

DISCLAIMER: This is an interim text of the non-confidential version of the commitments in Case M.8306 – QUALCOMM / NXP SEMICONDUCTORS. The text is made available for information purposes only and does not constitute an official publication. The full text of the decision and the commitments in Annex will be published on DG COMP's website.

Case COMP/M.8306 – QUALCOMM / NXP

COMMITMENTS TO THE EUROPEAN COMMISSION

1. Pursuant to Articles 8(2) and 10(2) of Council Regulation (EC) No 139/2004 (the “Merger Regulation”), Qualcomm Incorporated (“Qualcomm”) hereby enters into the following Commitments (the “Commitments”) vis-à-vis the European Commission (the “Commission”) with a view to rendering the proposed acquisition of NXP Semiconductors N.V. (“NXP”) by Qualcomm (the “Concentration”) (jointly referred to as the “Parties”) compatible with the internal market and the functioning of the EEA Agreement.
2. This text shall be interpreted in light of the Commission’s decision pursuant to Article 8(2) of the Merger Regulation to declare the Concentration compatible with the internal market and the functioning of the EEA Agreement (the “Decision”), in the general framework of European Union law, in particular in light of the Merger Regulation, and by reference to the Commission Notice on remedies acceptable under Council Regulation (EC) No 139/2004 and under Commission Regulation (EC) No 802/2004 (the “Remedies Notice”).

A. DEFINITIONS

3. For the purpose of the Commitments, the following terms shall have the following meaning:

Affiliated Undertakings: undertakings controlled by the Parties and/or by the ultimate parents of the Parties, whereby the notion of control shall be interpreted pursuant to Article 3 of the Merger Regulation and in light of the Commission Consolidated Jurisdictional Notice under Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings (the “Consolidated Jurisdictional Notice”).

Applications Processor: means a processor supporting applications and/or the operating system of a Mobile Phone, including any other components in the same silicon die. An Applications Processor may include an Integrated Secure Element.

Baseband Chipset: means a combination of chips typically comprising a cellular baseband modem that may include an Applications Processor in the same silicon die, a Radio Frequency Chip, and a Power Management Integrated Circuit.

Closing Date: means the Closing Date as defined in the Purchase Agreement.

Conflict of Interest: any conflict of interest that impairs the Trustee's objectivity and independence in discharging its duties under the Commitments.

Defensive Purposes: means in the event that a Third Party brings any proceeding against: (a) Qualcomm; (b) any Qualcomm customer; and/or (c) any Qualcomm supplier, including any semiconductor fabrication plant, in relation to the implementation of NFC and/or Secure Element Technology in any NXP Products, alleging that their manufacture, use, sale, offer for sale, importation and/or other disposition infringes any of the Third Party's patents related to NFC and/or SE technology. The Defensive Purposes exception does not apply in circumstances where prior to the Third Party bringing any proceedings, Qualcomm initiated proceedings against that same Third Party in relation to the implementation of NFC and/or Secure Element Technology alleging that in relation to the Third Party's products, the manufacture, use, sale, offer for sale, importation and/or other disposition infringes Qualcomm's and/or its Affiliated Undertakings' patents related to NFC and/or SE technology that Qualcomm's and/or its Affiliated Undertakings holds prior to the Effective Date.

Effective Date: the date of adoption of the Decision.

Integrated Secure Element: the portion of a Baseband Chipset or an Applications Processor that is compliant with a certified Secure Element Technology whereby such portion is an integral part of the Baseband Chipset or Applications Processor, and whereby such Baseband Chipset or Applications Processor is used in combination with an NFC Chip.

Intellectual Property Rights: means patents, utility models, copyrights, trade secrets, mask work rights and any other form of intellectual property right protection afforded under applicable laws.

Interoperability: means the interaction of products to enable the products to work together such that each product fully achieves the purposes for which it was designed. For the purpose of these Commitments, Interoperability refers to the possibility of Qualcomm Baseband Chipsets or NXP Products, as applicable, to interact, including by successfully and reliably exchanging information and mutually using the information that has been successfully and reliably exchanged to enable a useful and fully-functional combined system with the Third Party's NFC Chips, Secure Element Chips, or NFC/SE, Applications Processor, or Baseband Chipset.

Interoperability Information: means the information and data required to enable Third Parties NFC Chips, Secure Element Chips, NFC/SE, Applications Processors, or Baseband Chipsets as applicable, to achieve Interoperability with a Qualcomm Baseband Chipset or an NXP Product, such as where necessary hardware specifications including wave-tables and electrical characteristics of the interfaces, software protocol specifications, including protocol and command details of the interfaces, driver software for the interfaces, power supply concept description, documentation describing interoperability testing, description of the software accessing the Secure Element Chip, including protocol and command details.

MIFARE: contactless security technology platform owned by NXP. For avoidance of doubt, MIFARE includes MIFARE Classic, MIFARE Plus, MIFARE DESFire, MIFARE Ultralight, any other MIFARE version developed by NXP and/or Qualcomm and any other MIFARE

version, which will be developed by NXP and/or Qualcomm while these Commitments remain in force.

MIFARE Implementation: means that specific hardware and/or software part of a Secure Element Chip or Integrated Secure Element that is compliant with the MIFARE Licensed Materials.

MIFARE IP Rights: any patent, copyright, know-how and other IP rights owned or controlled by NXP and/or its Affiliated Undertakings that are necessarily infringed by a MIFARE Implementation other than the MIFARE Trademark.

MIFARE License: in accordance with NXP's past practice, a non-exclusive and non-transferable worldwide license, without any right to sublicense, for Mobile Phones, under the MIFARE IP Rights, to use the MIFARE Licensed Materials to develop a MIFARE Implementation and include and/or load it (or have it included or loaded by a Third Party) into a banking level security industry certified Secure Element Chip or Integrated Secure Element, and sell such MIFARE Implementation as being included with the Secure Element Chip or the Integrated Secure Element Chip. In accordance with past practice, the licensee shall also be able to load remotely the MIFARE implementation on Single Wire Protocol removable SIM/UICC cards, embedded SIM/UICC, as well as the secure environment on an Integrated Secure Element of Baseband Chipsets and Applications Processors.

MIFARE Licensed Materials: the specifications, requirements, documentations and other materials specifying functionalities, key elements and requirements for a MIFARE Implementation.

MIFARE Trademark: means MIFARE related trademarks, including but not limited to MIFARE, MIFARE DESFire, MIFARE Plus, MIFARE Ultralight, and MIFARE Classic, as well as new trademarks for any other MIFARE version developed by NXP and/or Qualcomm and to any other MIFARE version, which will be developed by NXP and/or Qualcomm while these Commitments remain in force.¹

MIFARE4MOBILE ("M4M"): means the technology optionally used to manage MIFARE-based services in NFC mobile devices, consisting of the single, interoperable application programming interface which sits above a MIFARE Implementation and eases the management of the MIFARE-based applications and services in an interoperable way in secure elements of NFC devices.

M4M Group: means the industry group, currently composed of NXP, STMicroelectronics, Gemalto, Oberthur Technologies, and Giesecke & Devrient, for the development of M4M

¹ See the MIFARE Branding and Trademark Guidelines available at <https://www.mifare.net/wp-content/uploads/2015/04/MIFARE-Branding-and-Trademark-Guidelines-Basic-Elements-January-2016.pdf>. MIFARE Trademarks shall be used according to the MIFARE Trademark Usage Guidelines available at https://www.mifare.net/wp-content/uploads/2015/04/MIFARE-Trademark-and-Branding-Usage-Guidelines-rev.4.5_Apr2016_English.pdf.

interface specification, trademark rules (including the trademark “MIFARE4Mobile”), and the M4M compliance and robustness rules.

