

IN THE HIGH COURT OF JUSTICE
THE BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
INSOLVENCY AND COMPANIES LIST (ChD)

IN THE MATTERS OF:

NORTEL NETWORKS UK LIMITED ("NNUK")	<u>No. 536 of 2009 / CR-2016-006154</u>
NORTEL NETWORKS (AUSTRIA) GMBH ("NORTEL AUSTRIA")	<u>No. 537 of 2009 / CR-2009-000040</u>
NORTEL NETWORKS S.A. ("NNSA")	<u>No. 539 of 2009 / CR-2009-000048</u>
NORTEL NETWORKS (IRELAND) LIMITED ("NORTEL IRELAND")	<u>No. 541 of 2009 / CR-2009-000047</u>
NORTEL GMBH ("NORTEL GERMANY")	<u>No. 542 of 2009 / CR-2009-000033</u>
NORTEL NETWORKS SLOVENSKO S.R.O. ("NORTEL SLOVAKIA")	<u>No. 551 of 2009 / CR-2009-000044</u>
NORTEL NETWORKS S.P.A. ("NORTEL ITALY")	<u>No. 552 of 2009 / CR-2009-000035</u>
NORTEL NETWORKS BV ("NORTEL NETHERLANDS")	<u>No. 553 of 2009 / CR-2009-000036</u>
NORTEL NETWORKS POLSKA SP. Z.O.O. ("NORTEL POLAND")	<u>No. 554 of 2009 / CR-2009-000037</u>

(EACH A "COMPANY" AND TOGETHER THE "COMPANIES")

AND IN THE MATTER OF THE INSOLVENCY ACT 1986

**SEVENTEENTH WITNESS
STATEMENT OF
STEPHEN JOHN HARRIS**

I, **STEPHEN JOHN HARRIS** of Ernst & Young LLP, 1 More London Place, London SE1 2AF, **DO STATE** as follows:

1. I am a licenced insolvency practitioner and an Associate Partner in the firm of Ernst & Young LLP ("E&Y").
2. I was appointed as a joint administrator of each of the Companies on 14 January 2009 together with Alan Robert Bloom, Alan Michael Hudson and Christopher John Wilkinson Hill, of E&Y, save in respect of Nortel Ireland where David Martin Hughes, of Ernst & Young Chartered Accountants, and Mr Bloom were appointed as the joint administrators, pursuant to Orders of Mr Justice Blackburne. Copies of the Orders of Mr Justice Blackburne are at [1/1/1] to [1/1/173] of SJH17.
3. Mr Hill has ceased to practice as an insolvency practitioner and resigned as a joint administrator on 20 September 2017. Where I use the term "Joint Administrators" in

relation to matters or events before 20 September 2017, I am referring collectively to myself, Mr Bloom, Mr Hudson and Mr Hill. Where I use this term in relation to matters or events on or after 20 September 2017, I am referring collectively to myself, Mr Bloom and Mr Hudson. Where I use this term in relation to Nortel Ireland, I am referring to Mr Bloom and Mr Hughes.

4. Save where I indicate to the contrary, the facts contained in this witness statement are within my own knowledge and are true. Where the facts stated are not within my own knowledge I have identified my sources of information and/or belief. In relation to information pertaining to Nortel Ireland, the facts have been provided to me by Mr Hughes, one of the Joint Administrators who has been principally responsible for that Company. Mr Hughes has confirmed that he is content with the accuracy of this statement insofar as it relates to Nortel Ireland and I understand that he intends to submit a witness statement confirming that to be the case.
5. On 2 June 2015, by Order of Registrar Briggs (a copy of which is at [1/2/174] of SJH17), Stephen Taylor of Leawood Hall, Holloway, Derbyshire DE4 5AQ was appointed as an administrator of NNSA with responsibility for dealing with certain conflict matters (the "**Conflict Administrator**") pursuant to paragraph 103(2) of Schedule B1 to the Insolvency Act 1986 (the "**Act**"). While I shall continue to refer to Mr Taylor as the Conflict Administrator, the Joint Administrators agreed that Mr Taylor's role should be expanded following the global settlement agreed on 12 October 2016 (the "**Global Settlement**") and which greatly diminished the actual or potential conflicts such that he and the Joint Administrators now have conduct of matters generally in the administration of NNSA, with any conflict matters that arise referred to the Conflict Administrator. I shall refer to the Joint Administrators and the Conflict Administrator collectively as the "**NNSA Administrators**".
6. The Joint Administrators' solicitors, Herbert Smith Freehills LLP ("**HSF**"), have provided the Conflict Administrator with the final draft of this witness statement and he has confirmed to them that, so far as it relates to NNSA for the period since his appointment and to the best of his knowledge, he considers it to be accurate and that, in his capacity as the Conflict Administrator, he authorises the making of this application in respect of NNSA.
7. The Joint Administrators' terms of office and the administrations of each of the Companies were extended by Orders of Registrar Derrett on 12 January 2010 and 6 December 2011, by Order of Registrar Baister on 1 November 2013 and by Orders of Mr Justice Snowden on 2 December 2015, 14 December 2017 and 17 December 2018 ([1/3/176], [1/4/179], [1/5/182], [1/6/185], [1/7/187] and [1/8/190] of SJH17 respectively). The Joint Administrators' and Conflict Administrator's terms of office now expire at 12pm on 13 January 2020. A copy of the judgment of Mr Justice Snowden regarding the most recent extension dated 17 December 2018 is provided at [1/9/193] of SJH17.

8. I am duly authorised to make this witness statement on behalf of the Joint Administrators and the Conflict Administrator in support of our applications to extend the terms of office of the Joint Administrators and the Conflict Administrator (the "**Extension Applications**"), seeking orders in the following terms:
 - 8.1 pursuant to paragraph 76(2)(a) of Schedule B1 to the Act, the Joint Administrators' terms of office as joint administrators of each of the Companies be extended for a period of 12 months so as to expire at 12:01pm on 13 January 2021; and
 - 8.2 the costs of and incidental to the Extension Applications be paid as expenses of the administrations and paid out of the assets of the Companies.
9. Pursuant to Rule 3.54(2) of the Insolvency (England & Wales) Rules 2016 and for the purposes of the Extension Applications, this witness statement sets out the reasons why the Joint Administrators are seeking the extensions.
10. Nothing in this witness statement is intended, nor should be taken, as a waiver of privilege in relation to matters dealt with in this witness statement.
11. There is now produced and shown to me a bundle of documents marked "**SJH17**" to which I shall refer in this witness statement. References in this document to exhibits are in the form [Volume/Tab/Page].
12. This witness statement is divided into the following sections:
 - A. Background (page 3);
 - B. Purpose of the Administrations (page 4);
 - C. Reporting progress of the Administrations (page 5);
 - D. General EMEA update (page 6);
 - E. NNUK (page 8);
 - F. CVA Companies (page 12);
 - G. NNSA (page 22);
 - H. Brexit (page 26);
 - I. Relief Sought (page 28); and
 - J. Conclusion (page 29).

A. BACKGROUND

13. In order to assist the Court in understanding the progress made by the Joint Administrators in achieving the statutory purpose of the administrations, I briefly set out below certain background information that is relevant in the context of the present applications.

14. The Nortel group was a global supplier of networking solutions (i.e. telecommunications, computer networks and software) serving customers in Canada, the US, the Caribbean, Latin America, Asia and Europe, the Middle East and Africa ("**EMEA**").
15. On 14 January 2009 in a series of coordinated filings:
 - 15.1 Nortel Networks Corporation (the ultimate holding company for the Nortel group) and Nortel Networks Limited ("**NNL (Canada)**") (the primary Canadian operating company and holding company for most of the Nortel global subsidiaries) together with certain Canadian subsidiaries (collectively, the "**Canadian Debtors**"), sought protection under the Companies' Creditors Arrangement Act;
 - 15.2 Nortel Networks Inc. (the primary US operating company) and Nortel Networks Capital Corporation (together with certain of their direct and indirect US subsidiaries, the "**US Debtors**"), filed voluntary petitions in the US Bankruptcy Court for the District of Delaware pursuant to Chapter 11 of the US Bankruptcy Code; and
 - 15.3 the Companies were placed into administration by Orders of Mr Justice Blackburne and the Joint Administrators were appointed to each of the Companies. Each of the administrations of the Companies is a main insolvency proceeding as defined in Article 3(1) of the Council Regulation (EC) on Insolvency Proceedings 2000 (No 1346/2000) (the "**EC Insolvency Regulation**"). A summary corporate structure chart of the Companies is provided at [1/12/480] of SJH17.
16. The Joint Administrators subsequently considered it in the best interests of the creditors of NNSA to commence secondary proceedings in France. On 28 May 2009 the Commercial Court of Versailles ordered the commencement of secondary proceedings in respect of NNSA (the "**Secondary Proceeding**") and appointed Maître Cosme Rogeau as a liquidator (*liquidateur judiciaire*) (the "**French Liquidator**").

