

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)	File No.: EB-TCD-12-00000370 ¹
)	
Sorenson Communications, Inc.)	Acct. No.: 201332170012
)	
)	FRN: 00015648942

ORDER

Adopted: May 23, 2013

Released: May 28, 2013

By the Chief, Enforcement Bureau:

1. In this Order, we adopt the attached Consent Decree entered into between the Enforcement Bureau (Bureau) of the Federal Communications Commission (Commission) and Sorenson Communications, Inc. (Sorenson). The Consent Decree resolves and terminates the Bureau’s investigation into Sorenson’s compliance with Section 225 of the Communications Act of 1934, as amended,² Sections 64.604 and 64.611 of the Commission’s rules, and the Commission’s orders concerning the provision of Telecommunications Relay Services (TRS) and compensation from the Interstate TRS Fund.³

2. The Bureau and Sorenson have negotiated the terms of the Consent Decree that resolves this matter. A copy of the Consent Decree is attached hereto and incorporated by reference.

3. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree and terminating the referenced investigation.

4. Based solely on the record developed to date in this investigation and in the absence of material new evidence relating to this matter, we conclude that the Bureau’s investigation raises no substantial or material questions of fact as to whether Sorenson possesses the basic qualifications, including those related to character, to hold or obtain any Commission license, certification, or authorization.

5. Accordingly, **IT IS ORDERED**, pursuant to Sections 4(i), 4(j), and 503(b) of the Communications Act of 1934, as amended,⁴ and Sections 0.111 and 0.311 of the Commission’s rules,⁵ the attached Consent Decree **IS ADOPTED**.

6. **IT IS FURTHER ORDERED** that the above-captioned investigation **IS TERMINATED**.

¹ The investigation was originally identified as file number EB-11-TC-030.

² 47 U.S.C. § 225.

³ 47 C.F.R. §§ 64.604, 64.611.

⁴ 47 U.S.C. §§ 154(i), 154(j), 503(b).

⁵ 47 C.F.R §§ 0.111, 0.311.

7. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to Michael B. DeSanctis, Jenner & Block, LLP, 1099 New York Avenue, NW, Suite 900, Washington, DC 20001.

FEDERAL COMMUNICATIONS COMMISSION

P. Michele Ellison
Chief, Enforcement Bureau

Before the
Federal Communications Commission
Washington, DC 20554

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In the Matter of)	
)	Acct. No.: 201332170012
Sorenson Communications, Inc.)	
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CONSENT DECREE

The Enforcement Bureau of the Federal Communications Commission and Sorenson Communications, Inc., by their authorized representatives, hereby enter into this Consent Decree that resolves and terminates the Enforcement Bureau’s investigation into Sorenson’s compliance with Section 225 of the Communications Act of 1934, as amended,¹ Sections 64.604 and 64.611 of the Commission’s rules, and the Commission’s orders concerning the provision of Telecommunications Relay Services and compensation from the TRS Fund.²

I. DEFINITIONS

1. For the purposes of this Consent Decree, the following definitions shall apply:
 - (a) “Act” means the Communications Act of 1934, as amended, 47 U.S.C. § 151 *et seq.*
 - (b) “Adopting Order” means an order of the Bureau adopting the terms of this Consent Decree without change, addition, deletion, or modification.
 - (c) “Bureau” means the Enforcement Bureau of the Federal Communications Commission.
 - (d) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.
 - (e) “Communications Laws” means, collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which Sorenson is subject by virtue of its business activities.
 - (f) “Compliance Plan” means the compliance obligations, program, and procedures described in this Consent Decree at paragraph 12.
 - (g) “Compliance Reports” mean the reports Sorenson is required to file with the Commission pursuant to paragraph 14.

¹ 47 U.S.C. § 225.

² 47 C.F.R. §§ 64.604, 64.611.