Mobile Phone: a hand-held mobile device with access to a cellular radio network that can be used without a physical connection to a network over a wide area to initiate or receive cellular telecommunication transmissions and which includes a Baseband Chipset. For the avoidance of doubt, Mobile Phones comprise any handheld mobile device with the above characteristics, including legacy mobile phones, smartphones, and phablets.

Monitoring Trustee: one or more natural or legal person(s) who is/are approved by the Commission and appointed by Qualcomm, and who has/have the duty to monitor Qualcomm’s compliance with the obligations attached to this Decision.

Near Field Communication (“NFC”): circuitry and software which provides wireless communication functionality and generally operates in a frequency range of 13.56MHz +/- 7kHz and at a distance of less than ten centimetres in accordance with established NFC-related standards and future generations thereof. For the avoidance of doubt, NFC is distinct from other wireless connectivity standards such as Bluetooth (including Bluetooth Low Energy), Near Field Magnetic Induction, Wi-Fi and cellular connectivity standards (such as W-CDMA/UMTS and LTE).

NFC/SE: an integrated circuit in a single die or stacked silicon dies that supports NFC technology, and a microcontroller performing the functions of a Secure Element Chip for use in Mobile Phones.

NFC Chip: a standalone radio chip that supports the NFC wireless communications standards for use in Mobile Phones.

NXP NFC Patents: means the NXP Patents listed in Schedule 1, including all reissues, divisions, continuations, continuations-in-part, extensions and re-examinations of those Patents.

NXP Products: means NXP’s NFC Chips and NFC/SE that are currently commercially available and/or any future NFC Chip, Secure Element Chip (including Integrated Secure Element), or NFC/SE that Qualcomm and/or NXP and/or their Affiliated Undertakings may commercialise for use in Mobile Phones while these Commitments remain in force.

Patent: a government authority of licence conferring a right or title for a set period, especially the sole right to exclude others from making, using or selling an invention. Patents refers to all national and multinational patents, patent registrations, patent applications, provisional patent applications, utility models and petty patents, whether published or unpublished, including all reissues, divisions, continuations, continuations-in-part, extensions and re-examinations of any of the foregoing, and all rights therein provided by multinational treaties or conventions and all improvements to the inventions disclosed in each such registration, patent or application.

Power Management Integrated Circuit: a chip which optimizes power consumption across a Mobile Phone.

Purchase Agreement: the Purchase Agreement dated as of October 27, 2016 by and between NXP and Qualcomm.

Qualcomm Baseband Chipset: any Baseband Chipset that is currently commercially available from Qualcomm and/or its Affiliated Undertakings and/or any future Baseband Chipset that Qualcomm and/or its Affiliated Undertakings may commercialise for use in Mobile Phones while these Commitments remain in force.

Radio Frequency Chip: a chip that transmits and receives radio signals utilizing one or more frequencies.

Schedule 1: Schedule 1 to these Commitments.

Schedule 2: Schedule 2 to these Commitments.

Schedule 3: Schedule 3 to these Commitments.

Secure Element Chip: a standalone tamper-resistant microcontroller chip that is used in combination with an NFC Chip and that includes a dedicated security hardened processing core for use in Mobile Phones. A secure element chip includes a secure operating system that manages the functionality of such a microcontroller.

Secure Element Operating System: means a secure operating system that manages the functionality of a microcontroller performing the functions of a Secure Element Chip for use in Mobile Phones.

Secure Element Technology: means the technology of the security measures of a Secure Element Chip or of an Integrated Secure Element.

Third Party: means any of either Third Party Customers or Third Party Suppliers.

Third Party Customer: means any actual or potential supplier of Mobile Phones that incorporate Baseband Chipsets and/or NFC Chips, Secure Element Chips, or NFC/SE.

Third Party Supplier: means any actual or potential supplier of Baseband Chipsets and/or Applications Processor and/or NFC Chips, Secure Element Chips, Integrated Secure Elements, NFC/SE or, solely for the purposes of paragraph 14, Secure Element Operating Systems.

In these Commitments, words importing the singular number include the plural and vice versa.

B. EXCLUSION OF PATENTS LISTED IN SCHEDULE 2 FROM THE PROPOSED TRANSACTION AND LICENSE

4. Qualcomm undertakes not to acquire the Patents listed in Schedule 2.
5. In addition, Qualcomm shall also procure from NXP that NXP will grant, an irrevocable, non-exclusive license under the Patents listed in Schedule 2 to any and all Third Parties and customers of any Third Party Customer, on a worldwide basis, for manufacturing, using, selling, offering for sale, importing or otherwise disposing of NFC Chips, Secure Element Chips,

Integrated Secure Element, NFC/SE, and/or Mobile Phones (the “Schedule 2 License”), prior to the Closing Date, with the following terms:

- (a) The Schedule 2 License will be granted prior to the Closing Date and continue until automatically terminated upon the date that is three (3) years from the Closing Date;
- (b) The Schedule 2 License will be granted on a standalone, worldwide and royalty-free basis and without the provision by the licensee of any other consideration (e.g. cross licensing, grant-back, and non-assertion); and
- (c) The Schedule 2 License shall expressly state that the rights granted thereunder survive the assignment of any or all of the Patents in Schedule 2.

Qualcomm shall, and Qualcomm shall procure from NXP that NXP or its Affiliated Undertakings will, make the terms and conditions of the license granted pursuant to paragraph 5 of these Commitments publicly available and advertised in the Parties’ respective documentation and on their websites in an easily visible position.

6. Qualcomm shall not, and Qualcomm shall procure from NXP or its Affiliated Undertakings prior to the Closing Date that they shall not, sell, convey, assign, and/or transfer the Patents listed in Schedule 2 to any third party unless that third party:
 - (a) agrees to be contractually bound to comply with the commitments made by Qualcomm in paragraph 5 of these Commitments; and
 - (b) is independent of, and unconnected to, Qualcomm and its Affiliated Undertakings (this being assessed having regard to the situation following any sale, conveyance, assignment, and/or transfer of the Patents listed in Schedule 2 to any party).
7. Qualcomm shall procure from NXP and/or its Affiliated Undertakings that prior to closing any transaction selling, conveying, assigning, and/or transferring the Patents listed in Schedule 2 to any third party, NXP and/or its Affiliated Undertakings shall provide to the Commission a copy of: (a) the relevant transaction documents that acknowledge that the Patents listed in Schedule 2 are subject to the Schedule 2 License; and (b) the Schedule 2 License. The Commission shall verify and approve that these documents comply with the commitments made by Qualcomm in paragraph 5 of these Commitments prior to the closing of the transaction selling, conveying, assigning, and/or transferring the Patents listed in Schedule 2.
8. In order to maintain the structural effect of the Commitments, for a period of ten (10) years after the Closing Date, Qualcomm commits not to acquire, whether directly or indirectly, the whole or part of the Patents listed in Schedule 2 unless, following the submission to the Monitoring Trustee of a reasoned request from Qualcomm showing good cause and accompanied by a report from the Monitoring Trustee, the Commission finds that the structure of the market has changed to such an extent that the absence of direct or indirect ownership of the Patents listed in Schedule 2 is no longer necessary to render the proposed concentration compatible with the internal market.