B. PURPOSE OF THE ADMINISTRATIONS

17. The Joint Administrators set out their approach for achieving the statutory purpose of administration for each of the Companies in their statements of proposals dated 25 February 2009 (the "**Statements of Proposals**") that were approved by a creditors' meeting of each Company. Copies of the Statements of Proposals for each of the Companies are at [1/10/196] to [1/10/447] of SJH17. As the Joint Administrators explained in the Statements of Proposals, the proposals for each of the Companies were:
 - 17.1 to continue to manage the Company's businesses, affairs and property during the period of the administration whilst the possibilities for a global restructuring of the Nortel business and/or a global sale of all or part of the Nortel business (together

defined as the "**Global Restructuring**") were considered, progressed and given effect to by the Company as appropriate;

- 17.2 during the process of the Global Restructuring, for the Company to continue trading and paying its suppliers and employees in respect of goods or services supplied to the Company after 14 January 2009 for so long as the Company required such goods or services;
- 17.3 to monitor the cash and asset position of the Company and the general progress and prospects of the Global Restructuring in order to be satisfied that it may still be possible to rescue the Company as a going concern and/or achieve a sale of all or part of the Company's businesses as part of the Global Restructuring and that it was appropriate that the Company continue to trade rather than cease to trade and/or be placed into liquidation; and
- 17.4 if the Joint Administrators decided that a Global Restructuring was not in the best interests of creditors or that the cost of continuing to trade was no longer in the best interests of creditors, the Joint Administrators would seek to achieve a better result for creditors of the Company as a whole than would be likely if the Company were wound up, by seeking to realise the best price for the business and/or assets of the Company as was obtainable in the circumstances, and then would take steps to enable the assets of the Company to be distributed to its creditors.

C. REPORTING PROGRESS OF THE ADMINISTRATIONS

18. Following their appointment, the Joint Administrators have informed creditors of the progress of the administrations including by way of six monthly progress reports for each of the Companies. Since my ninth witness statement in these proceedings, dated 29 November 2018 ("**Harris 9**"), made in support of the Joint Administrators' last application to extend the administrations of the Companies (**[1/11/448]** of SJH17), the Joint Administrators have prepared progress reports for each of the Companies for the following periods:
 - 18.1 14 July 2018 to 13 January 2019 dated February 2019 (**[2/1/1]** to **[2/1/162]** of SJH17); and
 - 18.2 14 January 2019 to 13 July 2019 dated August 2019 (**[2/2/163]** to **[2/2/325]** of SJH17).
19. The Joint Administrators and the Conflict Administrator also provided detailed updates on the progress and status of the administration of NNSA in letters to Mr Justice Snowden both dated 21 August 2019 provided in connection with the application made to the Court for, amongst other relief, the termination of the administration of Nortel Networks France S.A.S. ("**NNF**"). This application and the updates provided in these letters are detailed in Section G

(NNSA) below. The letter from the Joint Administrators is at [2/3/326] and the letter from the Conflict Administrator is at [2/3/333].

20. Creditors' committees were established for each of the Companies, other than Nortel Netherlands. The creditors' committee for Nortel Austria ceased to have the requisite number of members to constitute a committee in 2010/2011. The creditors' committees for Nortel Slovakia, Nortel Germany, Nortel Ireland and Nortel Poland became inquorate as a result of the Joint Administrators having paid the members of those committees the principal of their claims in full. The Joint Administrators will write to the committees of NNUK, NNSA and Nortel Italy, and where a committee is inquorate the former members of the committee, to inform them of the making of the Extension Applications following the filing of the Extension Applications. The Joint Administrators will also upload a notice regarding the making of the Extension Applications addressed to all creditors of each Company onto the Nortel EMEA Administration proceedings website (<http://www.emeanortel.com/proceedings.html>) following the filing of the Extension Applications and not less than 14 days in advance of the hearing of the Extension Applications. Copies of these notices sent to the committees and the notice uploaded onto the website, together with an update on any responses received by the Joint Administrators in connection therewith will be given to the Court at or before the Extension Applications' hearing.

D. GENERAL EMEA UPDATE

21. Following their appointment, the administrations have proceeded successfully and various sales of the Nortel group's business lines were concluded in 2010 in pursuit of the Joint Administrators' proposal to achieve a better result for creditors of the Company as a whole than would be likely if the Companies were wound up. The sales resulted in total global realisations of approximately US\$7.3 billion (the "**Sale Proceeds**"). A dispute in relation to the Sale Proceeds between the EMEA Debtors, the US Debtors and the Canadian Debtors, among other creditor constituencies, was the subject of proceedings before the US and Canadian Courts (the "**Allocation Dispute**"). On 12 October 2016, the various parties to the Allocation Dispute entered into four settlement agreements comprising the Global Settlement: (a) the Settlement and Plans Support Agreement between (inter alia) the US Debtors, the Canadian Debtors and the Companies; (b) the "**UKPI Settlement Deed**" between (inter alia) the Companies and the UK Pension Interests – being the Trustee of the NNUK Pension Scheme and the Board of the Pension Protection Fund; (c) the Deed of Release between (inter alia) the Companies and the UK Pension Interests; and (d) the "**NNSA Settlement Deed**" between (inter alia) the Companies, the Joint Administrators, the Conflict Administrator and the French Liquidator.

22. Following court approval in the US, Canada, England and France, the Global Settlement became effective on 8 May 2017 and the Sale Proceeds were released with each of the Companies receiving the allocation agreed as part of the Global Settlement in May 2017.
23. Following the Global Settlement, the Joint Administrators of each Company made applications for directions from the Court that the Joint Administrators inform potential claimants that any claims which were asserted to rank as administration expenses under English law ("**Expense Claims**") which had not at that point been made must be notified to the Joint Administrators on a prescribed form (the "**Demand Form**") on or before a specified date (the "**Expense Bar Date**") (the "**Expense Application**").
24. On 9 June 2017, and subsequently on 17 July 2018 in the case of NNSA, Mr Justice Snowden made Orders granting the Joint Administrators directions as sought regarding the Expense Claims (the "**Expense Orders**"). The Expense Bar Date was set for 27 October 2017 in the case of each of the applicant Companies, save for Nortel Italy for which the Expense Bar Date was set for 22 December 2017 and NNSA for which it was set for 29 January 2019 so as to dovetail with the timetable for the promulgation of a company voluntary arrangement ("**CVA**") for NNSA. Copies of the Expense Orders made by Mr Justice Snowden are provided at [3/1/1] to [3/9/92] of SJH17 and the judgments given by Mr Justice Snowden are provided at [3/10/93] and [3/11/115] of SJH17.
25. Since receipt of the Sale Proceeds by each of the Companies and the granting of the Expense Orders, the Joint Administrators and their team have continued to progress the administrations including investigating and adjudicating creditor claims and Expense Claims, assisting the CVA Supervisors making distributions to each Companies' creditors (with the exception of NNSA, although an initial distribution is planned for NNSA in December 2019) and planning and taking steps to facilitate the ultimate winding down of the Companies. During the last 12 months NNUK has realised further assets from its subsidiaries, including through receipt of an initial distribution from the liquidators of Nortel Networks International & Finance BV ("**NNIF**") (a wholly owned subsidiary of NNUK and intermediate holding company in the Nortel EMEA group structure), made a further distribution to its creditors and taken steps necessary to realise its interests in its subsidiaries in the Nortel EMEA group. The CVA of Nortel Netherlands, Nortel Slovakia and Nortel Austria have been terminated and intragroup receivables due to those Companies have been assigned for value without the need to wait for recovery so as to bring those Companies closer to a point where the administrations might be terminated. The Joint Administrators of Nortel Poland and Nortel Germany are at the time of preparing this witness statement taking material steps to finalise the administrations of those Companies. The dissolution of NNF completed on 28 October 2019 such that its assets have merged with those of NNSA, which will facilitate a planned distribution to creditors of NNSA in early December 2019.