- (h) “Covered Personnel” means all employees, independent contractors, subcontractors, and agents of Sorenson who perform, supervise, oversee, or manage any activities that relate to the Company’s responsibilities under, and compliance with, Section 225 of the Act and the TRS Rules.
- (i) “Effective Date” means the date on which the Bureau releases the Adopting Order.
- (j) “FCC Compliance Assessments” means reviews conducted by Sorenson to ensure that any Product offered to TRS users complies with the Communications Laws.
- (k) “Internet-based TRS” means any form of TRS in which an individual with a hearing or speech disability connects to a communications assistant using an Internet Protocol-enabled device via the Internet. *See* 47 C.F.R. § 64.601(a)(11).
- (l) “Investigation” means the inquiry undertaken by the Bureau in File No.: EB-TCD-12-00000370 (formerly EB-11-TCD-030) regarding compliance with the TRS Rules.
- (m) “IP Relay” means Internet Protocol Relay Service, 47 C.F.R. § 64.601(a)(13).
- (n) “iTRS database” means the TRS Numbering Directory as described in 47 C.F.R. § 64.613.
- (o) “Operating Procedures” means the operating procedures and compliance policies established and used by Sorenson to implement the Compliance Plan.
- (p) “Parties” means Sorenson and the Bureau, each of which is a “Party.”
- (q) “Products” means TRS products, services, equipment, and software offered by Sorenson to TRS users.
- (r) “Refund Payment” means the payment to be made by Sorenson to the TRS Fund pursuant to this Consent Decree and described at paragraph 18.
- (s) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- (t) “Sorenson” or “Company” means Sorenson Communications, Inc. and each of its subsidiaries, predecessors-in-interest and successors-in-interest.
- (u) “TRS” means Telecommunications Relay Services, 47 C.F.R. § 64.601(a)(22).
- (v) “TRS Fund” or “Fund” means the Interstate Cost Recovery Plan administered by an entity selected by the Commission, 47 C.F.R. § 64.604(c)(5)(iii).
- (w) “TRS Fund administrator” or “Administrator” means the entity selected by the Commission to administer the TRS Fund, 47 C.F.R. § 64.604(c)(5)(iii).
- (x) “TRS Rules” means the regulations set forth at Section 64.601 through Section 64.613 of the Rules, 47 C.F.R. § 64.601 *et seq.*, Commission orders implementing and interpreting 47 U.S.C. § 225 of the Act, and any other Rules and orders

applicable to TRS providers, as such Rules and orders apply to Sorenson and any Product or form of TRS offered by Sorenson.

- (y) “Voluntary Contribution” means the payment to be made by Sorenson to the United States Treasury pursuant to this Consent Decree and described at paragraph 17.
- (z) “VRS” means video relay service, 47 C.F.R. § 64.601(a)(27).
- (aa) “Work Number” means a ten-digit number associated with Covered Personnel that is designated for business purposes.

II. BACKGROUND

2. TRS is a telephone transmission service that enables persons who are deaf, hard of hearing, deaf-blind, as well as those with speech disabilities to communicate by wire or radio with hearing individuals in a manner that is functionally equivalent to voice communication services utilized by those without such disabilities.³ Section 225 of the Act obligates the Commission to ensure that TRS is “available, to the extent possible and in the most efficient manner,” to persons with hearing or speech disabilities in the United States.⁴ In addition, the Act directs the Commission to adopt implementing regulations that encourage the use of existing technology and do not discourage or impair the development of new technologies.⁵

3. The Commission has approved various forms of TRS, including traditional Text telephone (TTY), VRS, and IP Relay.⁶ The Commission also has taken numerous steps to protect the TRS Fund from abuse and ensure that it only covers the cost of compensable minutes generated by eligible users.⁷ In 2008, the Commission adopted a new numbering system to assign VRS and IP Relay users ten-digit numbers linked to the North American Numbering Plan.⁸ These dedicated numbers are similar to the telephone numbers used by persons without disabilities, allowing VRS and IP Relay users

³ See 47 U.S.C. § 225(a)(3). See also 47 C.F.R. § 64.601(a)(22).

⁴ 47 U.S.C. § 225(b)(1); see Americans with Disabilities Act of 1990, Pub. L. No. 101-336, § 401, 104 Stat. 327, 336-69 (1990).

⁵ 47 U.S.C. § 225(d)(2).

⁶ See 47 U.S.C. § 64.601.