C. NON-ASSERTION OF THE NXP NFC PATENTS

9. As long as Qualcomm owns the NXP NFC Patents, Qualcomm and its Affiliated Undertakings commit that from the Closing Date it will not assert (e.g. litigate or bring enforcement proceedings or threaten to litigate or to bring enforcement proceedings) the NXP NFC Patents against any Third Party or a customer of a Third Party Customer, on a worldwide basis, for manufacturing, using, selling, offering for sale, importing or otherwise disposing of NFC Chips, Secure Element Chips, Integrated Secure Element, NFC/SE, and/or Mobile Phones, except for Defensive Purposes. If, during the period in which Qualcomm owns the NXP NFC Patents, a Third Party requests in writing for Qualcomm or its Affiliated Undertakings to grant a license under the NXP NFC Patents for that Third Party to manufacture, use, sell, offer for sale, import or otherwise dispose of NFC Chips, Secure Element Chips, Integrated Secure Element, NFC/SE, and/or Mobile Phones, Qualcomm or its Affiliated Undertakings will grant such license on a stand-alone worldwide and royalty free basis and without the provision by that Third Party of any other consideration (e.g. cross licensing, grant-back, and non-assertion), subject to its termination by Qualcomm for Defensive Purposes.

D. INTEROPERABILITY COMMITMENT

10. Qualcomm also undertakes that from the Closing Date, on a worldwide basis and for a period of eight (8) years thereafter Qualcomm shall ensure the same level of Interoperability, including, but not limited to, functionality and performance, between: (a) Qualcomm Baseband Chipsets and NXP Products, and the Third Party's NFC Chips, Secure Element Chips, Integrated Secure Element or NFC/SE or Secure Element Technology; and (b) NXP Products and the Third Party's Baseband Chipset or Applications Processor as will exist at any point in time between Qualcomm's Baseband Chipsets and NXP's Products, unless Qualcomm demonstrates to the Commission by means of a reasoned and documented submission to the Trustee that there are technical characteristics of the Third Party's products that do not allow Qualcomm to achieve the same level of Interoperability, such as generational differences between Qualcomm's and the Third Party's respective chips.
11. Qualcomm shall take all the steps that are necessary and/or reasonably requested by a Third Party to achieve the Interoperability as described in paragraph 10 above, including but not limited to the following:
- (a) Upon written request, Qualcomm shall, no later than 30 calendar days from such written request, without charge or any form of consideration, and without any other conditions:
 - (i) Provide a Third Party Supplier with the necessary information, documentation, commands and support to enable host interface connections to pair NFC Chips, Secure Element Chips, or NFC/SE to Qualcomm Applications Processor and Baseband Chipsets or NXP Products, including but not limited to Single Wire Protocol ("SWP"), Serial Peripheral Interface ("SPI"), I²C interfaces, and any applicable device drivers. Qualcomm shall also provide timely support, without charge, for bug fixes related to Interoperability. Qualcomm shall also provide

Third Party Suppliers of NFC Chips, Secure Element Chips, or NFC/SE in a timely fashion the necessary feedback and technical guidance.

- (ii) Provide a Third Party Supplier with the necessary information, documentation, commands and support to enable host interface connections to pair the Third Party's Baseband Chipsets or Applications Processor to NXP Products, including but not limited to SPI or I²C interfaces and any applicable device drivers. Qualcomm shall also provide timely support, without charge, for bug fixes related to Interoperability. Qualcomm shall also provide Third Party Suppliers of Baseband Chipsets and Applications Processor in a timely fashion the necessary feedback and technical guidance; and
- (iii) Disclose to Third Parties Interoperability Information without undue delay.

Points (i) to (iii) immediately above also apply in the event that Qualcomm integrates in the same silicon of the Qualcomm Baseband Chipset, partly or fully, the functionalities of NFC Chips and/or Secure Element Chips. For the avoidance of doubt, Qualcomm shall not be obliged to provide confidential information specific to a Third Party if such disclosure would violate an existing confidentiality obligation between Qualcomm and another Third Party.

- (b) Prior to any disclosure of Interoperability Information to a Third Party, such Third Party shall enter into an agreement with Qualcomm as regards confidentiality in the form attached as Schedule 3.
- (c) If Qualcomm integrates in the same silicon of the Qualcomm Baseband Chipset, partly or fully, the functionalities of NFC Chips and/or Secure Element Chips, it shall disclose technological means by which such functionalities may be disabled so that they do not interfere with NFC Chips, Secure Element Chip, NFC/SE or Integrated Secure Elements provided by a Third Party. Nothing herein shall prevent Qualcomm from engineering or designing Qualcomm Applications Processor or Baseband Chipsets that integrate in the same silicon the functionalities of NFC Chips and Secure Element Chips.
- (d) Qualcomm shall refrain from implementing any features or functions (including but not limited to interface technologies) to the merged entity's existing or future Baseband Chipsets, NFC Chips, Secure Element Chips, Integrated Secure Element or Secure Element Technology and/or NFC/SE or to the way in which those chips Interoperate with the Third Party's Baseband Chipsets, Applications Processor, NFC Chips, Secure Element Chips, Integrated Secure Element or Secure Element Technology or NFC/SE in a way that is designed to negatively affect the performance of the Third Party's Baseband Chipsets, NFC Chips, Secure Element Chips, or NFC/SE unless Qualcomm demonstrates that the negative effect is a necessary unavoidable consequence of a performance improvement in Qualcomm's products of such magnitude that the negative effect is objectively justified.

- (e) Qualcomm shall provide Third Party Customers with at least the same level of support for bug fixes regarding the Interoperability of Third Party Suppliers' Baseband Chipsets, Applications Processors, and/or NFC Chips, Secure Element Chips, or NFC/SE or Secure Element Technology as for the Interoperability of Qualcomm Baseband Chipsets and NXP Products.
- 12. Qualcomm's obligations under this Commitment: (a) are subject to the Third Party providing to Qualcomm all required information to undertake bug fixes, workarounds or to provide Interoperability Information, including technical clarifications and assistance under the same conditions as Qualcomm; and (b) do not apply to Qualcomm Baseband Chipsets and NXP Products that are at the end of their product life cycle and to Qualcomm Baseband Chipsets that have not been designed to interoperate with NFC Chips, Secure Element Chips, or NFC/SE.
- 13. Contact details for the provision of Interoperability Information pursuant to this Commitment shall be advertised in Qualcomm's documentation and on its website in an easily visible position.

E. MIFARE LICENSE

- 14. Qualcomm undertakes that from the Closing Date and for a period of eight (8) years thereafter, Qualcomm will, upon written request by any Third Party, grant any such Third Party a non-exclusive MIFARE License also involving the use of MIFARE Trademarks on commercial terms (including with regard to the fee, scope and duration of the license) which are at least as advantageous as those offered by NXP in existing MIFARE Licenses on the Effective Date. Qualcomm commits to offer to MIFARE Licensees, on commercially reasonable and non-discriminatory terms, the extension of the MIFARE Licenses for MIFARE Implementation in an Integrated Secure Element.
- 15. In order to implement paragraph 14 Qualcomm shall make available to Third Parties (subject to the terms of the confidentiality agreement attached as Schedule 3 to these Commitments) the key commercial terms of each equivalent NXP MIFARE Licenses existing on the Effective Date. Such key commercial terms shall include product and geographic scope, field of use of the license, duration, and consideration. Additional terms may be included at the request of the Monitoring Trustee after consulting with the Commission.
- 16. Without prejudice to any Third Party's ability to obtain a MIFARE License from Qualcomm at different commercially negotiated contractual terms, any Third Party shall have the right to obtain a MIFARE License from Qualcomm that replicates all of the key commercial terms of any one of the equivalent NXP MIFARE Licenses that exist on the Effective Date. Such commercial terms shall be at least as advantageous as those offered by NXP in existing equivalent MIFARE Licenses on the Effective Date.
- 17. The existing NXP MIFARE Licenses as of the Effective Date shall also form the benchmark for the determination of the applicable commercial terms in relation to MIFARE Licenses concerning future versions of MIFARE which are not yet licensed as of the Effective Date.
- 18. As of the Closing Date, Qualcomm commits:

- (a) to grant a royalty-free license to the M4M trademark to any Third Party which has entered into the M4M standard license agreements with the M4M Group, namely the specification license, non-assertion agreement, and the compliance and robustness rules, and/or any other agreements that may be required from time to time to allow a Third Party to implement M4M. The M4M trademark license shall remain valid for as long as the M4M standard license agreements are effective; and
- (b) not to exercise any direct or indirect influence over the independent entity appointed by the M4M Group to conduct compliance certification, including but not limited to, the independent entity's assessment of a Third Party's M4M implementation of the applicable M4M Group's compliance and robustness rules.

