**

75. For all of these reasons, the Initial Order is granted. Order to go in the form signed by me today which is effective immediately and without the necessity of issuing and entering.
76. The comeback hearing shall take place on Friday, November 15, 2024 commencing at 2:00 PM via Zoom in order to accommodate stakeholders who are located across Canada and the United States.

A handwritten signature in black ink, appearing to read "Osborne, J.", with a large, stylized initial "O" and a period at the end.

Osborne J.

Date: November 7, 2024