⁷ TRS users do not pay to use the service. To cover the costs of TRS, telecommunications carriers and Voice over Internet Protocol (VoIP) service providers collect a surcharge from all subscribers as part of the billing process. 47 C.F.R. § 64.604(c)(5) (establishing the method for recovering the costs of TRS from subscribers of interstate and intrastate telecommunications (e.g., mobile telephone, operator services, voice telephone services, toll free number services, international, etc.) and VoIP services and contributions to the TRS Fund). These monies are then paid into the TRS Fund and used to reimburse eligible TRS providers for the costs of providing TRS. 47 U.S.C. § 225(d)(3). Section 64.604(c)(5)(iii)(D) of the Rules requires TRS providers seeking compensation from the TRS Fund to submit true and adequate data to the TRS Fund administrator to, among other things, facilitate payments.

⁸ *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Report and Order and Further Notice of Proposed Rulemaking, 23 FCC Rcd 11591 (2008) (*Internet-Based TRS Order*); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Second Report and Order and Order on Reconsideration, 24 FCC Rcd 791 (2008) (*Second Internet-Based TRS Report & Order*).

to more easily make and receive calls, ensuring direct and automatic routing of emergency calls,⁹ and reducing the misuse of IP Relay.¹⁰

4. After December 31, 2008, VRS and IP Relay providers were prohibited from providing non-emergency service to a new VRS or IP Relay user unless the provider first registered the user and assigned the user a ten-digit number.¹¹ To further guard against misuse and help ensure that VRS and IP Relay are used only for the intended purposes, the Commission subsequently required VRS and IP Relay providers to institute procedures to verify the information provided by users during registration, including the user's name and address, and to obtain a self-certification whereby the user verifies that he or she has a medically recognized hearing or speech disability necessitating his or her use of TRS.¹² The Commission also emphasized that certain TRS calls are not compensable on a per-minute basis, including calls by provider or subcontractor employees.¹³

5. On March 11, 2011, the Bureau's Telecommunications Consumers Division (TCD) issued a Letter of Inquiry (LOI) to Sorenson seeking information on the Company's VRS and IP Relay service offerings, emergency call handling processes, submissions to the TRS Fund administrator, and registration and verification of VRS and IP Relay users assigned ten-digit numbers, among other things.¹⁴ On January 23, 2012, the Bureau issued a supplemental LOI to Sorenson requesting more detailed information on Sorenson's process for registering and verifying users of IP Relay.¹⁵ The Bureau simultaneously issued a subpoena to Sorenson for certain records related to TRS reimbursement requests.¹⁶ Sorenson timely filed responses to these inquiries but made several supplemental filings between June 27, 2012 and March 21, 2013. Further, as part of the investigation, Sorenson voluntarily disclosed relevant conduct with respect to calls by or to Covered Personnel regarding its IP CTS service as well as IP Relay and VRS.

III. TERMS OF AGREEMENT

6. **Adopting Order.** The Parties agree that the provisions of this Consent Decree shall be subject to final approval by the Bureau by incorporation of such provisions by reference in the Adopting Order.

⁹ *Internet-based TRS Order*, 23 FCC Rcd at 11592, para. 1.

¹⁰ *Second Internet-based TRS Order*, 24 FCC Rcd at 809-810, para. 38 (noting that the ten-digit numbering system eliminates the anonymity previously associated with using the service).

¹¹ *Second Internet-based TRS Order*, 24 FCC Rcd at 801-802, para. 21. With respect to existing users, the prohibition applied after November 12, 2009. *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, Order, 24 FCC Rcd 8000 (2009) (extending the initial deadline from June 30, 2009 to November 12, 2009).

¹² *Second Internet-based TRS Order*, 24 FCC Rcd at 809, para. 37 (effective May 28, 2010). The Commission recently prohibited Internet-based TRS providers from handling calls made by new users prior to taking reasonable measures to verify users' registration information, i.e., eliminating the "guest-user" policy. See *Misuse of Internet Protocol (IP) Relay Service*, First Report and Order, 27 FCC Rcd 7866 (2012).

¹³ *Structure and Practices of the Video Relay Service Program*, Declaratory Ruling, 25 FCC Rcd 1868 (2010).