F. TRUSTEE

I. APPOINTMENT PROCEDURE

19. Qualcomm shall appoint a Monitoring Trustee to carry out the functions specified in these Commitments for a Monitoring Trustee. Qualcomm commits not to close the Concentration before the appointment of a Monitoring Trustee.
20. The Trustee shall:
- (a) at the time of appointment, be independent of the Qualcomm and its Affiliated Undertakings;
 - (b) possess the necessary qualifications to carry out its mandate; and
 - (c) neither have nor become exposed to a Conflict of Interest.
21. The Trustee shall be remunerated by Qualcomm in a way that does not impede the independent and effective fulfilment of its mandate.

Proposal by Qualcomm

22. No later than two weeks after the Effective Date, Qualcomm shall submit the name or names of one or more natural or legal persons whom Qualcomm proposes to appoint as the Monitoring Trustee to the Commission for approval. The proposal shall contain sufficient information for the Commission to verify that the person or persons proposed as Trustee fulfil the requirements set out in paragraph 18 and shall include:
- (a) the full terms of the proposed mandate, which shall include all provisions necessary to enable the Trustee to fulfil its duties under the Commitments; and
 - (b) the outline of a work plan which describes how the Trustee intends to carry out its assigned tasks.

Approval or rejection by the Commission

23. The Commission shall have the discretion to approve or reject the proposed Trustee(s) and to approve the proposed mandate subject to any modifications it deems necessary for the Trustee to fulfil its obligations. If only one name is approved, Qualcomm shall appoint or cause to be appointed the person or persons concerned as Trustee, in accordance with the mandate approved by the Commission. If more than one name is approved, Qualcomm shall be free to choose the Trustee to be appointed from among the names approved. The Trustee shall be appointed within one week of the Commission's approval, in accordance with the mandate approved by the Commission.

New proposal by Qualcomm

24. If all the proposed Trustees are rejected, Qualcomm shall submit the names of at least two more natural or legal persons within one week of being informed of the rejection, in accordance with paragraphs 19 and 22 of the Commitments.

Trustee nominated by the Commission

25. If all further proposed Trustees are rejected by the Commission, the Commission shall nominate a Trustee, whom Qualcomm shall appoint, or cause to be appointed, in accordance with a trustee mandate approved by the Commission.

II. Functions of the Trustee

26. The Trustee shall assume its specified duties and obligations in order to ensure compliance with the Commitments. The Commission may, on its own initiative or at the request of the Trustee or Qualcomm, give any orders or instructions to the Trustee in order to ensure compliance with the conditions and obligations attached to the Decision.

Duties and obligations of the Monitoring Trustee

27. The Monitoring Trustee shall:
- (a) propose in its first report to the Commission a detailed work plan describing how it intends to monitor compliance with the obligations and conditions attached to the Decision;
 - (b) monitor compliance by Qualcomm with the conditions and obligations attached to the Decision;
 - (c) propose to Qualcomm such measures as the Monitoring Trustee considers necessary to ensure Qualcomm's compliance with the conditions and obligations attached to the Decision;
 - (d) act as a contact point for any requests by third parties, in relation to the Commitments;

- (e) provide to the Commission, sending Qualcomm a non-confidential copy at the same time, a written report within fifteen (15) working days after the end of every quarter of the Effective Date for the first five (5) years and every six (6) months thereafter, so that the Commission can assess whether the commitments are being correctly implemented;
- (f) promptly report in writing to the Commission, sending Qualcomm a non-confidential copy at the same time, if it concludes on reasonable grounds that Qualcomm is failing to comply with the Commitments; and
- (g) assume the other functions assigned to the Monitoring Trustee under the conditions and obligations attached to the Decision.

III. Duties and obligations of the Parties

- 28. Qualcomm shall provide and shall cause its advisors to provide the Trustee with all such cooperation, assistance and information as the Trustee may reasonably require to perform its tasks. The Trustee shall have full and complete access to Qualcomm's books, records, documents, management or other personnel, facilities, sites and technical information necessary for fulfilling its duties under the Commitments and Qualcomm shall provide the Trustee upon request with copies of any document. Qualcomm shall make available to the Trustee one or more offices on their premises and shall be available for meetings in order to provide the Trustee with all information necessary for the performance of its tasks.
- 29. Qualcomm shall provide the Monitoring Trustee with all managerial and administrative support that it may reasonably request to monitor the Commitments.
- 30. Qualcomm shall provide the Monitoring Trustee with copies of all agreements entered into under these Commitments promptly following the execution thereof, in each case subject to the Monitoring Trustee's obligations of professional secrecy.
- 31. Qualcomm shall indemnify the Trustee and its employees and agents (each an "Indemnified Party") and hold each Indemnified Party harmless against, and hereby agrees that an Indemnified Party shall have no liability to Qualcomm for, any liabilities arising out of the performance of the Trustee's duties under the Commitments, except to the extent that such liabilities result from the wilful default, recklessness, gross negligence or bad faith of the Trustee, its employees, agents or advisors.
- 32. At the expense of Qualcomm, the Trustee may appoint advisors (in particular for legal advice), subject to Qualcomm's approval (this approval not to be unreasonably withheld or delayed) if the Trustee considers the appointment of such advisors necessary or appropriate for the performance of its duties and obligations under the mandate, provided that any fees and other expenses incurred by the Trustee are reasonable. Should Qualcomm refuse to approve the advisors proposed by the Trustee the Commission may approve the appointment of such advisors instead, after having heard Qualcomm. Only the Trustee shall be entitled to issue instructions to the advisors. Paragraph 28 of these Commitments shall apply *mutatis mutandis*.

33. Qualcomm agrees that the Commission may share confidential information proprietary to Qualcomm with the Trustee. The Trustee shall not disclose such information and the principles contained in Articles 17(1) and (2) of the Merger Regulation apply *mutatis mutandis*.
34. Qualcomm agrees that the contact details of the Monitoring Trustee are published on the website of the Commission's Directorate-General for Competition and they shall inform interested third parties, in particular any potential purchasers, of the identity and the tasks of the Monitoring Trustee.
35. For a period of ten (10) years from the Effective Date the Commission may request all information from the Parties that is reasonably necessary to monitor the effective implementation of these Commitments.

IV. Replacement, discharge and reappointment of the Trustee

36. If the Trustee ceases to perform its functions under the Commitment or for any other good cause, including the exposure of the Trustee to a Conflict of Interest:
 - (a) the Commission may, after hearing the Trustee and Qualcomm, require Qualcomm to replace the Trustee; or
 - (b) Qualcomm may, with the prior approval of the Commission, replace the Trustee.
37. If the Trustee is removed according to paragraph 36 of the Commitments, the Trustee may be required to continue in its function until a new Trustee is in place to whom the Trustee has effected a full hand over of all relevant information. The new Trustee shall be appointed in accordance with the procedure referred to in paragraphs 19-25 of the Commitments.
38. Unless removed according to paragraph 36 of the Commitments, the Trustee shall cease to act as Trustee only after the Commission has discharged it from its duties after all the Commitments with which the Trustee has been entrusted have been implemented. However, the Commission may at any time require the reappointment of the Monitoring Trustee if it subsequently appears that the relevant remedies might not have been fully and properly implemented.