E. NNUK

NNUK Proof Process and distributions

26. Permission to make a distribution to creditors of NNUK was granted by Order of Mr Justice Snowden dated 23 July 2015 (the Order and judgment are provided at [4/1/1] of SJH17 and [4/2/6] of SJH17 respectively). The Joint Administrators commenced the formal proof process pursuant to paragraph 65 of Schedule B1 to the Act and Chapter 10 of Part 2 of the Insolvency Rules 1986 on 30 July 2015 with a deadline for claims of 31 October 2015.
27. Following a further Order of Mr Justice Snowden dated 3 November 2016 ([3/12/124] of SJH17) the Joint Administrators were required to declare the first dividend to creditors by the earlier of the date ten weeks after the release of the Sale Proceeds to NNUK, being 4 August 2017, or 9 November 2017. On 27 July 2017, the Joint Administrators gave notice to creditors that a dividend to non-preferential creditors of 22.1p in the pound was declared in a first interim distribution. The total amount paid to non-preferential creditors in that initial distribution was approximately £495 million. A copy of the Notice of Declaration of Initial Dividend is provided at [4/3/23] of SJH17.
28. The Joint Administrators continued to make adjudications of a number of unsecured claims and have been able to release a number of reserves following the occurrence of the Expense Bar Date on 27 October 2017. On 5 December 2017 the Joint Administrators made a second interim distribution to non-preferential creditors of £371.49 million (including tax and national insurance payments for certain employee related claims), equivalent to 16.5p in the pound. A third interim distribution was made to non-preferential creditors on 24 August 2018 of £85.71 million, equating to 3.8p in the pound. A fourth interim distribution was made to non-preferential creditors on 11 July 2019 of £59.02 million, equating to 2.6p in the pound. In total to date NNUK's unsecured creditors have received a total of approximately £1.011 billion or 45p in the pound. Copies of the three Notices of Declaration of Interim Dividends are provided at [4/3/24], [4/3/25] and [4/3/26] of SJH17. The Joint Administrators of NNUK expect a further distribution or distributions to be made in 2020.
29. A relatively small number of unsecured creditor claims await final adjudication by the Joint Administrators. Excluding the reciprocal pension creditors referred to below and a small number of claims of employees who continue to be employed by NNUK, there remain 44 creditors whose claims are yet to be adjudicated with a combined total claim value of just under £6 million (including both trade and tax creditors). The Joint Administrators have prudently reserved for payment of un-adjudicated claims at the current dividend rate while they continue their investigations. The Joint Administrators anticipate that these claims are capable of resolution and adjudication within the next six months.

30. Among the claims which are yet to be adjudicated by the Joint Administrators are approximately 168 potential claims received from former employees who have asserted claims against NNUK in respect of pension arrangements. These claims are said to arise as a result of reciprocal arrangements between companies in the Nortel group by which accrued benefits under the Nortel Networks UK Pension Plan would remain linked to salary during service with other companies in the Nortel group, rather than only service with NNUK. The Joint Administrators have investigated the validity of these claims and have had the claims valued by a firm of actuaries. While the process has taken longer than expected, the Joint Administrators are now in the process of finalising their adjudication methodology with actuaries appointed by the Trustee of the NNUK Pension Scheme before informing creditors of their proposed adjudication. The Joint Administrators anticipate being able to adjudicate the vast majority of these reciprocal claims (where they have full information available) in early 2020. The Joint Administrators are mindful that these creditors have had to wait for the valuation of their claims while the Joint Administrators have progressed the review of their claims, and are likely to make payment of a catch-up dividend for those creditors once the value of their claims has been finally determined.

Further assets to be realised

31. NNUK had a number of pre-appointment intragroup claims against the other companies in the Nortel EMEA group and has also taken assignment for value of a number of pre-appointment intragroup claims to save those companies having to delay their final distributions to both creditors and NNIF, and their move to dissolution until recovery of those intragroup claims. Some of these pre-appointment intragroup claims have been discharged in full by the Companies. However, NNUK still expects to receive further distributions in respect of certain of these intragroup claims during the first half of 2020.
32. NNUK is also expected to receive further distributions from other Companies on account of the "**CCAA Subordinated Debts**". These relate to certain intragroup trading balances originally due from certain Companies to the Canadian Debtors but which were assigned to NNUK following an agreement in July 2014 settling certain claims between the Companies and the Canadian Debtors. The Terms of each CVA provide that CCAA Subordinated Debts are payable only once all provable and non-provable claims, together with Commercial Interest thereon, are paid in full. It is currently expected that NNUK is to receive distributions on account of CCAA Subordinated Debts from Nortel Poland and Nortel Germany.
33. NNUK had a number of claims, including pre-appointment intragroup claims, against NNL (Canada) (the "**Canadian Claims**"). An initial distribution to NNUK was made by NNL (Canada) on 11 July 2017 at a rate of approximately 41.5% and a further interim distribution to NNUK was made on 11 December 2018 for an additional 4.3% such that the total received

from NNL is now approximately £44 million. NNUK also had a number of claims against certain entities in the worldwide Nortel group (the "**RoW Claims**").

34. The Joint Administrators are uncertain as to the quantum and timing of any further recoveries in respect of the Canadian Claims and RoW Claims and as such have initiated a sales process to assign these claims to a third party purchaser for value so as to realise the value in these claims and distribute that value to NNUK's creditors without further delay.
35. In addition to its intragroup claims, as the ultimate shareholder in the Nortel EMEA group (with the exception of NNSA and Nortel Ireland) by way of its shareholding in NNIF, NNUK would be eligible to receive any surplus remaining in certain companies in the Nortel EMEA group. A summary of dividends received and expected future dividends can be found at paragraph 40 below.
36. On 26 September 2018, NNIF was placed into a Dutch law governed solvent liquidation the purpose of which is to finalise the affairs of that company and allow for the distribution of the substantial surplus cash and other assets valued at over £60 million held by NNIF to NNUK as shareholder. The distribution by the liquidators of NNIF (being Mr Bloom, myself and Mr Simon Edel also of E&Y) of the majority of the cash in NNIF took place in early July 2019. Following careful analysis by the liquidators with their Dutch legal and tax advisors, the distribution was made by the liquidators by way of a nominal share capital reduction in NNIF. An amount of £44.5 million was distributed to NNUK enabling the Joint Administrators of NNUK to in turn make the fourth interim distribution to its creditors on 11 July 2019. NNIF currently holds approximately £17 million of cash and the liquidators expect to receive approximately £5 million more during 2020 which will, subject to the costs of liquidation, allow a further return of capital or equity distribution to NNUK during 2020.
37. NNIF is also the parent of three companies in the Nortel EMEA group which did not enter into insolvency proceedings in 2009. These companies are referred to as the "Non-Filed Entities" and comprise Nortel Networks AS ("**Nortel Norway**"), Nortel Networks South Africa Pty ("**Nortel South Africa**") and Nortel Networks AG ("**Nortel Switzerland**").
 - 37.1 Nortel South Africa was placed into a solvent liquidation in April 2019, a dividend of approximately £530,000 was paid to NNIF in October 2019 and a final de minimis dividend is expected to flow in 2020, thus paving the way for the dissolution of Nortel South Africa.
 - 37.2 Nortel Norway was placed into a solvent liquidation in March 2019 and a first and final dividend was received in November 2019 of approximately £630,000. The Norwegian entity has subsequently been dissolved.
 - 37.3 Nortel Switzerland was placed into a solvent liquidation in 2018. The Joint Administrators of NNUK agreed with the Swiss liquidator that NNUK should take an assignment of Nortel Switzerland's remaining intragroup receivables for value,

allowing the Swiss liquidation to progress quickly, which is expected to pay a final dividend to NNIF in 2020, and the company to then be dissolved.

38. In June 2019, NNIF also recovered approximately £4.13 million of cash and approximately £440,000 of intragroup receivables which were distributed to it in specie as part of the one-day liquidation and dissolution of its subsidiary Nortel Networks Hispania S.A. ("**Nortel Spain**"), which were in turn distributed by NNIF's liquidators to NNUK in July 2019.
39. NNIF is also the parent company of Nortel Networks AB ("**Nortel Sweden**"), which was previously subject to English administration proceedings, and following the termination of the administration proceedings by Order of Mr Justice Snowden dated 24 August 2018 (at **[4/18/488]** of SJH17) and the commencement of a Swedish solvent liquidation on 8 October 2018, it is expected that approximately £2.4 million of cash held by Nortel Sweden will be distributed to NNIF. It is expected that a first and final distribution will be made by the liquidators of Nortel Sweden (being myself and a local lawyer experienced in insolvency matters) to NNIF in 2020, thus paving the way for the dissolution of Nortel Sweden.
40. A table summarising the principal equity value transactions in 2019 and expected further distributions to NNIF which will in turn fuel a further return of capital or dividend to NNUK is shown below.