¹⁴ See Letter from Richard A. Hindman, Chief, TCD, FCC Enforcement Bureau, to Pat Nola, President and CEO, Sorenson Communications, Inc. (March 11, 2011) (on file in EB-TCD-12-00000370).

¹⁵ See Letter from Richard A. Hindman, Chief, TCD, FCC Enforcement Bureau, to Pat Nola, President and CEO, Sorenson Communications, Inc. (January 23, 2012) (on file in EB-TCD-12-00000370).

¹⁶ See Subpoena from Richard A. Hindman, Chief, TCD, FCC Enforcement Bureau, to Pat Nola, President and CEO, Sorenson Communications, Inc. (January 23, 2012) (on file in EB-TCD-12-00000370).

7. **Jurisdiction.** Sorenson agrees that the Bureau has jurisdiction over it and the matters contained in this Consent Decree and that the Bureau has the authority to enter into and adopt this Consent Decree.

8. **Effective Date; Violations.** The Parties agree that this Consent Decree shall become effective on the Effective Date. As of the Effective Date, the Adopting Order and this Consent Decree shall have the same force and effect as any other order of the Commission. Any violation of the Adopting Order or of the terms of this Consent Decree shall constitute a separate violation of a Commission order, entitling the Commission to exercise any rights and remedies attendant to the enforcement of a Commission order.

9. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Bureau agrees to terminate the Investigation. In consideration for the termination of the Investigation, Sorenson agrees to the terms, conditions, and procedures contained herein. The Bureau further agrees that in the absence of new material evidence, the Bureau will not use the facts developed in this Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any new proceeding, formal or informal, or take any action on its own motion against Sorenson concerning the matters that were the subject of the Investigation. The Bureau also agrees that in the absence of new material evidence it will not use the facts developed in this Investigation through the Effective Date, or the existence of this Consent Decree, to institute on its own motion any proceeding, formal or informal, or take any action on its own motion against Sorenson with respect to Sorenson's basic qualifications, including its character qualifications, to hold Commission certifications, licenses, or authorizations.

10. **Representations; Warranties.** Sorenson represents and warrants that as of July 2012 the Company has registered each user using a process that required, at a minimum, the user to provide, at the time of registration, the user's name and street address. Sorenson further represents and warrants that as of August 2012 it has issued each such user a ten-digit telephone number from the North American Numbering Plan and verified the user's name, linked the named user to the street address provided by the user during registration, and confirmed that the user provided a self-certification attesting that he or she had a disability and was eligible to use IP Relay.¹⁷ Sorenson further represents and warrants that as of August 2012, the Company either closed or disabled each Sorenson user account where the Company: (i) did not have a record of the registered user's self-certification attesting to his or her disability and eligibility to use IP Relay; (ii) failed to register the user using a process that required, at a minimum, the user to provide at the time of registration, the user's name and street address; (iii) failed to verify the user's name and link the named user to the street address provided by the user during registration process; or (iv) failed to assign the user a ten-digit number.¹⁸ Sorenson also represents and warrants that as of February 2013 the Company has: (i) removed all ten-digit numbers associated with any closed accounts, preventing them from making IP Relay calls through Sorenson; (ii) taken all actions required to have all such ten-digit numbers removed from the iTRS database; and (iii) subsequently confirmed that all such ten-digit numbers have been removed from the iTRS database.

11. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, Sorenson shall designate a senior corporate manager with the requisite corporate and organizational authority to serve as Compliance Officer and to discharge the duties set forth below. The Compliance Officer shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring that Sorenson complies with the terms and conditions of the Compliance Plan and this Consent Decree. In addition to the general knowledge of the Communications Laws necessary to discharge his or her duties

¹⁷ There was one verified account that did not receive a TDN until January 2013.

¹⁸ There was one verified account that did not receive a TDN until January 2013.

under this Consent Decree, the Compliance Officer shall have specific knowledge of the TRS Rules prior to assuming his or her duties.