G. FAST TRACK DISPUTE RESOLUTION

39. In the event that a Third Party, showing a sufficient legitimate interest (the "**Requesting Party**"), claims that Qualcomm and/or its Affiliated Undertakings is failing to comply with its obligations arising from these Commitments, the fast track dispute resolution procedure as described herein shall apply.
40. The Requesting Party shall notify Qualcomm and the Monitoring Trustee of its request and specify the reasons why it believes that Qualcomm is failing to comply with the Commitments. The Requesting Party and Qualcomm shall use their best efforts to resolve all differences of opinion and to settle all disputes that may arise through co-operation and consultation within a reasonable period of time not to exceed fifteen (15) working days after receipt of the request.

41. The Monitoring Trustee shall present its own proposal for resolving the dispute within eight (8) working days to Qualcomm, the Requesting Party and the Commission, specifying in writing the action, if any, to be taken by Qualcomm or Affiliated Undertakings in order to ensure compliance with the Commitments vis-à-vis the Requesting Party, and be prepared, if requested, to facilitate the settlement of the dispute.
42. Should Qualcomm and the Requesting Party fail to resolve their differences of opinion through cooperation and consultation, the Requesting Party may initiate the arbitration process described below. The arbitration process shall be used only to resolve disputes regarding compliance with the Commitments.
43. To initiate the arbitration process, the Requesting Party shall serve a notice (the "Notice"), in the sense of a request for arbitration, to the International Chamber of Commerce ("ICC", hereinafter the "Arbitral Institution"), with a copy of such Notice and request for arbitration to Qualcomm. The arbitrators shall have experience and expertise in the area of intellectual property, information and communications technology, and semiconductors.
44. The Notice shall set out in detail the dispute, difference or claim (the "Dispute") and shall contain, *inter alia*, all issues of both fact and law, including any suggestions as to the procedure, and all documents relied upon shall be attached, e.g. documents, agreements, expert reports, and witness statements. The Notice shall also contain a detailed description of what is required of Qualcomm to resolve the dispute.
45. Qualcomm shall, within 20 (twenty) calendar days from receipt of the Notice, submit its response (the "Response"). The Response shall provide detailed reasons for its conduct and set out, *inter alia*, all issues of both fact and law, including any suggestions as to the procedure, and all documents relied upon, e.g. documents, agreements, expert reports, and witness statements. The Response shall, if appropriate, contain a detailed description of the action that Qualcomm proposes to undertake vis-à-vis the Requesting Party.
46. The Arbitral Tribunal shall consist of three persons. The Requesting Party shall nominate its arbitrator in the Notice; Qualcomm shall nominate its arbitrator in the Response. The arbitrator nominated by the Requesting Party and by Qualcomm shall, within five (5) working days of the nomination of the latter, nominate the chairman, making such nomination known to the Requesting Party and Qualcomm and the Arbitral Institution, which shall confirm the appointment of all three arbitrators.
47. Should the Requesting Party wish to have the Dispute decided by a sole arbitrator it shall indicate this in the Notice. In this case, the Requesting Party and Qualcomm shall agree on the nomination of a sole arbitrator within five (5) working days from the communication of the Response, communicating this to the Arbitral Institution.
48. Should Qualcomm fail to nominate an arbitrator, or if the two arbitrators fail to agree on the chairman, or should the Requesting Party and/or Qualcomm fail to agree on a sole arbitrator, the default appointment(s) shall be made by the Arbitral Institution.

49. The three-person arbitral tribunal or, as the case may be, the sole arbitrator, are herein referred to as the “Arbitral Tribunal”.
50. The Dispute shall be finally resolved by arbitration under the ICC Rules of Arbitration, with such modifications or adaptations as foreseen herein or necessary under the circumstances (the “Rules”). The arbitration shall be conducted in New York, New York, United States of America, in the English language.
51. The procedure shall be a fast-track procedure. For this purpose, the Arbitral Tribunal shall shorten all applicable procedural time-limits under the Rules as far as appropriate in the circumstances. The Requesting Party and Qualcomm shall consent to the use of e-mail for the exchange of documents.
52. The Arbitral Tribunal shall, as soon as practical after the confirmation of the Arbitral Tribunal, hold an organisational conference to discuss any procedural issues with the parties to the arbitration. Terms of reference shall be drawn up and signed by the parties to the arbitration and the Arbitral Tribunal at the organisational meeting or thereafter and a procedural timetable shall be established by the Arbitral Tribunal. An oral hearing shall, as a rule, be established within two (2) months of the confirmation of the Arbitral Tribunal.
53. In order to enable the Arbitral Tribunal to reach a decision, it shall be entitled to request any relevant information from Qualcomm or Affiliated Undertakings or the Requesting Party, to appoint experts and to examine them at the hearing, and to establish the facts by all appropriate means. The Arbitral Tribunal is also entitled to ask for assistance by the Trustee in all stages of the procedure if the Requesting Party and/or Qualcomm agree.
54. The arbitrators shall not disclose confidential information and shall apply the legal standards covering the treatment of confidential information under the Merger Regulation and the Treaty of the Functioning of the European Union. The Arbitral Tribunal may take the measures necessary for protecting confidential information in particular by restricting access to confidential information to the Arbitral Tribunal, the Trustee and outside counsel and experts of the opposing party.
55. The burden of proof in any dispute governed under the Rules shall be borne as follows: (i) the Requesting Party must produce evidence of a *prima facie* case; (ii) if the Requesting Party does so, the Arbitral Tribunal must find in favour of the Requesting Party unless Qualcomm can produce evidence to the contrary.
56. The Commission shall be allowed and enabled to participate in all stages of the procedure by:
 - (a) receiving all written submissions (including documents and reports, etc.) made by the parties to the arbitration;
 - (b) receiving all orders, interim and final awards and other documents exchanged by the Arbitral Tribunal with the parties to the arbitration (including the terms of reference and procedural timetable);

- (c) filing any Commission amicus curiae briefs; and
 - (d) being present at the hearing(s) and being allowed to ask questions to parties, witnesses and experts.
57. The Arbitral Tribunal shall forward, or shall order the parties to the arbitration to forward, the documents mentioned to the Commission without delay.
58. In the event of disagreement between the parties to the arbitration regarding the interpretation of the Commitments, the Arbitral Tribunal shall inform the Commission and may seek the Commission's interpretation of the Commitments before finding in favour of any party to the arbitration and shall be bound by the interpretation.
59. The Arbitral Tribunal shall decide the dispute on the basis of the Commitments and the Decision. The Commitments shall be construed in accordance with the Merger Regulation, EU law and general principles of law common to the legal orders of the Member States without a requirement to apply a particular national system. The Arbitral Tribunal shall take all decisions by majority vote.
60. Upon the request of the Requesting Party, the Arbitral Tribunal may make a preliminary ruling on the Dispute. The preliminary ruling shall be rendered within one (1) month after the confirmation of the Arbitral Tribunal, shall be applicable immediately and, as a rule, remain in force until a final decision is rendered.
61. The Arbitral Tribunal shall, in the preliminary ruling as well as in the final award, specify the action, if any, to be taken by Qualcomm or its Affiliated Undertakings in order to comply with the Commitments vis-à-vis the Requesting Party (e.g. specify a contract including all relevant terms and conditions).
62. The final award shall be final and binding on the parties to the arbitration and shall resolve the dispute and determine any and all claims, motions or requests submitted to the Arbitral Tribunal. The arbitral award shall also determine the reimbursement of the costs of the successful party and the allocation of the arbitration costs. In case of granting a preliminary ruling or if otherwise appropriate, the Arbitral Tribunal shall specify that terms and conditions determined in the final award apply retroactively.
63. The final award shall, as a rule, be rendered within six (6) months after the confirmation of the Arbitral Tribunal. The timeframe shall, in any case, be extended by the time the Commission takes to submit an interpretation of the Commitments if asked by the Arbitral Tribunal.
64. The parties to the arbitration shall prepare a non-confidential version of the final award, without business secrets. The Commission may publish the non-confidential version of the award.
65. Nothing in the above-described arbitration procedure shall affect the powers of the Commission to take decisions in relation to the Commitments in accordance with its powers under the Merger Regulation and the Treaty on the Functioning of the European Union.