Company	Date entered into liquidation and/or dissolution	Date of distribution	Amount of distribution (approximate)
NNIF	Oct-18	Jul-19	£44.51 million
Nortel Spain	May-19	Jun-19	£4.57 million
Nortel Norway	Mar-19	Nov-19	£0.63 million
Nortel South Africa	Apr-19	Sep-19	£0.53 million
Nortel Switzerland	Jun-18	Expected Q1-20	£2.5 million*
Nortel Sweden	Oct-18	Expected Q1-20	£2.4 million*

* Anticipated amount to be distributed at the point of dissolution.

Exit

41. Subject to the completion of the adjudication process for certain claims against NNUK and the receipt of outstanding assets from intragroup debtors and subsidiaries, the Joint

Administrators of NNUK anticipate making a fifth and sixth and potentially final distribution in 2020 prior to the discharge of the administration.

42. While there is still value to be realised from the group and distributions to be made by the Joint Administrators in accordance with paragraph 65 of Schedule B1 to the Act and pursuant to Order of Mr Justice Snowden dated 23 July 2015, the purpose of the administration of NNUK cannot be said to have been sufficiently achieved.
43. In addition to making the final distribution, the Joint Administrators will need to finish winding down certain other affairs of NNUK. This will include continuing the dismantling of the Company's IT systems infrastructure, which has been used to assist the Joint Administrators in their adjudication of claims, making arrangements for essential data retention, terminating contracts entered into by the Joint Administrators (such as office space leases) and arranging for the termination of employment of the remaining NNUK employees who assist the Joint Administrators in their duties. The decision as to the most appropriate route to dissolution has yet to be made by the Joint Administrators who will need to review carefully the path to dissolution whether via liquidation or straight to dissolution, with detailed tax advice required in this respect. Regardless of this pending decision, the Joint Administrators believe that moving to liquidation at this stage of the administration would be hugely disruptive to the affairs of NNUK and damaging to its creditors' interests.

F. CVA COMPANIES

Progress of the CVAs

44. In April 2017, the Joint Administrators proposed CVAs to the creditors of each Company except NNUK and NNSA (the "**CVA Companies**").
45. During the summer of 2017, all of the proposed CVAs in respect of those CVA Companies were approved by the requisite majority of each CVA Company's creditors and members without modification. In each case, I have provided a copy of the relevant Chairman's report and the Notice of Effective Date (which is sent to creditors and posted on the Joint Administrators' website) at [4/4/27] to [4/4/74] of SJH17.
46. I set out in the table below the relevant dates for each of the CVAs. The "**Effective Date**" is the business day after the creditors' meeting. The "**Implementation Date**" is the date 28 days after the Effective Date. The "**CVA Bar Date**" is the date four months after the Effective Date.

Company	Notice of CVA	CVA Meeting	Effective Date	Implementation Date	CVA Bar Date
Nortel Germany	5 April 2017	24 May 2017	26 May 2017	23 June 2017	26 September 2017
Nortel Italy	5 April 2017	5 May 2017	8 May 2017	5 June 2017	8 September 2017
Nortel Poland	5 April 2017	16 May 2017	17 May 2017	14 June 2017	17 September 2017
Nortel Ireland	28 April 2017	2 June 2017	5 June 2017	3 July 2017	5 October 2017
Nortel Austria	5 April 2017	19 May 2017	23 May 2017	20 June 2017	23 September 2017
Nortel Netherlands	5 April 2017	12 June 2017	14 June 2017	12 July 2017	14 October 2017
Nortel Slovakia	5 April 2017	26 May 2017	1 June 2017	29 June 2017	1 October 2017

47. As set out in the terms of each of the CVAs, I was appointed as a supervisor of each CVA, together with Mr Bloom, Mr Hudson and Joanne Hewitt-Schembri, of E&Y, save in respect of the CVA for Nortel Ireland where Mr Hughes and Mr Bloom were appointed as supervisors of the CVA.
48. Ms Hewitt-Schembri gave notice that she was to resign as a CVA Supervisor of the Companies on 17 July 2019. Ms Hewitt-Schembri formally resigned as a CVA Supervisor on 14 August 2019. A copy of the notice is at [4/5/75] of SJH17. Where I use the term "**CVA Supervisors**" in relation to matters or events before 14 August 2019, I am referring collectively to myself, Mr Bloom, Mr Hudson and Ms Hewitt-Schembri. Where I use this term in relation to matters or events on or after 14 August 2019, I am referring collectively to myself, Mr Bloom and Mr Hudson. Where I use this term in relation to Nortel Ireland, I am referring to Mr Bloom and Mr Hughes.

Distributions to creditors of CVA Companies

49. As is set out in the sixth column in the table at paragraph 46 above, the CVA Bar Dates by which creditors were required to lodge claims in the CVA against the respective CVA Company have now passed and the CVA Supervisors have completed the adjudication process for all creditors in the vast majority of the CVA Companies.

50. Set out below is a summary of the progress of the CVA Companies to date. Each summary sets out distributions made to date, whether outstanding distributions are still required and, where further distributions are required, what steps the Joint Administrators are taking to allow these distributions to take place. I also address what further work is required more generally in the administrations and the Joint Administrators' proposals for the termination of their appointment.
51. Nortel Germany
- 51.1 The CVA Supervisors have adjudicated all claims received before the CVA Bar Date. The total value of these claims was £2,190,339,214 (including a significant contingent claim submitted by the UK Pension Regulator), of which £38,678,735 were admitted for payment.
- 51.2 An initial distribution was declared on 5 December 2017, a second interim distribution was declared on 17 August 2018 and a third interim distribution was declared on 21 March 2019, with non-subordinated unsecured creditors being paid 100% on account of the principal of their claims and 77.5% of their entitlement to Commercial Interest in accordance with the Terms of the CVA (at 3.07% per annum). A final distribution is expected to be made on 5 December 2019.
- 51.3 Nortel Germany had a number of intragroup claims against other EMEA Nortel companies. The Joint Administrators assigned these claims for value to NNUK in November 2019 paving the way for a final distribution to creditors of Nortel Germany without having to wait for recoveries to be made from the debtors.
- 51.4 At the date of our appointment, there were also two outstanding receivables due to Nortel Germany and the Joint Administrators have been taking steps since appointment to recover these assets. These receivables were due from two entities that are in longstanding German insolvency processes. As at September 2019 neither entity had paid any distribution to their respective creditors. The Joint Administrators, with assistance from their team and their legal advisors in Germany, have liaised with other creditors of those entities, the German Court and the entities' German officeholders to ascertain the quantum and timing of potential distributions. Consequently, Nortel Germany received a first and final distribution from one of the German entities in October 2019. In the case of the other entity, progress is being made and a "closing report" has recently been issued by the entity's officeholder, but it is still unclear when distributions will be made as the Joint Administrators understand from their German advisers that there is the potential for delay between the issuing of the closing report and the making of a distribution. The Joint Administrators believe that it is better, from a tax and overall economic perspective, to realise the value in the remaining asset in the second

insolvent estate in 2019 and, as such, are taking steps to procure the sale of this receivable to a third party purchaser for value.

- 51.5 Following the successful recovery of one receivable and the assignment for value of the other, the Joint Administrators expect Nortel Germany to have sufficient assets available for distribution to settle both the remaining Commercial Interest outstanding to creditors with non-subordinated claims under the CVA in full and also make a distribution to NNUK on account of its CCAA Subordinated Debt.
- 51.6 Following disposal of the remaining asset and the making of the final distribution, the CVA Supervisors expect to terminate the CVA allowing the Joint Administrators, after the production and filing of the 2019 financial statements and a tax return for the administration period to 31 December 2019, to make an application to Court for their discharge from office in the first quarter of 2020 and for Nortel Germany to be dissolved in accordance with German law subject to receipt of a final tax statement from the German tax authority (see paragraphs 58 to 64 below).