12. **Compliance Plan.** Sorenson agrees that it shall within sixty (60) calendar days after the Effective Date, develop, implement, and maintain a Compliance Plan that is designed to ensure future compliance with the Communications Laws and with the terms and conditions of this Consent Decree. With respect to the TRS Rules, Sorenson shall implement the following:

- (a) **Operating Procedures.** Within sixty (60) calendar days after the Effective Date, Sorenson shall establish, use, and maintain Operating Procedures that the Compliance Officer and all Covered Personnel shall follow to help ensure Sorenson's compliance with the TRS Rules and terms of this Consent Decree. Sorenson's Operating Procedures shall, at a minimum, include procedures and policies specifically designed to ensure that Sorenson's operations and provision of TRS, including any aspect of TRS provided by independent contractors, subcontractors, or agents, comply with Section 225 of the Act and all TRS Rules that are applicable to any form of TRS offered or provided by Sorenson, either directly or indirectly through an independent contractor, subcontractor, or agent.
- (b) **Compliance Manual.** Within sixty (60) calendar days after the Effective Date, Sorenson shall develop, use, and maintain a Compliance Manual and distribute the Compliance Manual to all Covered Personnel. For any person who becomes Covered Personnel more than 60 calendar days after the Effective Date, Sorenson shall distribute the Compliance Manual to that person within thirty (30) calendar days after the date such person becomes Covered Personnel. The Compliance Manual shall explain the TRS Rules and instruct Covered Personnel to consult and follow the Operating Procedures to help ensure Sorenson's compliance with the TRS Rules. The Compliance Manual shall require Covered Personnel to contact their supervisor and/or the Compliance Officer with any questions or concerns that arise with respect to Sorenson's obligations under or compliance with the TRS Rules. The supervisor shall promptly notify the Compliance Officer when a violation or potential violation of the TRS Rules or this Consent Decree is raised by Covered Personnel. In addition, the Compliance Manual shall explain how Covered Personnel may report waste, fraud, or abuse to the FCC's Office of the Inspector General and shall set forth the general hotline number and website address for the FCC's Office of the Inspector General. Sorenson shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and complete, taking into account changes in Sorenson's Products and processes and any modifications to the TRS Rules. Sorenson shall distribute any revisions to the Compliance Manual to all Covered Personnel within thirty (30) calendar days after any revisions have been made by Sorenson.
- (c) **Compliance Training Program.** Within sixty (60) calendar days after the Effective Date, Sorenson shall establish, implement, and maintain a Compliance Training Program to ensure compliance with the TRS Rules and the Operating Procedures. As part of the Compliance Training Program, Covered Personnel shall be advised of Sorenson's obligation to report any noncompliance with the TRS Rules under paragraph 13 of this Consent Decree and shall be instructed on how to disclose noncompliance to the Compliance Officer. All Covered Personnel shall be trained pursuant to the Compliance Training Program within sixty (60) calendar days after the Effective Date, except that any person who becomes Covered Personnel at any time after the Effective Date shall be trained within thirty (30)

calendar days after the date such person becomes Covered Personnel. Sorenson shall repeat the compliance training on an annual basis and shall periodically review and revise the Compliance Training Program as necessary to ensure that it remains current and complete and to enhance its effectiveness. All Covered Personnel will be trained on the compliance-related rules and issues that relate to or concern the performance of their respective duties and responsibilities as employees for Sorenson.