H. THE REVIEW CLAUSE

66. The Commission may extend the time period foreseen in the Commitments in response to a request from Qualcomm or, in appropriate cases, on its own initiative. Where Qualcomm requests an extension of the time period, it shall submit a reasoned request to the Commission no later than one (1) month before the expiry of that period, showing good cause. This request shall be accompanied by a report from the Monitoring Trustee, who shall, at the same time send a non-confidential copy of the report to Qualcomm. Only in exceptional circumstances shall Qualcomm be entitled to request an extension within the last month of that period.
67. The Interoperability commitment contained in paragraphs 10 to 13 and the MIFARE commitment contained in paragraphs 14 to 17 are subject to the possibility of a shortening of the respective time periods following a review by the Commission after three (3) years from the Closing Date in the light of technological and/or market developments.
68. The Commission may, where appropriate, in response to a reasoned request from Qualcomm showing good cause, waive, modify or substitute, in exceptional circumstances, one or more of the undertakings in the Commitments. This request shall be accompanied by a report from the Monitoring Trustee, who shall, at the same time, send a non-confidential copy of the report to Qualcomm. The request shall not have the effect of suspending the application of the undertaking and, in particular, of suspending the expiry of any time period in which the undertaking has to be complied with.

I. ENTRY INTO FORCE

69. The Commitments shall take effect upon the date of adoption of the Decision.

Brussels, 10 January 2018

Duly authorised for and on behalf of
Qualcomm Incorporated

Schedule 1

Acquired non-SEP NXP NFC Patents

Patent Number / Publication Number / Application Number	Region	Status	Espacenet Reference
CN200680021088	CN	Granted	CN101198971
CN200680017348	CN	Granted	CN101198970
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CN200680014516	CN	Granted	CN101167111
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9733/DELNP/2007	IN	Granted (as IN287840)	WO2006123315
9104/DELNP/2007	IN	Published	WO2006117722
4742/DELNP/2009	IN	Published	WO2008078216
342015	IN	Published	IN331DE2015
IN261793	IN	Granted	IN261793
IN274725	IN	Granted	IN274725
IN261160	IN	Granted	IN261160
3199/DELNP/2007	IN	Published	WO2006035331
IN280222	IN	Granted	IN280222
JP4690455	JP	Granted	JP4690455
JP4673407	JP	Granted	JP4673407
JP4681649	JP	Granted	JP4681649

Patent Number / Publication Number / Application Number	Region	Status	Espacenet Reference
JP5033196	JP	Granted	JP5033196
JP4972706	JP	Granted	JP4972706
JP5879388	JP	Granted	JP5879388
JP4758587	JP	Granted	JP4758587
JP4319549	JP	Granted	JP4319549
JP4173106	JP	Granted	JP4173106
JP4275623	JP	Granted	JP4275623
JP4485958	JP	Granted	JP4485958
JP4579233	JP	Granted	JP4579233
JP4870073	JP	Granted	JP4870073
JP4767947	JP	Granted	JP4767947
JP4833986	JP	Granted	JP4833986
JP5244395	JP	Granted	JP5244395
JP4559552	JP	Granted	JP4559552
JP4334479	JP	Granted	JP4334479
JP4097708	JP	Granted	JP4097708
KR0825200	KR	Granted	KR0825200
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KR1130003	KR	Granted	KR1130003
KR1143785	KR	Granted	KR1143785
KR0981143	KR	Granted	KR0981143
KR0975548	KR	Granted	KR0975548
KR1296304	KR	Granted	KR1296304
KR1469823	KR	Granted	KR1469823
KR1362817	KR	Granted	KR1362817
KR1492948	KR	Granted	KR1492948
KR1524861	KR	Granted	KR1524861
KR1519128	KR	Granted	KR1519128
KR0697489	KR	Granted	KR0697489
KR0736958	KR	Granted	KR0736958
KR0521669	KR	Granted	KR0521669
NL2225833	NL	Granted	EP2225833
TWI584152	TW	Granted	TWI584152
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TWI474643	TW	Granted	TWI474643

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TWI467945	TW	Granted	TWI467945
TWI493909	TW	Granted	TWI493909
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TWI520440	TW	Granted	TWI520440
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US20080199011	US	Granted	US9830481
US7786870	US	Granted	US7786870
US7929456	US	Granted	US7929456
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US8769616	US	Granted	US8769616
US9268932	US	Granted	US9268932
US8280304	US	Granted	US8280304
US8447233	US	Granted	US8447233
US8824963	US	Granted	US8824963
US9241237	US	Granted	US9241237
US7907057	US	Granted	US7907057
US20160104148	US	Published	US20160104148
US8395488	US	Granted	US8395488
US8341361	US	Granted	US8341361
US8688929	US	Granted	US8688929
US9003133	US	Granted	US9003133
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US9342776	US	Granted	US9342776
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US8227847	US	Granted	US8227847
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US9208634	US	Granted	US9208634

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US9160813	US	Granted	US9160813
US9584483	US	Granted	US9584483
US9087227	US	Granted	US9087227
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US8261997	US	Granted	US8261997
US8626066	US	Granted	US8626066
US9038916	US	Granted	US9038916
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US8750514	US	Granted	US8750514
US9357316	US	Granted	US9357316
US9298955	US	Granted	US9298955
US20130159124	US	Granted	US9743217
US8706036	US	Granted	US8706036
US8923769	US	Granted	US8923769
US9252845	US	Granted	US9252845
US9673870	US	Granted	US9673870
US20130325711	US	Published	US20130325711
US9407329	US	Granted	US9407329
US20160337004	US	Granted	US9813116
US8929812	US	Granted	US8929812
US9633242	US	Granted	US9633242
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US20160072629	US	Published	US20160072629
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US9236914	US	Granted	US9236914
US20140172700	US	Published	US20140172700
US9014323	US	Granted	US9014323
US20140291392	US	Published	US20140291392
US20150105021	US	Granted	US9820081
US8964904	US	Granted	US8964904
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US9264899	US	Granted	US9264899
US9584514	US	Granted	US9584514
US20140340195	US	Granted	US9806689
14/527680	US	Published	US20150121499

