

DISCLAIMER: This is an interim text of the non-confidential version of the commitments in Case M.8797 – Thales/Gemalto. 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.

November 7, 2018

Case M. 8797 – Thales/Gemalto

COMMITMENTS TO THE EUROPEAN COMMISSION

Pursuant to Articles 8(2) and 10(2), of Council Regulation (EC) No. 139/2004 (the “*Merger Regulation*”), Thales S.A. (“*Thales*”) (the “*Notifying Party*”) hereby enters into the following Commitments (the “*Commitments*”) vis-à-vis the European Commission (the “*Commission*”) with a view to rendering the acquisition of 100% of the issued and outstanding ordinary shares of Gemalto N.V. (“*Gemalto*”) by Thales (the “*Concentration*”) compatible with the internal market and the functioning of the EEA Agreement.

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*”).

Section A. Definitions

1. For the purpose of the Commitments, the terms below 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’s Consolidated Jurisdictional Notice under Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings (the “*Consolidated Jurisdictional Notice*”).

Assets: the assets that contribute to the current operation or are necessary to ensure the viability and competitiveness of the Divestment Business as indicated in Section B, paragraph 5 and described in more in detail in the Schedule.

Closing: the transfer of the legal title to the Divestment Business to the Purchaser.

Closing Period: the period of [Redacted] from the approval of the Purchaser and the terms of sale by the Commission.

Confidential Information: any business secrets, know-how, commercial information, or any other information of a proprietary nature that is not in the public domain.

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

Divestment Business: the business or businesses as defined in Section B and in the Schedule which the Notifying Party commits to divest.

Divestiture Trustee: one or more natural or legal person(s) who is/are approved by the Commission and appointed by Thales and who has/have received from Thales the exclusive Trustee Mandate to sell the Divestment Business to a Purchaser at no minimum price.

Effective Date: the date of adoption of the Decision.

First Divestiture Period: the period of [Redacted] from the Effective Date.

Hold Separate Manager: the person appointed by Thales for the Divestment Business to manage the day-to-day business under the supervision of the Monitoring Trustee.

Key Personnel: all Personnel necessary to maintain the viability and competitiveness of the Divestment Business, as listed in Annex 6 to the Schedule, including the Hold Separate Manager.

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

Parties: Thales and Gemalto.

Personnel: all staff of the Divestment Business as outlined in Annex 7 and Annex 8 to the Schedule.

Purchaser: the entity approved by the Commission as acquirer of the Divestment Business in accordance with the criteria set out in Section D.

Purchaser Criteria: the criteria laid down in paragraph 14 of these Commitments that the Purchaser must fulfil in order to be approved by the Commission.

Schedule: the schedule to these Commitments describing more in detail the Divestment Business.

Trustee(s): the Monitoring Trustee and/or the Divestiture Trustee as the case may be.

Trustee Divestiture Period: the period of [Redacted] from the end of the First Divestiture Period.

Section B. The Commitment to Divest and the Divestment Business

Commitment to Divest

2. In order to maintain effective competition in General Purpose Hardware Security Modules (“GP HSMs”), Thales commits to divest, or procure the divestiture of the Divestment Business by the end of the Trustee Divestiture Period as a going concern to a Purchaser and on terms of sale approved by the Commission in accordance with the procedure described in paragraph 15 of these Commitments. To carry out the divestiture, Thales commits to find a Purchaser and to enter into a final binding sale and purchase agreement for the sale of the Divestment Business within the First Divestiture Period. If Thales has not entered into such an agreement at the end of the First Divestiture Period, Thales shall grant the Divestiture Trustee an exclusive mandate to sell the Divestment Business in accordance with the procedure described in paragraph 27 during the Trustee Divestiture Period.
3. Thales shall be deemed to have complied with this commitment if:
 - a) by the end of the Trustee Divestiture Period, Thales or the Divestiture Trustee has entered into a final binding sale and purchase agreement and the Commission approves the proposed purchaser and the terms of sale as being consistent with the Commitments in accordance with the procedure described in paragraph 15; and
 - b) the Closing of the sale of the Divestment Business to the Purchaser takes place within the Closing Period.
4. [Redacted].