- (d) **Acts or Omissions of Contractors and Agents.** Sorenson acknowledges that the act, failure to act, or omission by any independent contractor, subcontractor, or agent of Sorenson, acting in such capacity, that results in a violation of the Act, TRS Rules, or this Consent Decree constitutes an act, failure to act, or omission by Sorenson.
- (e) **Additional Compliance Measures.** Sorenson shall implement the following additional compliance measures:
- i. **Work Numbers.** Within sixty (60) calendar days after the Effective Date, the Company shall compile a list of the Work Numbers (Work Number List) and on a monthly basis file the Work Number List with any requests for reimbursements submitted to the TRS Fund administrator. The Company shall not submit requests to the TRS Fund administrator for reimbursement of any minutes that are associated with any number on the Work Number List. Sorenson shall maintain and update the Work Number List to ensure that it remains accurate. Sorenson shall include in its Operating Procedures an instruction that Covered Personnel must use their Work Number whenever they access or use TRS for a business purposes, whether or not at the workplace and notify all Covered Personnel in writing of the obligation relating to Work Numbers. The Company shall not subsequently submit requests to the TRS Fund administrator for reimbursement for any calls associated with a Work Number during the time such Work Number was on a list that Sorenson submitted to the TRS Fund administrator. The Company shall segregate and keep the call detail records for all Work Numbers to ensure compliance with this provision.
 - ii. **Maintenance of Documents and Information.** In addition, within sixty (60) calendar days after the Effective Date, Sorenson shall: (1) revise the Company's website to advise TRS users about how to make emergency calls using any Product offered by the Company for which the Company seeks compensation from the TRS Fund; (2) establish and maintain procedures for modifying or adding emergency calling advisories to all TRS literature provided to the public; (3) develop and maintain records of when TRS literature and Product marketing materials are created, modified and used; and (4) establish and maintain procedures for documenting and retaining FCC Compliance Assessments on new Products.
 - iii. **Recordkeeping.** Within sixty (60) calendar days after the Effective Date, Sorenson shall require all independent contractors, subcontractors, and agents to maintain and produce to Sorenson and/or the FCC upon request, any records or documentation that support or relate to a Sorenson claim for reimbursement from the TRS Fund as required by the TRS Rules, including

as required to ensure Sorenson's compliance with 47 C.F.R. § 64.604(c)(5)(iii)(D)(1)-(4) and (6)-(7), and the terms of this paragraph 12.

- iv. **iTRS Database Entries.** Sorenson shall immediately block and promptly remove from the Company's database any ten-digit number associated with a Sorenson registered TRS user whom Sorenson deems to be ineligible to make TRS calls. Contemporaneously with removing the TRS user from Sorenson's database, the Company shall complete all actions required by a provider to have the number removed from the iTRS database.

13. **Reporting Noncompliance.** Sorenson shall report any noncompliance with the TRS Rules and with the terms and conditions of this Consent Decree within fifteen (15) calendar days after discovery of such noncompliance. Such reports shall include a detailed explanation of: (i) each instance of noncompliance; (ii) the steps that Sorenson has taken or will take to remedy such noncompliance; (iii) the schedule on which such remedial actions will be taken; and (iv) the steps that Sorenson has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted to the Chief, Telecommunications Consumers Division, Enforcement Bureau, Federal Communications Commission, Room 3-C366, 445 12th Street, S.W. Washington, D.C. 20554, with a copy submitted electronically to Sharon Lee at sharon.lee@fcc.gov and to fccebaaccess@fcc.gov.

14. **Compliance Reports.** Sorenson shall file Compliance Reports with the Commission ninety (90) calendar days after the Effective Date, twelve (12) months after the Effective Date, and twenty-four (24) months after the Effective Date.

- (a) Each Compliance Report shall include a detailed description of Sorenson's efforts during the relevant period (beginning on the Effective Date, and continuing through to the filing date of each report) to comply with the terms and conditions of this Consent Decree and the TRS Rules.
- (b) In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of Sorenson, stating that the Compliance Officer has personal knowledge that Sorenson: (i) has established, implemented, and is maintaining the Compliance Plan; (ii) has utilized the Operating Procedures since the implementation of the Compliance Plan; and (iii) is not aware of any instances of noncompliance with the terms and conditions of this Consent Decree, including the reporting obligations set forth in paragraph 13 herein.
- (c) The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification and must be in the form set forth in Section 1.16 of the Rules¹⁹ and be subscribed to as true under penalty of perjury in substantially the form set forth therein.
- (d) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of Sorenson, shall provide the Commission with a detailed explanation of the reason(s) why and describe fully: (i) each instance of noncompliance; (ii) the steps that Sorenson has taken or will take to remedy such noncompliance, including the schedule on which proposed remedial actions will be taken; and (iii) the steps that Sorenson has taken or will

¹⁹ 47 C.F.R. § 1.16.

take to prevent the recurrence of any such noncompliance, including the schedule on which such preventive action will be taken.