52. Nortel Ireland

- 52.1 The CVA Supervisors have adjudicated 137 claims received before the CVA Bar Date. The total value of claims received by the CVA Supervisors amounted to £2,235,315,514 (including a significant contingent claim submitted by the UK Pension Regulator). Claims to the value of £61,903,655 have been admitted by the CVA Supervisors.
- 52.2 The CVA Supervisors are in the process of resolving the remaining five unquantified employee CVA claims and are also considering making arrangements for certain of these employees who continue to assist the Joint Administrators of the other EMEA Nortel companies to continue their employment, potentially with NNUK, so that they can assist with the winding down of the wider Nortel EMEA group.
- 52.3 An initial distribution of 90p in the pound was made on 16 March 2018, a second interim distribution of 10p in the pound made on 17 August 2018 and a third interim distribution of 16.6% of the accrued Commercial Interest due to unsecured creditors in accordance with the Terms of the CVA (at a rate of 5.2% per annum) was made on 21 March 2019.
- 52.4 The CVA Supervisors expect there to be sufficient assets to allow a further element of Commercial Interest to be paid to unsecured creditors in 2020. The CVA Supervisors' ability to make this payment and the quantum of Commercial Interest which could be paid are chiefly dependent on the Joint Administrators' efforts to recover approximately €8 million relating to a tax refund covering the years 2009 to 2016 from the Irish Revenue Commissioners. The refund has been under

discussion with the Revenue Commissioners since July 2017, when the Company was able to resubmit its 2009 to 2016 corporate tax returns with details of the actual amount received from the Sale Proceeds rather than the higher estimated figures which had been submitted previously and which had resulted in an overpayment of tax by Nortel Ireland.

52.5 The Joint Administrators and their advisers continue to liaise with the Irish Revenue Commissioners to reach agreement on a narrowing list of disputed items and obtain payment of the refund as quickly as practicable to allow final distributions of Commercial Interest to be made to unsecured creditors. The Joint Administrators are expecting payment of the refund in the next three to six months and I may be able to update the Court as to the progress of the refund at or before the hearing of the Nortel Ireland Extension Application. Following the payment of the refund, the Joint Administrators would expect to have sufficient assets available for distribution to settle a further element of the Commercial Interest outstanding to creditors under the CVA and would then expect to terminate the CVA in 2020. This would allow the Joint Administrators to make an application to Court for their discharge from office shortly thereafter. We understand it may be possible for Nortel Ireland to be removed from the register at the Irish Companies Registration Office without the need for an Irish law governed liquidation. If this is not possible then it is proposed to liquidate the Irish entity.

52.6 Following the making of the final distribution anticipated in the spring of 2020, the CVA Supervisors expect to terminate the CVA shortly thereafter allowing the Joint Administrators to make an application to Court for their discharge from office.

53. Nortel Italy

53.1 The CVA Supervisors have adjudicated all 114 claims received in advance of the CVA Bar Date. The total value of claims submitted was £2,153,275,402 (including a significant contingent claim submitted by the UK Pension Regulator), of which £4,969,559 has now been admitted for payment.

53.2 An initial interim distribution was made on 16 March 2018. Creditors with Local Priority Claims received 100% of the principal of those claims and other unsecured creditors received 95% of the principal of their unsecured claims.

53.3 No further distributions have been made while the Joint Administrators investigate and agree a potential tax refund which may be due from the Italian tax authority. The Joint Administrators' tax team are working with their local tax advisors and the Italian tax authority with a view to recovering this refund while Nortel Italy is in administration. However, the refund may only be recoverable once Nortel Italy has entered into a local liquidation process and thus it may be necessary to procure a modification to the CVA to protect the interest of creditors. Once the amount and

timing of the recovery of the refund has been confirmed, the CVA Supervisors will be in a position to assess the amount available for the final distribution to Nortel Italy's creditors. It is expected that this should be at least the remaining 5% of principal outstanding to the unsecured creditors of the Company. It is not certain that any payment will be made to creditors on account of Commercial Interest.

- 53.4 The Joint Administrators are also aware of a potentially onerous asset held by Nortel Italy that they have not yet been able to deal with satisfactorily. The asset is a telecommunications mast which has been the subject of litigation in the Italian courts with a local property owner. The Joint Administrators are investigating whether Nortel Italy is the proper owner of the mast so that, if it is, a strategy can be developed to ensure it is dealt with effectively either in the administration or in a subsequent liquidation under Italian law. The Joint Administrators hope that the asset can be dealt with in a consensual manner.
- 53.5 Nortel Italy also had a number of pre-appointment intragroup claims against NNL (Canada) (the "Nortel Italy Canadian Claims"). An initial distribution to Nortel Italy was made by NNL (Canada) on 11 July 2017 at a rate of approximately 41.5% with a further distribution of 4.3% made on 11 December 2018. The Joint Administrators are uncertain as to the quantum and timing of any further recoveries which could be made in respect of the Nortel Italy Canadian Claims and are progressing a sales process to assign the claims for value to a third party so as to realise value in those claims without further delay.
- 53.6 Following the making of the final distribution, the CVA Supervisors expect to terminate the CVA allowing the Joint Administrators to make an application to Court for their discharge from office in the summer of 2020.

54. Nortel Poland

- 54.1 The CVA Supervisors have adjudicated all 31 claims received in advance of the CVA Bar Date. The total value of claims submitted was £2,160,420,939 (including a significant contingent claim submitted by the UK Pension Regulator), of which £12,938,030 was admitted for payment. There are no outstanding claims requiring adjudication.
- 54.2 A first interim distribution was made on 5 December 2017 and a second interim distribution was made on 17 August 2018, with non-subordinated unsecured creditors being paid 100% of the principal of their claims and 100% of their entitlement to Commercial Interest (at a rate of 5.46% per annum in line with the terms of the CVA). In addition, distributions were made to NNUK on account of its CCAA Subordinated Debt of 61p in the pound.
- 54.3 The Joint Administrators are strongly advised by their Polish law advisors that a solvent liquidation under Polish law is the best way to dissolve the Company. The

Joint Administrators are advised that the insolvent liquidation route under Polish law can be costly, impose burdensome obligations on those previously involved in the management of the Company (including the Joint Administrators), and would be of very limited benefit to NNUK (the sole creditor) and NNIF (the sole shareholder). Given that the liquidators of NNIF cannot proceed to final distributions and the dissolution of NNIF until it has dealt with all its assets, the Joint Administrators see there to be clear benefit in taking reasonable steps to allow a solvent liquidation.

54.4 In order that Nortel Poland may be dissolved by way of the relatively rapid and cost-effective solvent liquidation route, the Joint Administrators took local tax, accounting and legal advice on the options available to discharge the unpaid CCAA Subordinated Debt. To allow for payment a capital contribution was made by NNUK in the Company in accordance with Polish law. This process has recently been completed with the Joint Administrators awaiting confirmation of the registration of the same from the Polish trade registry.

54.5 In advance of progressing the capital contribution it was also necessary for the Joint Administrators to, as far as they could, finalise the tax affairs of Nortel Poland, in particular in respect of the 2017 and 2018 tax periods. Following considerable interaction with the Polish tax authority, the Joint Administrators recently managed to obtain tax clearance for all tax matters of Nortel Poland up to the end of 2018, paving the way for the capital contribution which was completed on 20 November 2019. This will in turn allow for the commencement of the solvent liquidation in due course.

54.6 The CVA Supervisors currently expect to make the final distribution to NNUK on account of its CCAA Subordinated Debts before the end of 2019. The Joint Administrators then intend to make an application to Court for an order to terminate the administration of the Company upon the placement of Nortel Poland into a Polish law solvent liquidation process. They expect to be able to make that application in the first quarter of 2020.

55. Nortel Slovakia

55.1 The CVA Supervisors adjudicated all 17 claims received in advance of the CVA Bar Date. The total value of claims submitted was £2,148,471,050 (including a significant contingent claim submitted by the UK Pension Regulator), of which £1,399,490 has been admitted for payment.

55.2 A first interim distribution was made on 5 December 2017, with unsecured creditors being paid 95% on account of the principal of their claims. A second and final distribution was made on 15 October 2019, with the result that unsecured creditors have received 100% of the principal of their claims. No payments were made on

account of Commercial Interest or to NNUK on account of its CCAA Subordinated Debt.