Structure and Definition of the Divestment Business

5. The Divestment Business consists of Thales’ global GP HSM business, marketed under the nShield brand. The legal and functional structure of the Divestment Business as operated to date is described in the Schedule. The Divestment Business, as described in the Schedule, includes all assets and staff that contribute to the current operation or are necessary to ensure the viability and competitiveness of the Divestment Business, in particular:
 - a) all tangible and intangible assets (including intellectual property rights);
 - b) all licences, permits, certifications and authorisations issued by any governmental organisation for the benefit of the Divestment Business;
 - c) all contracts, leases, commitments and customer orders of the Divestment Business; all customer, credit and other records of the Divestment Business; and
 - d) the Personnel.

Section C. Related Commitments

Preservation of Viability, Marketability and Competitiveness

6. From the Effective Date until Closing, Thales shall preserve or procure the preservation of the economic viability, marketability and competitiveness of the Divestment Business, in accordance with good business practice, and shall minimise as far as possible any risk of loss of competitive potential of the Divestment Business. In particular Thales undertakes:
- a) not to carry out any action that might have a significant adverse impact on the value, management or competitiveness of the Divestment Business or that might alter the nature and scope of activity, or the industrial or commercial strategy or the investment policy of the Divestment Business;
 - b) to make available, or procure to make available, sufficient resources for the development of the Divestment Business, on the basis and continuation of the existing business plans; and
 - c) to take all reasonable steps, or procure that all reasonable steps are being taken, including appropriate incentive schemes (based on industry practice), to encourage all Key Personnel to remain with the Divestment Business, and not to solicit or move any Personnel to Thales' remaining business. Where, nevertheless, individual members of the Key Personnel exceptionally leave the Divestment Business, Thales shall provide a reasoned proposal to replace the person or persons concerned to the Commission and the Monitoring Trustee. Thales must be able to demonstrate to the Commission that the replacement is well suited to carry out the functions exercised by those individual members of the Key Personnel. The replacement shall take place under the supervision of the Monitoring Trustee, who shall report to the Commission.

Hold-Separate Obligations

7. Thales commits, from the Effective Date until Closing, to keep the Divestment Business separate from the businesses it is retaining and to ensure that unless explicitly permitted under these Commitments: (i) management and staff of the businesses retained by Thales have no involvement in the Divestment Business; and (ii) the Key Personnel and Personnel of the Divestment Business have no involvement in any business retained by Thales and do not report to any individual outside the Divestment Business.
8. Until Closing, Thales shall assist the Monitoring Trustee in ensuring that the Divestment Business is managed as a distinct and saleable entity separate from the businesses which Thales is retaining. Immediately after the adoption of the Decision, Thales shall appoint a Hold Separate Manager. The Hold Separate Manager, who shall be part of the Key Personnel, shall manage the Divestment Business independently and in the best interest of the business with a view to ensuring its continued economic viability, marketability and competitiveness and its independence from the businesses retained by Thales. The Hold Separate Manager shall closely cooperate with and report to the Monitoring Trustee and, if applicable, the Divestiture Trustee. Any replacement of the Hold Separate Manager shall be subject to the

procedure laid down in paragraph 6(c) of these Commitments. The Commission may, after having heard Thales, require Thales to replace the Hold Separate Manager.

Ring-Fencing

9. Thales shall implement, or procure to implement, all necessary measures to ensure that it does not, after the Effective Date, obtain any Confidential Information relating to the Divestment Business and that any such Confidential Information obtained by Thales before the Effective Date will be eliminated and not be used by Thales. This includes measures vis-à-vis Thales' appointees on the management team of the Divestment Business. In particular, the participation of the Divestment Business in any central information technology network shall be severed to the extent possible, without compromising the viability of the Divestment Business. Thales may obtain or keep information relating to the Divestment Business which is reasonably necessary for the divestiture of the Divestment Business or the disclosure of which to Thales is required by law.