- (e) All Compliance Reports shall be submitted to the Chief, Telecommunications Consumers Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW, Washington, D.C. 20554, with a copy submitted electronically to Sharon Lee at sharon.lee@fcc.gov and to fccebaaccess@fcc.gov.

15. **Termination Date.** Unless stated otherwise, the obligations set forth in paragraphs 11 through 14 of this Consent Decree shall expire twenty-four (24) months after the Effective Date.

16. **Section 208 Complaints; Subsequent Investigations.** Nothing in this Consent Decree shall prevent the Commission or its delegated authority from adjudicating complaints filed pursuant to Section 208 of the Act against Sorenson or its affiliates for alleged violations of the Act, or for any other type of alleged misconduct, regardless of when such misconduct took place. The Commission's adjudication of any such complaint will be based solely on the record developed in that proceeding. Except as expressly provided in this Consent Decree, this Consent Decree shall not prevent the Commission from investigating new evidence of noncompliance by Sorenson with the Communications Laws.

17. **Voluntary Contribution.** Sorenson agrees that it will make a Voluntary Contribution to the United States Treasury in the amount eleven million five hundred ten thousand dollars (\$11,510,000), such Voluntary Contribution to be made in installments (each an Installment Payment). Sorenson shall make the first Installment Payment in the amount of one million dollars (\$1,000,000) within thirty (30) calendar days of the Effective Date. Sorenson shall make the second Installment Payment in the amount of five million, two hundred fifty-five thousand dollars (\$5,255,000) on or before November 1, 2013. Sorenson shall make the final payment of five million, two hundred fifty-five thousand dollars (\$5,255,000) on or before May 1, 2014. Sorenson shall make the first and all subsequent Installment Payments in United States Dollars without further demand or notice by the dates specified above. Sorenson acknowledges and agrees that upon execution of this Consent Decree, the Voluntary Contribution shall become a "Claim" or "Debt" as defined in 31 U.S.C. § 3701(b)(1).²⁰ Upon an Event of Default (as defined below), all procedures for collection as permitted by law may, at the Commission's discretion, be initiated. Sorenson shall send electronic notification of each payment to Sharon Lee at sharon.lee@fcc.gov and to fccebaaccess@fcc.gov on the date said payment is made. The payment must be made by check or similar instrument, wire transfer, or credit card, and must include the Account Number and FRN referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.²¹ When completing the FCC Form 159, enter the Account Number in block number 23A (call sign/other ID) and enter the letters "FORF" in block number 24A (payment type code). Below are additional instructions Sorenson should follow based on the form of payment it selects:

- Payment by check or money order must be made payable to the order of the Federal Communications Commission. Such payments (along with the completed Form 159) must be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.
- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. To complete the wire transfer and ensure appropriate crediting of the wired funds, a completed Form 159 must be faxed to U.S. Bank

²⁰ Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (1996).

²¹ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

at (314) 418-4232 on the same business day the wire transfer is initiated.

- Payment by credit card must be made by providing the required credit card information on FCC Form 159 and signing and dating the Form 159 to authorize the credit card payment. The completed Form 159 must then be mailed to Federal Communications Commission, P.O. Box 979088, St. Louis, MO 63197-9000, or sent via overnight mail to U.S. Bank – Government Lockbox #979088, SL-MO-C2-GL, 1005 Convention Plaza, St. Louis, MO 63101.

If Sorenson has questions regarding payment procedures, it may contact the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

18. **Reimbursement to the TRS Fund.** Sorenson agrees that it will make a Refund Payment to the TRS Fund in the amount of four million two hundred forty thousand dollars (\$4,240,000), which includes accrued interest, within thirty (30) calendar days of the Effective Date. Sorenson acknowledges and agrees that upon execution of this Consent Decree, the Refund Payment shall become a “Claim” or “Debt” as defined in 31 U.S.C. § 3701(b)(1).²² Upon an Event of Default (as defined below), all procedures for collection as permitted by law may, at the Commission’s discretion, be initiated. Sorenson also agrees that it will contact the TRS Fund administrator to obtain specific information regarding making the Refund Payment to the TRS Fund.