- 55.3 It was necessary for NNUK to make a capital contribution of approximately £220,000 to Nortel Slovakia under the Global Settlement in accordance with the terms of the UKPI Settlement Deed. This 'top-up' payment provided the lesser of the amount needed to ensure that the unsecured creditors of Nortel Slovakia were paid 100p in the £, excluding interest, or the amount required to restore the position of Nortel Slovakia to what it had been at 31 December 2009.
- 55.4 The Joint Administrators understand from their Slovakian legal and accounting advisors that an insolvent liquidation under Slovakian law would be a lengthy and expensive process and, in these circumstances, be of very limited benefit to NNUK as sole creditor and delay the final dissolution of NNIF. In order that Nortel Slovakia may be dissolved by way of a quicker and cheaper solvent liquidation route, the Joint Administrators took local tax, accounting and legal advice that the remaining unpaid CCAA Subordinated Debt due to NNUK should be converted into equity in the Company. This process has been undertaken and the Joint Administrators are awaiting confirmation of registration from the Slovakian corporate registry at the time of preparing this witness statement.
- 55.5 The CVA Supervisors terminated the CVA with effect from 15 November 2019. The Notice of Termination is at [4/6/77] of SJH17. The Joint Administrators are first taking steps to identify a candidate with the necessary experience to act as liquidator of Nortel Slovakia and then expect to make an application to Court for their discharge from office in the first quarter of 2020.

56. Nortel Austria

- 56.1 The CVA Supervisors have adjudicated all 34 claims received in advance of the CVA Bar Date. The total value of claims submitted were £2,148,915,428 (including a significant contingent claim submitted by the UK Pension Regulator), of which £1,631,805 were admitted for payment.
- 56.2 A first interim distribution was made on 5 December 2017 and a second interim distribution was made on 17 August 2018, resulting in unsecured creditors receiving 95% of the principal value of their claims.
- 56.3 A third and final distribution was declared on 15 October 2019, with the result that all unsecured creditors have been paid 100% on account of the principal value of their claims. No payments were made on account of Commercial Interest or to NNUK on account of its CCAA Subordinated Debt.
- 56.4 It was necessary for NNUK to make a capital contribution of approximately £160,000 to Nortel Austria under the Global Settlement in accordance with the terms of the UKPI Settlement Deed. This 'top-up' payment provided the lesser of

the amount needed to ensure that the unsecured creditors of Nortel Austria were paid 100p in the £, excluding interest, or the amount required to restore the position of Nortel Austria to what it had been at 31 December 2009.

56.5 The CVA Supervisors terminated the CVA with effect from 15 November 2019. The Notice of Termination is at [4/6/78] of SJH17. Following the resolution of certain final tax steps, the Joint Administrators expect to make an application to Court for their discharge from office in the first quarter of 2020 and for Nortel Austria to be dissolved through a fast track dissolution process under Austrian law (notwithstanding the presence of the outstanding CCAA Subordinated Debt) (see paragraphs 58 to 64 below).

57. Nortel Netherlands

57.1 The CVA Supervisors have adjudicated the 63 claims received in advance of the CVA Bar Date. The total value of claims submitted was £2,170,890,932 (including a significant contingent claim submitted by the UK Pension Regulator), of which £16,339,316 was admitted for payment.

57.2 A first interim distribution was made on 5 December 2017. A second and final distribution was made on 15 October 2019 with unsecured creditors, except for NNUK as subordinated creditor, receiving payment of 100% of the principal of their claims and their full entitlement to Commercial Interest (at a rate of 3.76% per annum). NNUK received payment of 100% of the principal of its CCAA Subordinated claim and approximately 80% of its entitlement to Commercial Interest on the same.

57.3 There was a significant gap between the making of the first and second distributions. The reason for this was the emergence of a number of former employees of whom the Joint Administrators had not previously been aware. These former employees were brought to the Joint Administrators attention whilst in the process of recovering an asset from a Dutch insurer which provides pensions to the Company's former employees. A surplus had become available after the insurer had discharged the entitlements due to former employees. In the course of agreeing the final recovery of the surplus with the insurer, the Joint Administrators were provided with the identity of certain former employees. These former employees were sent copies of the CVA and certain of them filed claims which the CVA Supervisors investigated and adjudicated in the course of 2019.

57.4 Before the final distribution to creditors could be made, it was also necessary for the Joint Administrators to deal with intragroup receivables due to Nortel Netherlands. The Joint Administrators determined that the best way to deal with the book debts was to distribute them to the Company's sole remaining creditor NNUK in lieu of part of its remaining CCAA Subordinated Debt. As only cash

distributions were anticipated under the terms of the CVA, the ability to make distributions in specie required the Joint Administrators to use their powers under the terms of the CVA to modify its terms to allow the distribution in specie. The CVA Supervisors then distributed these receivables in specie to NNUK. A copy of the CVA modification is at [4/19/491] of SJH17.

- 57.5 The CVA Supervisors terminated the CVA with effect from 8 November 2019. The Notice of Termination is at [4/6/79] of SJH17. Prior to and following termination of the CVA, the Joint Administrators have been planning the Company's ultimate winding-up under Dutch law which has involved considerable assistance from their Dutch tax advisors to ensure that the commencement, timing or form of the liquidation process does not impact the liquidation of NNIF, with which Nortel Netherlands shares a tax group. The Joint Administrators expect to make an application to Court for their discharge from office in the first quarter of 2020, and for Nortel Netherlands to be immediately dissolved under Dutch law (see paragraphs 58 to 64 below).

Exit Strategies

58. Following the final distribution by the CVA Supervisors of each CVA Company the CVA Supervisors anticipate that they will be in a position to terminate the CVA of that CVA Company by giving notice to the creditors.
59. At or around the same time, the Joint Administrators anticipate making an application to Court to terminate the administration of that CVA Company in accordance with paragraph 79 of Schedule B1 to the Act. To ensure the orderly winding up of each CVA Company, such a termination would in most cases need to be conditional on the commencement of a process to wind up that CVA Company in accordance with the law of the jurisdiction of that CVA Company's incorporation.
60. In August 2018 the Joint Administrators made similar applications in respect of the Batch One Entities, supported by my eighth witness statement dated 8 August 2018 ("**Harris 8**") a copy of which is at [4/7/81] of SJH17. On 24 August 2018, Mr Justice Snowden granted Orders that the Joint Administrators' appointments of the Batch One Entities terminate on the commencement of the local liquidation process. Copies of the Orders and Mr Justice Snowden's judgment are at [3/13/127] to [3/13/144] and at [4/8/134].
61. In April 2019 the Joint Administrators also made similar applications in respect of the Batch Two Entities, supported by my eleventh witness statement dated 15 April 2019 ("**Harris 11**") a copy of which is at [4/9/144] of SJH17. On 10 May 2019, Mr Justice Snowden granted Orders that the Joint Administrators' appointments of the Batch Two Entities terminate on the commencement of the local liquidation process. Copies of the Orders and Mr Justice Snowden's judgment are at [3/14/145] to [3/14/150] and at [4/10/187].

62. While in some cases the commencement of the local liquidation processes has taken significantly longer and required more work than initially anticipated, the Joint Administrators believe that the process has worked well and the transition from English law administrations to local law liquidations has been smooth. They therefore propose to take a similar approach to the CVA Companies.
63. In the first quarter of 2020 the Joint Administrators are planning to make a third set of similar applications in respect of Nortel Austria, Nortel Slovakia and Nortel Netherlands (the "**Batch Three Companies**"). The Joint Administrators had hoped to make these applications in the latter part of November 2019 so as to allow for the possibility of dissolving Nortel Austria and Nortel Netherlands within the accounting year ending 31 December 2019. The Joint Administrators notified Mr Justice Snowden in a letter dated 15 November 2019 (a copy of which is at [4/11/199] of SJH17) that the set of applications would be postponed owing to very recent changes to E&Y's finance systems, which impacts the time recording and reporting information systems used by the Joint Administrators to produce the remuneration aspects of the applications. The Joint Administrators concluded that they would not submit remuneration data to the Companies' former creditors, NNUK's creditors or the Court without being entirely confident of that data's accuracy. For that reason and to allow further time for the tax matters in respect of Nortel Austria to be dealt with and the liquidator to be confirmed for Nortel Slovakia, the Joint Administrators decided to postpone the making of the applications for the Batch Three Companies until early in 2020. It is possible that certain of the Batch Three Companies may incur costs in preparing financial statements for the short period in 2020, which the Joint Administrators had hoped to avoid. However the Joint Administrators believe these costs may well be outweighed by the legal and other cost savings that could be achieved by including other CVA Companies (such as Nortel Poland and Nortel Germany) in the third set of applications rather than in a separate fourth set of applications.
64. In respect of the other CVA Companies (Nortel Ireland and Nortel Italy) the Joint Administrators continue to take local legal and accounting advice to finalise the most efficient process available under the laws of that CVA Company's jurisdiction of incorporation to have the CVA Company removed from the local register of companies once the CVA is concluded and the administration order discharged.

G. NNSA

NNSA CVA

65. Liberty to promulgate a CVA in respect of NNSA (the "**NNSA CVA**") was granted by Order of Mr Justice Snowden dated 23 July 2015 (provided at [4/1/1] of SJH17).

66. The NNSA Administrators decided not to seek to promulgate the NNSA CVA in 2017 at the same time as the CVAs of the CVA Companies so as to allow the Secondary Proceeding to continue to progress its own claims process following its receipt of the Sale Proceeds. The Secondary Proceeding's claims process in respect of certain classes of claim which rank in priority to unsecured claims as a matter of French law ("**Priority Claims**") completed, for the most part, in 2018 and resolved a certain number of Priority Claims, including potential expense claims, which has simplified the proving process in the Main Proceeding in part.
67. On 24 August 2018, the Joint Administrators issued a proposal for a CVA which provided for a mechanism to distribute cash to NNSA's creditors as quickly as possible. A copy of the proposal issued to creditors and members is at [4/12/201] of SJH17. The principles and certain key terms of the NNSA CVA include those agreed between the NNSA Administrators and the French Liquidator and set out in Schedule 4 (*The NNSA CVA*) to the NNSA Settlement Deed, as amended and restated on 1 March 2017, a copy of which is provided at [4/13/362] of SJH17. The main objectives of the NNSA CVA are:
- 67.1 to implement a date by which claims of creditors must be submitted to enable the assets of NNSA to be distributed as quickly as possible;
 - 67.2 to provide a mechanism to facilitate payment by NNSA to its creditors; and
 - 67.3 to provide a framework for certain releases of the NNSA Administrators and their advisers.
68. At meetings of NNSA's creditors and members held in Paris on 5 October 2018 in accordance with section 3 of the Act, the creditors and members of NNSA unanimously approved the proposed NNSA CVA without modification. I have provided a copy of the Chairman's report of the meeting, which was filed at Court on 9 October 2018, and Form CVA1 (*Notice to the registrar of Companies of Voluntary Arrangement Taking Effect*) at [4/14/457] of SJH17. The Effective Date occurred on 9 October 2018 and the Implementation Date, being the date 28 days after the Effective Date where no challenge to the CVA is filed, took place on 6 November 2018. Copies of the Notices of the Effective Date and Implementation Date, which are sent to creditors and posted on the Joint Administrators' website, are at [4/15/470] and [4/15/471] of SJH17.
69. As set out in the terms of the NNSA CVA, I was appointed as an NNSA Supervisor, together with Mr Bloom, Mr Hudson and Joanne Hewitt-Schembri, of E&Y and the Conflict Administrator. Ms Hewitt-Schembri gave notice that she was to resign as an NNSA Supervisor on 17 July 2019. Ms Hewitt-Schembri formally resigned as an NNSA Supervisor on 14 August 2019. Where I use the term "**NNSA Supervisors**" in relation to matters or events before 14 August 2019, I am referring collectively to myself, Mr Bloom, Mr Hudson, Ms Hewitt-Schembri and Mr Taylor. Where I use this term in relation to matters or events on

or after 14 August 2019, I am referring collectively to myself, Mr Bloom, Mr Hudson and Mr Taylor.

70. The CVA Bar Date by which creditors of NNSA must submit their claims was 11 February 2019. The NNSA Supervisors received, either directly from creditors or by way of transfer from the liquidator of the Secondary Proceeding, some 743 CVA Claims before the CVA Bar Date. Of these 519 are from former NNSA employees, 170 from trade creditors, 33 from other Nortel entities, two are from landlords, 16 are from fiscal or tax authorities and three are from the UK Pension Regulator. The NNSA Supervisors have formally admitted the claims (either in part or in full) of 514 former employees, two landlords, 133 trade creditors, one claim from a tax authority and 13 claims of other Nortel entities. The NNSA Supervisors have also rejected in part and accepted in part, a significant claim submitted by a French tax authority and are taking steps to agree the treatment of the balance of the claim with the tax authority. At the date of this statement some 29 claims remain to be adjudicated and the balance has been rejected.

Merger of NNSA with its subsidiary NNF

71. On 22 August 2019, the joint administrators of NNF made an application to Court to terminate their appointment as the administrators of NNF, being a wholly owned subsidiary of NNSA from the date of the dissolution without liquidation of NNF through the universal transfer of all its assets and liabilities to NNSA (the "TUP"). On 20 September 2019, Mr Justice Snowden made an Order granting that application. Copies of the Order and Mr Justice Snowden's judgment are at [4/16/472] and [4/17/476] of SJH17. The TUP was completed on 28 October 2019 final confirmation of the TUP's occurrence was received from the French court on 8 November 2019, which allowed cash assets of €15,846,208 to be transferred to NNSA later that day. A copy of the confirmation from the French court is at [4/20/552] of SJH17. The Main Proceeding received fifty percent, being €7,765,547.54, of the cash assets of NNF which have allowed the NNSA Supervisors to progress the intended distribution planned for December 2019 in significantly simplified circumstances.

NNSA Expense Claims

72. As set out at paragraph 24 above, in light of the anticipated promulgation of the NNSA CVA, on 21 June 2018 the NNSA Administrators issued an Expense Application, supported by Harris 6, to enable them to make distributions to unsecured creditors of NNSA. On 17 July 2018, Mr Justice Snowden made an Order granting the Expense Application and setting 29 January 2019 as an Expense Bar Date for the submission of Expense Claims ([3/9/83] of SJH17). In accordance with the terms of that Order, the NNSA Administrators sent Explanatory Letters and Expense Demand Forms to all creditors and those persons known to have asserted potential Expense Claims before 31 August 2018.

73. The NNSA Administrators have received some 58 claims in response to the Explanatory Letters and Expense Demand Forms before the Expense Bar Date, with the overwhelming majority of such claims being from former employees of NNSA. Certain of these Expense Claims are in respect of the balance of payments due under the End of Strike Agreement agreed between the French Officeholders and the former employees which were not settled as against the Main Proceeding under the terms of the employee settlement agreed in 2017. The NNSA Administrators believe that these claims do not rank as Expense Claims. The NNSA Administrators have invited the employees that have submitted these Expense Claims to withdraw them and informed them that the claims have already been submitted to the NNSA Supervisors on the employees' behalf by the French Liquidator and have been admitted as unsecured claims by the NNSA Supervisors. However, in reaching out to the employees it is becoming apparent that a number of the employees wish to reserve their position regarding their Expense Claims in the Main Proceeding. If the employees do not withdraw these Expense Claims, it may prove necessary to make an application to Court to resolve this issue.
74. It remains the view of both the NNSA Administrators and the Liquidator of the Secondary Proceeding that no tax will be due to the French Tax Authority for the remainder of the insolvency processes and that in fact a significant tax refund will fall due to NNSA towards the end of the administration and liquidation by way of a "long period" refund covering all of the years of the liquidation of NNSA. The Joint Administrators have recently provided further proforma tax information following the completion of the TUP thus enabling the French tax authority to assess further the tax status to the closure of the administration and liquidation.

Distributions and exit from administration

75. In an estimated outcome statement included with the NNSA CVA proposal, circulated in August 2018 ([4/12/201] of SJH17), the NNSA Administrators set out a lower range of total recoveries by creditors of between 43.6c in the euro and a higher range of 100c in the euro with the potential for approximately €5.6 million available for the payment of interest to creditors for the period from the date of the Joint Administrators' appointment. In August 2019 the NNSA Supervisors indicated that they now anticipate that unsecured creditors will likely receive aggregate dividends of closer to 70c in the euro and that the ability of the NNSA Supervisors to pay a higher dividend turns on the ability of the French Liquidator to agree and finalise the tax treatment of certain tax claims and it is possible that a recovery of 100c in the euro could be achieved if a positive agreement is reached with the French tax authorities.
76. The NNSA Supervisors hope to make an initial distribution to creditors with Admitted CVA Claims in the first weeks of December 2019 and will be able to update the Court on the progress of this initial distribution at or before the hearing of the Extension Applications.

77. When making this distribution, the NNSA Supervisors intend to apply hotchpot and take into account payments that have been made or are likely to be made to creditors by the Secondary Proceeding in accordance with the Terms of the CVA. This involves a close analysis of payments already made or expected to be made by the Secondary Proceeding and the ranking of those payments under English law. The NNSA Supervisors have been informed by the Secondary Proceeding that the following four categories of creditors are among those which have already received payments from the Secondary Proceeding:
- 77.1 former employees in respect of certain employment related claims;
 - 77.2 a landlord in respect of payments for damage and dilapidations to property; and
 - 77.3 two different departments within the French tax authority in respect of certain tax claims.
78. The NNSA Supervisors will take into account any payment made to creditors by the Secondary Proceeding in respect of their claim or a claim based on similar facts in the manner required under the CVA. Ahead of the anticipated initial distribution in December 2019, on 6 November 2019 the NNSA Supervisors wrote to each creditor to explain how the application of hotchpot will impact payments to them and to inform them of the implications for dividend purposes. A copy of a letter sent to a creditor on 6 November 2019 is at **[4/21/553]**.
79. Following their achievement of the objectives of the NNSA administration, the NNSA Administrators would expect to make an application for the termination of their appointment and their discharge. The Joint Administrators anticipate that their appointment would terminate on the final dissolution of NNSA.

H. BREXIT

80. For the purposes of the EC Insolvency Regulation and the Regulation (EC) on Insolvency Proceedings 2015 (No 2015/848) (the "**Recast Regulation**"), the administrations of the Companies and the CVAs in respect of the CVA Companies and NNSA are recognised as main proceedings.
81. The Companies are companies registered in EU Member States and the Joint Administrators understand from their legal advisers that the English Court has jurisdiction over those Companies pursuant to Article 3(1) of the EC Insolvency Regulation.
82. On 29 March 2017 HM Government gave notice to the European Council of the United Kingdom's intention to withdraw from the European Union in accordance with Article 50(2) of the Treaty on European Union (the "**Treaty**"). In accordance with Article 50(3) of the Treaty, the Treaty and the Treaty on the Functioning of the European Union shall cease to apply to the United Kingdom from the date of entry into force of the withdrawal agreement or, failing that, two years from the date of the notification. The latter deadline has been

extended three times: first to 12 April 2019, second to 31 October 2019 and most recently to 31 January 2020.

83. On 19 October 2019, HM Government issued a revised draft withdrawal agreement between the United Kingdom and the European Union (the "**Draft Withdrawal Agreement**"). Article 67(3)(c) of the Draft Withdrawal Agreement sets out that the Recast Regulation shall apply to insolvency proceedings provided that the main proceedings were opened before the end of the transition period. Section 13 of the European Union (Withdrawal) Act 2018 requires that a final withdrawal agreement be approved by the House of Commons.
84. The Joint Administrators understand from their legal advisers that based on their experience, even if the Draft Withdrawal Agreement is approved and subsequently ratified by the House of Commons, courts and other bodies including trade registries in certain Member States may express doubt as to whether the administrations of the Companies would continue to be automatically recognised.
85. Pending the completion of any withdrawal agreement between the UK and the European Council, it remains uncertain how the EC Insolvency Regulation or the Recast Regulation will apply to the administrations of the Companies or the CVAs and what, if any, recognition will be given to the Joint Administrators or CVA Supervisors by the courts of the Member States following any withdrawal agreement or the deadline of 31 January 2020.
86. In the event that no withdrawal agreement is agreed or the terms of the withdrawal agreement do not provide for automatic recognition of the Nortel administrations, it may be necessary for the Joint Administrators to apply for recognition of the proceedings in accordance with local law as if they were insolvency proceedings commenced outside the European Union. At this stage, the Joint Administrators do not immediately see the benefit to creditors of such applications given that the purposes of the administrations have almost been completed, the vast majority of creditor claims have been paid in full (save in the case of NNSA) and there are no or very limited assets in the jurisdiction of each Company's incorporation which require coordination and cooperation at a local level.
87. If, after 31 January 2020, it remains uncertain how the EC Insolvency Regulation or the Recast Regulation will apply to the administrations of the Companies or the CVAs and it becomes apparent that some form of recognition or other action is required then the Joint Administrators will seek such remedy from the courts of the relevant Member State or otherwise as is necessary to best coordinate the completion of the administrations. If necessary, the Joint Administrators and/or CVA Supervisors will also apply for directions to the Court where it appears that the objectives of the administrations cannot be achieved.

I. RELIEF SOUGHT

88. For the reasons set out in this statement and notwithstanding the impact of Brexit, the Joint Administrators consider that, at this point in the administrations, moving any of the Companies into a liquidation process would be hugely disruptive to the affairs of the Companies and damaging to creditors' interests. If the Companies were to be forced into liquidation at this stage, the permission given by the Court to the Joint Administrators of NNUK to make distributions would be frustrated. In the case of the CVA Companies and NNSA, without an extension, the Joint Administrators would be unable to fulfil the terms of the CVAs which have been approved by the creditors of each CVA Company and NNSA. The Joint Administrators remain of the view that there are no obvious benefits to any creditors if the Companies were to go into liquidation at this stage and there would be considerable amounts of disruption and wasted costs.
89. To date, the administrations and the CVAs have proceeded successfully and the statutory purposes of the administrations as set out at paragraph 3(1) of Schedule B1 to the Act are capable of further achievement by way of making distributions to creditors, including by way of the CVAs. Accordingly, the Joint Administrators consider that the orders sought by the Extension Applications are in the best interests of each of the Companies.
90. For the reasons explained above the Joint Administrators consider that the objectives of the administrations of the Companies are likely to be completed in the course of the next 12 months and therefore propose that the administrations be extended for that period until 13 January 2021. Should it be necessary to further extend the duration of the administrations beyond 13 January 2021, the Joint Administrators would make the required applications to Court in advance of that date.
91. A period of 12 months has been applied for to ensure that in the event of unexpected delays the Joint Administrators still have sufficient time to achieve the purposes of the administrations of the Companies without incurring the costs of making a second application to extend the administrations. Moreover, the Joint Administrators are mindful of their obligation to perform our functions as quickly and efficiently as reasonably possible. In the absence of any unexpected delays, the Joint Administrators anticipate that they will be in a position to apply to the Court in the course of the next three to six months for an order that their appointment over Nortel Germany, Nortel Poland, Nortel Slovakia, Nortel Austria and Nortel Netherlands ceases to have effect under paragraph 79 of Schedule B1 to the Act. The Joint Administrators intend to make such an application in respect of each Company as and when they consider that the purpose of the administration of that Company has been sufficiently achieved.
92. If the circumstances of any of the Companies change significantly before 13 January 2021, including such that the Joint Administrators consider that the purposes of any administration

or CVA are frustrated by the impact of Brexit, the Joint Administrators understand that they are obliged to return to Court to seek such an order as to the future conduct of the administration as is appropriate in those circumstances, including an order that their appointment as Joint Administrators of that Company shall cease to have effect.

93. Accordingly, the Joint Administrators respectfully request that this Honourable Court makes the orders for the Extension Applications on behalf of each of the Companies.

J. CONCLUSION

94. For the reasons mentioned above, I respectfully request that the Court grants the relief sought by the application.

STATEMENT OF TRUTH

I believe that the facts stated in this witness statement are true.

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STEPHEN JOHN HARRIS

Date: 22 November 2019

IN THE HIGH COURT OF JUSTICE
THE BUSINESS AND PROPERTY COURTS OF
ENGLAND AND WALES

INSOLVENCY AND COMPANIES LIST (ChD)

IN THE MATTERS OF:

NORTEL NETWORKS UK LIMITED	<u>No. 536 of 2009 /</u> <u>CR-2016-006154</u>
NORTEL NETWORKS (AUSTRIA) GMBH	<u>No. 537 of 2009 /</u> <u>CR-2009-000040</u>
NORTEL NETWORKS S.A.	<u>No. 539 of 2009 /</u> <u>CR-2009-000048</u>
NORTEL NETWORKS (IRELAND) LIMITED	<u>No. 541 of 2009 /</u> <u>CR-2009-000047</u>
NORTEL GMBH	<u>No. 542 of 2009 /</u> <u>CR-2009-000033</u>
NORTEL NETWORKS SLOVENSKO S.R.O.	<u>No. 551 of 2009 /</u> <u>CR-2009-000044</u>
NORTEL NETWORKS S.P.A.	<u>No. 552 of 2009 /</u> <u>CR-2009-000035</u>
NORTEL NETWORKS BV	<u>No. 553 of 2009 /</u> <u>CR-2009-000036</u>
NORTEL NETWORKS POLSKA SP. Z.O.O.	<u>No. 554 of 2009 /</u> <u>CR-2009-000037</u>

AND IN THE MATTER OF THE INSOLVENCY ACT
1986

SEVENTEENTH WITNESS STATEMENT OF
STEPHEN JOHN HARRIS