Patent Number / Publication Number / Application Number	Region	Status	Espacenet Reference
US20150371453	US	Published	US20150371453
US9634727	US	Granted	US9634727
US20150199509	US	Published	US20150199509
US20150235203	US	Published	US20150235203
US20150278548	US	Published	US20150278548
US20150244257	US	Published	US20150244257
US20150310234	US	Granted	US9805228
US9379884	US	Granted	US9379884
US20150235059	US	Allowed	US20150235059
US9450306	US	Granted	US9450306
US20160260073	US	Published	US20160260073
US20170091497	US	Published	US20170091497
US20160301523	US	Granted	US9838197
US20170104468	US	Published	US20170104468
US20160359648	US	Granted	US9825788
US20170070245	US	Granted	US9742443
US9654181	US	Granted	US9654181
15/411955	US	Published	US20170206386
US7039133	US	Granted	US7039133
US6907266	US	Granted	US6907266
US6827280	US	Granted	US6827280
US9471818	US	Granted	US9471818
US20170032312	US	Granted	US9767433
US7412230	US	Granted	US7412230
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US8683215	US	Granted	US8683215
US8295484	US	Granted	US8295484
US9288192	US	Granted	US9288192
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US8171531	US	Granted	US8171531
US8572713	US	Granted	US8572713
US8739266	US	Granted	US8739266
US20140344160	US	Refused	US20140344160
US7775427	US	Granted	US7775427
US8132722	US	Granted	US8132722
US9117324	US	Granted	US9117324
US8112787	US	Granted	US8112787
US8689290	US	Granted	US8689290
US20090222383	US	Published	US20090222383
US8677482	US	Granted	US8677482
US8826039	US	Granted	US8826039
US9355280	US	Granted	US9355280
US8549586	US	Granted	US8549586
US9059994	US	Granted	US9059994
US9674196	US	Granted	US9674196
US9304944	US	Granted	US9304944
US9256734	US	Granted	US9256734
US20160117506	US	Published	US20160117506
US9224013	US	Granted	US9224013
US20160078223	US	Published	US20160078223
US9258287	US	Granted	US9258287
US20150304851	US	Published	US20150304851
US9661015	US	Granted	US9661015
US7583179	US	Granted	US7583179
US7689195	US	Granted	US7689195
US7890080	US	Granted	US7890080
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US7664461	US	Granted	US7664461
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US7477917	US	Granted	US7477917
US7856247	US	Granted	US7856247

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US7907926	US	Granted	US7907926
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US8909184	US	Granted	US8909184
US8165552	US	Granted	US8165552
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US7893878	US	Granted	US7893878
US7965191	US	Granted	US7965191
US8064533	US	Granted	US8064533
US8180285	US	Granted	US8180285
US8199017	US	Granted	US8199017
US8338930	US	Granted	US8338930
US8369390	US	Granted	US8369390
US8610579	US	Granted	US8610579
US8674888	US	Granted	US8674888
US8709872	US	Granted	US8709872
US7586458	US	Granted	US7586458
US7683851	US	Granted	US7683851
US7825871	US	Granted	US7825871
US7564302	US	Granted	US7564302
US7933568	US	Granted	US7933568
US8369889	US	Granted	US8369889
US7554404	US	Granted	US7554404
US7885683	US	Granted	US7885683
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US8005436	US	Granted	US8005436
US8032175	US	Granted	US8032175
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US7679514	US	Granted	US7679514
US8207825	US	Granted	US8207825
US8838047	US	Granted	US8838047

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US8093990	US	Granted	US8093990
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US8022825	US	Granted	US8022825
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US8339258	US	Granted	US8339258
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US8831512	US	Granted	US8831512
US9119160	US	Granted	US9119160
US20150334518	US	Published	US20150334518
US8188787	US	Granted	US8188787
US8588682	US	Granted	US8588682
US9197059	US	Granted	US9197059
US8326224	US	Granted	US8326224
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US9706497	US	Granted	US9706497
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US9281874	US	Granted	US9281874
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US6801956	US	Granted	US6801956
US7330455	US	Granted	US7330455
US7801486	US	Granted	US7801486
US6185682	US	Granted	US6185682
US8168524	US	Granted	US8168524
US6294980	US	Granted	US6294980

Schedule 2

Patents excluded from the Proposed Transaction

[...]

Schedule 3

Model Confidentiality Agreement

This Mutual Non-Disclosure Agreement (the "Agreement") is made and entered into effective [DATE] by and between QUALCOMM Incorporated ("QUALCOMM"), with offices located at 5775 Morehouse Drive, San Diego, California 92121, and [Full Legal Name], with offices located at [Street address, city, postcode and country], with regard to the following facts:

WHEREAS, each party to this Agreement possesses confidential, proprietary and/or trade secret information including, without limitation, information in tangible or intangible form relating to or including: business, product, marketing, licensing or sales activities, policies, practices, outlooks, studies, reports, analyses, strategies or forecasts, finances, revenue, pricing, costs or profits, released or unreleased products including, but not limited to, software, hardware, development, research, designs, specifications, performance characteristics, code, formulas, algorithms, data, techniques, processes, inventions, testing strategies, industry, customer or consumer information and third party confidential information (the "INFORMATION"); and

WHEREAS, each party in possession of INFORMATION (the "Disclosing Party") desires to disclose some of its INFORMATION to the other party (the "Receiving Party") subject to the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the promises made herein, the receipt of certain INFORMATION and good and other valuable consideration, the receipt of which is hereby acknowledged, the parties hereto agree as follows:

1. Permitted Use. The Receiving Party shall handle, use, treat and utilize such INFORMATION as follows: (a) hold all INFORMATION received from the Disclosing Party in strict confidence; (b) use such INFORMATION only for the purposes identified in the written request addressed to QUALCOMM for the purposes identified in paragraphs 11 or 14 of the Commitments in Case M.8306 – Qualcomm / NXP (the "Written Request"); (c) reproduce such INFORMATION only to the extent necessary for such purpose; (d) restrict disclosure of such INFORMATION to its employees with a need to know (and advise such employees of the obligations assumed herein); and (e) except as set forth in Section 3 herein, not disclose such INFORMATION to any third party, including but not limited to any vendor, customer, manufacturer or independent contractor, without prior written approval of such Disclosing Party. In addition, with respect to any equipment, component, software, or other items delivered to the Receiving Party by the Disclosing Party, the Receiving Party shall not reverse engineer, disassemble, decompile, or otherwise analyze the physical construction of, any such items.

The restrictions on the Receiving Party's use and disclosure of INFORMATION as set forth above shall not apply to any INFORMATION which the Receiving Party can demonstrate:

- (a) is wholly and independently developed by the Receiving Party without the use of INFORMATION of the Disclosing Party; or
- (b) is or has become generally known to the public from a source having the right to disclose such INFORMATION; or
- (c) at the time of disclosure to the Receiving Party, was known to such Receiving Party free of restriction and evidenced by documentation in the Receiving Party's possession; or
- (d) is approved for release by written authorization of the Disclosing Party, but only to the

extent of and subject to such conditions as may be imposed in such written authorization;
or

- (e) is disclosed in response to a valid order of a court or other relevant governmental body or any political subdivision thereof, but only to the extent of and for the purposes of such order; provided, however, that if the Receiving Party receives an order or request to disclose any INFORMATION by a court of competent jurisdiction or a governmental body, then the Receiving Party agrees:
 - (i) if not prohibited by the request or order, immediately to inform the Disclosing Party in writing of the existence, terms, and circumstances surrounding the request or order;
 - (ii) to consult with the Disclosing Party on what steps should be taken to avoid or restrict the disclosure of INFORMATION;
 - (iii) to give the Disclosing Party the chance to defend, limit or protect against the disclosure; and
 - (iv) if disclosure of INFORMATION is lawfully required, to supply only that portion of the INFORMATION which is legally necessary and try to obtain confidential treatment for any INFORMATION required to be disclosed.