19. **Event of Default; Interest and Charges for Collection and Acceleration of Maturity Date.** Sorenson agrees that an Event of Default by nonpayment shall occur upon the failure of Sorenson to pay the full amount of the Refund Payment or any Installment Payment of the Voluntary Contribution on or before the due date specified in this Consent Decree. An Event of Default on payment of the Refund Payment or any Installment Payment will result in a cross default on both amounts. Upon an Event of Default, without further notice, demand, or presentment, all procedures for collection permitted by the Debt Collection Improvement Act of 1996²³ and other provisions of law²⁴ may, at the Commission’s discretion, be initiated and (1) the then entire unpaid amount of the Voluntary Contribution and Refund Payment, which shall accrue interest at a rate of 15.75% per annum from the date of the Event of Default until payment in full and (2) any penalties permitted and/or required by the law, including but not limited to 31 U.S.C. § 3717 and (3) any administrative charge(s), including the costs of collection, litigation, and attorneys’ fees, are accelerated and shall become immediately due and payable, without notice, presentment, demand, protest, or notice of protest of any kind, all of which are waived by Sorenson.

20. **Waivers.** Sorenson waives any and all rights it may have to seek administrative or judicial reconsideration, review, appeal, or stay, or to otherwise challenge or contest the validity of this Consent Decree and the Adopting Order, provided the Bureau issues the Adopting Order as defined herein. Sorenson shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If either Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Adopting Order, neither Sorenson nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Sorenson shall waive any statutory right to a trial *de novo*. Sorenson hereby agrees to waive any claims it may have under the Equal Access to Justice Act, 5 U.S.C. § 504 and 47 C.F.R. § 1.1501 *et seq.*, relating to the matters addressed in this Consent Decree.

²² Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (1996).

²³ Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (1996), codified in part at 31 U.S.C. §§ 3711, 3716, 3717, 3720B.

²⁴ See 31 C.F.R. Part 900, *et seq.*

21. **Invalidity.** The Parties agree that if a court of competent jurisdiction renders any of the provisions of the Adopting Order or the Consent Decree invalid or unenforceable, such invalidity or unenforceability shall not invalidate or render unenforceable the entire Adopting Order or Consent Decree, but rather the entire Adopting Order or Consent Decree shall be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly. In the event that this Consent Decree in its entirety is rendered invalid by any court of competent jurisdiction, it shall become null and void and may not be used in any manner in any legal proceeding.

22. **Subsequent Rule or Order.** The Parties agree that if any provision of the Consent Decree conflicts with any subsequent Rule or order adopted by the Commission (except an order specifically intended to revise the terms of this Consent Decree to which Sorenson does not expressly consent) that provision will be superseded by such Rule or Commission order.

23. **Successors and Assigns.** Sorenson agrees that the provisions of this Consent Decree shall be binding on its successors, assigns, and transferees.

24. **Final Settlement.** The Bureau conducted the Investigation into Sorenson's possible violation of Section 225 of the Act and the TRS Rules. Sorenson neither admits nor denies any such violations, and the Commission does not concede or otherwise represent that its claims are not well-founded. The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigation. The Parties further agree that this Consent Decree does not constitute an adjudication on the merits, or a factual or legal finding or determination regarding any compliance or noncompliance with the Communications Laws.

25. **Modifications.** This Consent Decree cannot be modified without the advance written consent of both Parties.

26. **Paragraph Headings.** The headings of the paragraphs in this Consent Decree are inserted for convenience only and are not intended to affect the meaning or interpretation of this Consent Decree.

27. **Authorized Representative.** The individual signing this Consent Decree on behalf of Sorenson represents and warrants that he is authorized by Sorenson to execute this Consent Decree and to bind Sorenson to the obligations, including all payment obligations, set forth herein. The FCC signatory represents that she is signing this Consent Decree in her official capacity and that she is authorized to execute this Consent Decree.

28. **Counterparts.** This Consent Decree may be signed in any number of counterparts (including by facsimile), each of which, when executed and delivered, shall be an original, and all of which counterparts together shall constitute one and the same fully executed instrument.

P. Michele Ellison
Chief
Enforcement Bureau

Date

Pat Nola
President and CEO
Sorenson Communications, Inc.

Date