Non-Solicitation Clause

10. The Parties undertake, subject to customary limitations, not to solicit, and to procure that Affiliated Undertakings do not solicit, the Key Personnel transferred with the Divestment Business for a period of [Redacted] after Closing.

Due Diligence

11. In order to enable potential purchasers to carry out a reasonable due diligence of the Divestment Business, Thales shall, subject to customary confidentiality assurances and dependent on the stage of the divestiture process:
 - a) provide to potential purchasers sufficient information as regards the Divestment Business; and
 - b) provide to potential purchasers sufficient information relating to the Personnel and allow them reasonable access to the Personnel.

Reporting

12. Thales shall submit written reports in English on potential purchasers of the Divestment Business and developments in the negotiations with such potential purchasers to the Commission and the Monitoring Trustee no later than [Redacted] after the end of every [Redacted] following the Effective Date (or otherwise at the Commission's request). Thales shall submit a list of all potential purchasers having expressed interest in acquiring the Divestment Business to the Commission at each and every stage of the divestiture process, as well as a copy of all the offers made by potential purchasers within [Redacted] of their receipt.
13. Thales shall inform the Commission and the Monitoring Trustee on the preparation of the data room documentation and the due diligence procedure and shall submit a copy of any information memorandum to the Commission and the Monitoring Trustee before sending the memorandum out to potential purchasers.

Section D. The Purchaser

14. In order to be approved by the Commission, the Purchaser must fulfil the following criteria:
 - a) The Purchaser shall be independent of and unconnected to the Parties (this being assessed having regard to the situation following the divestiture);
 - b) The Purchaser shall have the financial resources, proven expertise and incentive to maintain and develop the Divestment Business as a viable and active competitive force in competition with the Parties and other competitors;
 - c) The Purchaser shall be a player with significant experience in the HSM, or a closely related field, such as data security, enjoying a high level of trust and a good reputation in these areas among EEA-based customers. The Purchaser shall show by way of a business plan, at the Purchaser approval stage, that it has the ability and expertise, in using its own and the Divestment Business' assets, to reliably provide the relevant products and services to EEA customers, even for enterprise grade security applications and that it has sufficiently concrete plans to undertake (i) all necessary steps to achieve and continue achieving all certifications, and their updates, necessary to supply GP HSMs in the EEA; and (ii) the required R&D for the further development of the Divestment Business.
 - d) The acquisition of the Divestment Business by the Purchaser must neither be likely to create, in light of the information available to the Commission, *prima facie* competition concerns nor give rise to a risk that the implementation of the Commitments will be delayed. In particular, the Purchaser must reasonably be expected to obtain all necessary approvals from the relevant regulatory authorities for the acquisition of the Divestment Business.
15. The final binding sale and purchase agreement (as well as ancillary agreements) relating to the divestment of the Divestment Business shall be conditional on the Commission's approval. When Thales has reached an agreement with a proposed purchaser, it shall submit a fully documented and reasoned proposal, including a copy of the final agreement(s), within [Redacted] to the Commission and the Monitoring Trustee. Thales must be able to demonstrate to the Commission that the proposed purchaser fulfils the Purchaser Criteria and that the Divestment Business is being sold in a manner consistent with the Commission's Decision and the Commitments. For the approval, the Commission shall verify that the proposed purchaser fulfils the Purchaser Criteria and that the Divestment Business is being sold in a manner consistent with the Commitments including their objective to bring about a lasting structural change in the market. The Commission may approve the sale of the Divestment Business without one or more Assets or parts of the Personnel, or by substituting one or more Assets or parts of the Personnel with one or more different assets or different personnel, if this does not affect the viability and competitiveness of the Divestment Business after the sale, taking account of the proposed purchaser.

Section E. Trustee

I. Appointment Procedure

16. Thales shall appoint a Monitoring Trustee to carry out the functions specified in these Commitments for a Monitoring Trustee. Thales commits not to close the Concentration before the appointment of a Monitoring Trustee.
17. If Thales has not entered into a binding sale and purchase agreement regarding the Divestment Business [Redacted] before the end of the First Divestiture Period or if the Commission has rejected a purchaser proposed by Thales at that time or thereafter, Thales shall appoint a Divestiture Trustee. The appointment of the Divestiture Trustee shall take effect upon the commencement of the Trustee Divestiture Period.
18. The Trustee shall:
 - a) at the time of appointment, be independent of Thales and Gemalto and their Affiliated Undertakings; and
 - b) possess the necessary qualifications to carry out its mandate, for example have sufficient relevant experience as an investment banker or consultant or auditor; and neither have nor become exposed to a Conflict of Interest.
19. The Trustee shall be remunerated by the Notifying Party in a way that does not impede the independent and effective fulfilment of its mandate. In particular, where the remuneration package of a Divestiture Trustee includes a success premium linked to the final sale value of the Divestment Business, such success premium may only be earned if the divestiture takes place within the Trustee Divestiture Period.

Proposal by Thales

20. No later than two weeks after the Effective Date, Thales shall submit the name or names of one or more natural or legal persons whom Thales proposes to appoint as the Monitoring Trustee to the Commission for approval. No later than one month before the end of the First Divestiture Period or on request by the Commission, Thales shall submit a list of one or more persons whom Thales proposes to appoint as Divestiture 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 these Commitments;
 - b) the outline of a work plan which describes how the Trustee intends to carry out its assigned tasks; and
 - c) an indication whether the proposed Trustee is to act as both Monitoring Trustee and Divestiture Trustee or whether different trustees are proposed for the two functions.

Approval or Rejection by the Commission

21. 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, Thales 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, Thales 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 Thales

22. If all the proposed Trustees are rejected, Thales 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 16 and 21 of these Commitments.

Trustee Nominated by the Commission

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

II. Functions of the Trustee

24. 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 Thales, 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

25. 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) oversee, in close co-operation with the Hold Separate Manager, the on-going management of the Divestment Business with a view to ensuring its continued economic viability, marketability and competitiveness and monitor compliance by Thales with the conditions and obligations attached to the Decision. To that end the Monitoring Trustee shall:
 - (i) monitor the preservation of the economic viability, marketability and competitiveness of the Divestment Business, and the keeping separate of the Divestment Business from the business retained by the Parties, in accordance with paragraphs 6 and 7 of these Commitments;

- (ii) supervise the management of the Divestment Business as a distinct and saleable entity, in accordance with paragraph 8 of these Commitments;
 - (iii) with respect to Confidential Information:
 - determine all necessary measures to ensure that Thales does not after the Effective Date obtain any Confidential Information relating to the Divestment Business,
 - in particular strive for the severing of the Divestment Business' participation in a central information technology network to the extent possible, without compromising the viability of the Divestment Business,
 - make sure that any Confidential Information relating to the Divestment Business obtained by Thales before the Effective Date is eliminated and will not be used by Thales and
 - decide whether such information may be disclosed to or kept by Thales as the disclosure is reasonably necessary to allow Thales to carry out the divestiture or as the disclosure is required by law;
 - (iv) monitor the splitting of Assets and the allocation of Personnel between the Divestment Business and Thales or Affiliated Undertakings; propose to Thales such measures as the Monitoring Trustee considers necessary to ensure Thales's compliance with the conditions and obligations attached to the Decision, in particular the maintenance of the full economic viability, marketability or competitiveness of the Divestment Business, the holding separate of the Divestment Business and the nondisclosure of competitively sensitive information;
- c) review and assess potential purchasers as well as the progress of the divestiture process and verify that, dependent on the stage of the divestiture process:
- (i) potential purchasers receive sufficient and correct information relating to the Divestment Business and the Personnel in particular by reviewing, if available, the data room documentation, the information memorandum and the due diligence process, and
 - (ii) potential purchasers are granted reasonable access to the Personnel;
- d) act as a contact point for any requests by third parties, in particular potential purchasers, in relation to the Commitments;
- e) provide to the Commission, sending Thales a non-confidential copy at the same time, a written report within 15 days after the end of every month that shall cover the operation and management of the Divestment Business as well as the splitting of assets and the allocation of Personnel so that the Commission can assess whether the business is held in a manner consistent

with the Commitments and the progress of the divestiture process as well as potential purchasers;

- f) promptly report in writing to the Commission, sending Thales a non-confidential copy at the same time, if it concludes on reasonable grounds that Thales is failing to comply with these Commitments;
 - g) within one week after receipt of the documented proposal referred to in paragraph 15 of these Commitments, submit to the Commission, sending Thales a non-confidential copy at the same time, a reasoned opinion as to the suitability and independence of the proposed purchaser and the viability of the Divestment Business after the Sale and as to whether the Divestment Business is sold in a manner consistent with the conditions and obligations attached to the Decision, in particular, if relevant, whether the Sale of the Divestment Business without one or more Assets or not all of the Personnel affects the viability of the Divestment Business after the sale, taking account of the proposed purchaser;
 - h) assume the other functions assigned to the Monitoring Trustee under the conditions and obligations attached to the Decision.
26. If the Monitoring and Divestiture Trustee are not the same legal or natural persons, the Monitoring Trustee and the Divestiture Trustee shall cooperate closely with each other during and for the purpose of the preparation of the Trustee Divestiture Period in order to facilitate each other's tasks.

Duties and Obligations of the Divestiture Trustee

27. Within the Trustee Divestiture Period, the Divestiture Trustee shall sell at no minimum price the Divestment Business to a Purchaser, provided that the Commission has approved both the Purchaser and the final binding sale and purchase agreement (and ancillary agreements) as in line with the Commission's Decision and the Commitments in accordance with paragraphs 14 and 15 of these Commitments. The Divestiture Trustee shall include in the sale and purchase agreement (as well as in any ancillary agreements) such terms and conditions as it considers appropriate for an expedient sale in the Trustee Divestiture Period. In particular, the Divestiture Trustee may include in the sale and purchase agreement such customary representations and warranties and indemnities as are reasonably required to effect the sale. The Divestiture Trustee shall protect the legitimate financial interests of Thales, subject to the Notifying Party's unconditional obligation to divest at no minimum price in the Trustee Divestiture Period.
28. In the Trustee Divestiture Period (or otherwise at the Commission's request), the Divestiture Trustee shall provide the Commission with a comprehensive monthly report written in English on the progress of the divestiture process. Such reports shall be submitted within 15 days after the end of every month with a simultaneous copy to the Monitoring Trustee and a non-confidential copy to the Notifying Party.

III. Duties and Obligations of the Parties

29. Thales shall provide and shall cause its advisors to provide the Trustee with all such co-operation, assistance and information as the Trustee may reasonably require to perform its tasks. The Trustee shall have full and complete access to any of Thales' or the Divestment Business' books, records, documents, management or other personnel, facilities, sites and technical information necessary for fulfilling its duties under the Commitments and Thales and the Divestment Business shall provide the Trustee upon request with copies of any document. Thales and the Divestment Business 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.
30. Thales shall provide the Monitoring Trustee with all managerial and administrative support that it may reasonably request on behalf of the management of the Divestment Business. This shall include all administrative support functions relating to the Divestment Business which are currently carried out at headquarters level. Thales shall provide and shall cause its advisors to provide the Monitoring Trustee, on request, with the information submitted to potential purchasers, in particular give the Monitoring Trustee access to the data room documentation and all other information granted to potential purchasers in the due diligence procedure. Thales shall inform the Monitoring Trustee on possible purchasers, submit lists of potential purchasers at each stage of the selection process, including the offers made by potential purchasers at those stages, and keep the Monitoring Trustee informed of all developments in the divestiture process.
31. Thales shall grant or procure Affiliated Undertakings to grant comprehensive powers of attorney, duly executed, to the Divestiture Trustee to effect the sale (including ancillary agreements), the Closing and all actions and declarations which the Divestiture Trustee considers necessary or appropriate to achieve the sale and the Closing, including the appointment of advisors to assist with the sale process. Upon request of the Divestiture Trustee, Thales shall cause the documents required for effecting the sale and the Closing to be duly executed.
32. Thales 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 Thales 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.
33. At the expense of Thales, the Trustee may appoint advisors (in particular for corporate finance or legal advice), subject to Thales' 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 Thales refuse to approve the advisors proposed by the Trustee the Commission may approve the appointment of such advisors instead, after having heard Thales. Only the Trustee shall be entitled to issue instructions to the advisors. Paragraph 32 of these Commitments shall apply *mutatis mutandis*. In the Trustee Divestiture Period, the Divestiture Trustee may use advisors who served Thales during the Divestiture Period if the Divestiture Trustee considers this in the best interest of an expedient sale.

34. Thales agrees that the Commission may share Confidential Information proprietary to Thales with the Trustee. The Trustee shall not disclose such information and the principles contained in Article 17 (1) and (2) of the Merger Regulation apply *mutatis mutandis*.
35. Thales 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.
36. For a period of 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

37. If the Trustee ceases to perform its functions under the Commitments 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 Thales, require Thales to replace the Trustee; or
 - b) Thales may, with the prior approval of the Commission, replace the Trustee.
38. If the Trustee is removed according to paragraph 37 of these 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 16-23 of these Commitments.
39. Unless removed according to paragraph 37 of these 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.

Section F. The Review Clause

40. The Commission may extend the time periods foreseen in the Commitments in response to a request from Thales or, in appropriate cases, on its own initiative. Where Thales requests an extension of a time period, it shall submit a reasoned request to the Commission no later than one 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 the Notifying Party. Only in exceptional circumstances shall Thales be entitled to request an extension within the last month of any period.
41. The Commission may further, in response to a reasoned request from the Notifying Party showing good cause waive, modify or substitute, in exceptional circumstances, one or more of the undertakings in these 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 the Notifying Party. 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.

Section G. Entry Into Force

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

.....

duly authorised for and on behalf of Thales

SCHEDULE

1. The Divestment Business currently is operated by Thales and sits within the Thales eSecurity business unit. This business unit encompasses three legal entities globally that are active in various areas including but not limited to GP HSMs, namely: [Redacted].
2. In order to implement the Divestment, Thales will [Redacted].
3. In accordance with paragraph 5 of these Commitments, the Divestment Business includes, but is not limited to:
 - a) A transfer of the following main tangible assets: [Redacted] sites (in the form of lease assignments), as well as all finished goods inventory, supplies, tooling, test equipment, sales and promotional material, product documentation, and user manuals relating to the Divestment Business held at the date of Closing;
 - b) A transfer, or license (as appropriate), of the following main intangible assets:
 - (i) All registered nShield, nCipher, and CodeSafe trademarks listed in Annex 1 along with all patents that are necessary for the operation of (or otherwise used by) the Divestment Business;
 - (ii) All additional unregistered intellectual property including know-how, testing procedures, manufacturing procedures, product design, trade secrets, source code, and associated utilities and libraries (including product specifications and quality control standards);
 - (iii) All nShield product SKUs listed in the nShield price list attached as Annex 2;
 - (iv) An assignment of the section of any and all inbound licenses that are necessary for the operation of (or otherwise used by) the Divestment Business. These include the licenses listed in Annex 3;
 - (v) All documentation associated with research and development for products currently marketed (or intended to be marketed) under the nShield brand.

For the avoidance of doubt, for those intangible assets that do not exclusively relate to the Divestment Business (*e.g.*, existing R&D or intellectual property rights relating to Payment HSMs, key management products, or encryption software products), Thales will, for each intangible asset, either (i) where the intangible asset relates primarily to products outside the Divestment Business, retain ownership of the intangible asset and provide the Purchaser with access to and use of this intangible asset as is reasonably necessary for the Purchaser to maintain the viability of the Divestment Business; or (ii) where the intangible asset relates primarily to products that are part of the Divestment Business, transfer the intangible asset and obtain from the Purchaser access to and use of this intangible

asset as is reasonably necessary for Thales to operate its retained businesses. To the extent the Purchaser notifies Thales that they require additional intangible Thales assets which relate primarily to products outside the Divestment Business and which are not reasonably necessary for the Purchaser to maintain the viability of the Divestment Business, Thales shall provide access to such assets if the assets are used by the Divestment Business and reasonably needed for the operation of the Divestment Business. The Monitoring Trustee shall supervise Thales' performance in this regard, in accordance with Section E of the Commitments.

- c) A transfer of, or access to, as appropriate, all licenses, permits, certifications (as listed in Annex 4), and authorisations issued by any governmental or other regulatory organization that are necessary to manufacture and/or sell the products belonging to the Divestment Business, including any dossiers relating to current or pending authorisations available to Thales and, where necessary, assistance related to the transfer to the Purchaser in transferring such licences, permits, certifications, and authorisations concerning the Divestment Business.
- d) A transfer of any additional contracts, agreements, leases, commitments, and understandings that relate exclusively to the Divestment Business (including the active nShield Master Agreements listed in Annex 5). To the extent certain contracts, agreements, leases, commitments, and understandings relevant to the Divestment Business are not exclusively related to the Divestment Business, Thales shall use its best efforts to sub-divide these contracts and transfer the portions relating to the Divestment Business to the Purchaser or otherwise ensure that the Purchaser is able to enter into comparable new contracts, agreements, leases, commitments, and understandings in relation to the products belonging to the Divestment Business.
- e) A transfer of the following customer, credit and other records to the extent exclusively related to the Divestment Business: Thales' existing contracts with customers globally relating to the products of the Divestment Business, Thales' customer lists, and customer records as they relate to the Divestment Business. To the extent that any such records relate partially to the Divestment Business, the portion of the records relevant to the Divestment Business shall be transferred to the Purchaser to the extent the Purchaser requires them.
- f) All Key Personnel, as listed in Annex 6;
- g) All Personnel related to the products belonging to the Divestment Business, as outlined in Annex 7 and Annex 8. Thales estimates that this will include a total of [Redacted] employees (depending on the number of employees required by the Purchaser).

Thales is also prepared to provide transitional services to the Purchaser for a period to be agreed with the Purchase and pursuant to transition services agreements. At the Purchaser's option, such services would cover [Redacted].

4. The Divestment Business shall not include:

- a) tangible and intangible assets (including intellectual property rights) which do not contribute to the current operation of the Divestment Business;
 - b) the Thales company name, mark, or logo in any form;
 - c) any personnel other than the Key Personnel and the Personnel;
 - d) books and records required to be retained pursuant to any statute, rule, regulation or ordinance, provided that copies of such documents necessary for the Divestment Business shall be provided to the Purchaser, upon request; and
 - e) general books of account and books of original entry that comprise Thales' or an Affiliated Undertaking's permanent accounting or tax records provided that copies of such documents necessary for the Divestment Business shall be provided to the Purchaser, upon request.
5. To the extent that any assets or personnel are identified at a later point in time that are not covered by paragraph 3 of this Schedule but which are used (exclusively or not) by the Divestment Business and necessary for the continued viability and competitiveness of the Divestment Business, any such assets or adequate substitutes will be offered to the Purchaser.
6. The Monitoring Trustee shall supervise Thales' implementation of this Schedule, in accordance with Section E of the Commitments.

List of Annexes

- Annex 1** List of registered nShield, nCipher, and CodeSafe trademarks
- Annex 2** List of nShield product SKUs
- Annex 3** List of main inbound licenses related to the products of the Divestment Business
- Annex 4** List of certifications related to the products of the Divestment Business
- Annex 5** List of active nShield Master Agreements
- Annex 6** List of Key Personnel
- Annex 7** Overview of Personnel
- Annex 8** List of Personnel