2. Designation. INFORMATION shall be subject to the restrictions of Section 1 if it is in writing or other tangible form and clearly marked as proprietary or confidential when disclosed to the Receiving Party or, if not disclosed in tangible form, if clearly identified as confidential or proprietary at the time of disclosure. The parties agree to use reasonable efforts to summarize the content of oral disclosures which are proprietary or confidential but failure to provide such summary shall not affect the nature of the INFORMATION disclosed or detract from the protection afforded under this Agreement if such INFORMATION was identified as confidential or proprietary when orally disclosed.
3. Affiliates and other Third Parties with a Need to Know. This Agreement does not permit either party to disclose INFORMATION to any third party (including, without limitation, that party's affiliates). Notwithstanding the foregoing, either party may re-disclose INFORMATION to its Affiliates or any third party identified in the Written Request, and solely to the extent stated in this written request, who have a need to know and shall treat such INFORMATION in a manner that is consistent with the confidentiality obligations of the Receiving Party in this Agreement and such Affiliates may re-disclose INFORMATION to other such Affiliates and to a party hereto. Either party's Affiliates may also disclose INFORMATION to the other party hereto and to such other party's Affiliates. In such event, the other party hereto, and such other party's Affiliates, shall treat such INFORMATION in accordance with the provisions of this Agreement as if such INFORMATION was disclosed directly by the Disclosing Party, and the Disclosing Party and/or its Affiliates shall have the right to enforce the provisions of this Agreement against the other party hereto and against such other party's Affiliates in connection with any and all breaches or violations of this Agreement with respect to such INFORMATION by the other party hereto and by such other party's Affiliates. Either party's Affiliates may also receive INFORMATION from the other party hereto and from such other party's Affiliates. In such event, the Affiliate receiving such INFORMATION shall be responsible to treat such INFORMATION in accordance with the confidentiality obligations set forth in this Agreement. The parties hereto shall be responsible for any improper disclosure or use by its Affiliates or by any third party identified in the

Written Request of such INFORMATION to the same extent as if that party had received such INFORMATION directly and made the same disclosure or use of such INFORMATION as did its Affiliates. The term "Affiliate" shall mean any entity with respect to which either party owns or controls, directly or indirectly, greater than fifty percent (>50%) of the outstanding voting securities (but an entity shall remain an Affiliate only so long as it meets such ownership requirements). The term "INFORMATION" shall also include information that is under the ownership, possession or control of an Affiliate but otherwise meets the definition of INFORMATION.

4. No License or Representations. No license to a party of any trademark, patent, copyright, mask work protection right or any other intellectual property right is either granted or implied by this Agreement or any disclosure hereunder, including, but not limited to, any license to make, use, import or sell any product embodying any INFORMATION. No representation, warranty or assurance is made by either party with respect to the non-infringement of trademarks, patents, copyrights, mask protection rights or any other intellectual property rights or other rights of third persons.
5. No Obligation. Neither this Agreement nor the disclosure or receipt of INFORMATION shall be construed as creating any obligation of a party to furnish INFORMATION to the other party other than Qualcomm's obligations contained in the Commitments or to enter into any agreement or relationship with the other party with respect to mutual business.
6. Return of Information. All INFORMATION shall remain the sole property of the Disclosing Party which originally disclosed such INFORMATION. Except as may be otherwise required by applicable law, regulation, legal or judicial process, the Receiving Party shall make all reasonable efforts to promptly destroy or return all materials containing any such INFORMATION (including all copies made by the Receiving Party), upon request following termination or expiration of this Agreement or the Receiving Party's determination that it no longer has a need for such INFORMATION. Upon request of the Disclosing Party, the Receiving Party shall certify in writing that all such materials have been returned to the Disclosing Party or destroyed. Notwithstanding the above, the Receiving Party may retain copies of INFORMATION stored on backup disks or in backup storage facilities automatically produced in the ordinary course of business. Any INFORMATION so retained will be held subject to the confidentiality and use limitations of this Agreement.
7. Export Compliance Assurance. The Receiving Party acknowledges that all hardware, software, source code and technology (collectively, "Products") obtained from the Disclosing Party are subject to the United States ("US") government export control and economic sanctions laws. The Receiving Party assures that it, its subsidiaries and affiliates will not directly or indirectly export, re-export, transfer or release any Products or direct product thereof to any destination, person, entity or end-use prohibited or restricted under US laws without prior US government authorization to the extent required by applicable regulation. The Receiving Party acknowledges that other countries may have trade laws pertaining to the export, import, use, or distribution of Products, and that compliance with the same is the responsibility of the Receiving Party. This requirement shall survive any termination or expiration of this Agreement.
8. Term and Termination. This Agreement shall become effective on the date first set forth above and shall terminate upon the happening of the earlier of:
 - (a) The written notice of either party to the other of its election, with or without cause, to terminate this Agreement; or
 - (b) The expiration of sixty (60) months from the date first set forth above.

9. Notice. Any notice or other communication made or given by either party in connection with this Agreement shall be sent by registered or certified mail, postage prepaid, return receipt requested, or by courier service addressed to the other party at its address set forth below:

QUALCOMM Incorporated
5775 Morehouse Drive
San Diego, California 92121
USA
Attn: Legal Department

[Full Legal Name]
[Full Address]
[Country]
Attn: Legal Department

10. Survivability. Each party agrees that all of its obligations undertaken herein as a Receiving Party shall survive and continue after any termination or expiration of this Agreement.
11. Governing Law and Arbitration. This Agreement shall be governed in all respects solely and exclusively by the laws of the State of California, U.S.A. without regard to conflict of laws principles. All disputes, controversies, or claims arising out of, relating to or in connection with this Agreement shall be resolved by the Fast Track Dispute Resolution Procedure contained in the Commitments.
12. Independent Development. Nothing in this Agreement shall be construed as a representation or agreement that the Receiving Party is not currently developing, shall not develop, or have developed for it, products, concepts, systems, technologies, or techniques that are similar to or compete with the products, concepts, systems, technologies, or techniques contemplated by the purpose or embodied in the INFORMATION, or explore such similar opportunities with other parties, provided that the Receiving Party does not violate any of its obligations under this Agreement in connection therewith. Furthermore, neither party shall have any obligation to limit or restrict the assignment of its employees as a result of their having had access to INFORMATION.
13. Information provided in accordance with QUALCOMM's Commitments in Case M.8306 – Qualcomm / NXP. INFORMATION disclosed under this Agreement is provided pursuant to and according with paragraphs 11 and 14 of the Commitments in Case M.8306 – Qualcomm / NXP. Except as expressly set forth in this Section 13, neither party makes any warranty, express or implied, as to the value, accuracy or completeness of INFORMATION disclosed hereunder.
14. Miscellaneous. This Agreement constitutes the entire understanding among the parties hereto as to the INFORMATION and supersedes all prior discussions between them relating thereto. No amendment or modification of this Agreement shall be valid or binding on the parties unless made in writing and signed on behalf of each of the parties by its authorized officer or representative. No party may assign or transfer, in whole or in part, any of its rights, obligations or duties under this Agreement. The failure or delay of any party to enforce at any time any provision of this Agreement shall not constitute a waiver of such party's right thereafter to enforce each and every provision of this Agreement. In the event that any of the terms, conditions or provisions of this Agreement are held to be illegal, unenforceable or invalid by any court of competent jurisdiction, the remaining terms, conditions or provisions hereof shall remain in full force and effect.

15. Counterparts, Electronic and Facsimile Delivery. This Agreement may be executed in two or more identical counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute the Agreement when a duly authorized representative of each party has signed a counterpart. The parties may deliver this signed Agreement by electronic (including email or facsimile) transmission. Each party agrees that such electronic transmission shall have the same force and effect as delivery of original signatures and that each party may use such electronically-transmitted copies as evidence of the execution and delivery of the Agreement by all parties to the same extent that an original signature could be used.

IN WITNESS WHEREOF, this Agreement shall become effective on the date set forth above.

Qualcomm Incorporated

By:
Print Name:
Title:

[Full legal name]

By:
Print Name:
Title: