

4. In the absence of material new evidence relating to this matter, we do not set for hearing the question of Truphone's basic qualifications to hold or obtain any Commission license or authorization.⁵

5. Accordingly, **IT IS ORDERED** that, pursuant to section 4(i) of the Act⁶ and the authority delegated by sections 0.111 and 0.311 of the Commission's rules,⁷ the attached Consent Decree **IS ADOPTED** and its terms incorporated by reference.

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

7. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by e-mail to: Robert L. Hoegle, Esquire, at Bob.Hoegle@nelsonmullins.com, and Thomas F. Bardo, Esquire, at Tom.Bardo@nelsonmullins.com, Nelson Mullins Riley & Scarborough LLP, counsel for Truphone, Inc.

FEDERAL COMMUNICATIONS COMMISSION

Loyaan A. Egal
Acting Chief
Enforcement Bureau

⁵ See 47 CFR § 1.93(b).

⁶ 47 U.S.C. § 154(i).

⁷ 47 CFR §§ 0.111, 0.311.

- (f) “Communications Laws” means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which the Company is subject by virtue of its business activities, including but not limited to sections 214 and 310 of the Act and sections 1.948 and 63.24 of the Commission’s rules.
- (g) “Company” means Truphone, Inc. and includes its affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest.
- (h) “Compliance Plan” means the compliance obligations, program, and procedures described in this Consent Decree at paragraph 20.
- (i) “Covered Employees” means all employees and agents of the Company who perform, supervise, oversee, or manage the performance of duties that relate to the Company’s responsibilities under the Communications Laws, including sections 214, 310(b) and 310(d) of the Act and sections 1.948 and 63.24 of the Commission’s rules.
- (j) “Effective Date” means the date by both the Commission and the Company have signed the Consent Decree and the Commission has adopted it.
- (k) “Investigation” means the investigations commenced by the Bureau in EB-IHD-20-00031626 and described in the NAL.
- (l) “LOI” means the Letter of Inquiry issued by the Bureau to Truphone on March 25, 2021 in EB-IHD-21-00031626 in connection with the Company’s compliance with the Act and the Commission’s rules.
- (m) “NAL” means the Notice of Apparent Liability for Forfeiture issued to Truphone on April 21, 2022, proposing a \$660,639 forfeiture for apparent violations of the Act’s foreign ownership rules and the Commission’s rules implementing the foreign ownership rules.
- (n) “NAL Account No.” means account number 202232080009, associated with payment obligations described in paragraph 25 of this Consent Decree.
- (o) “OFAC” means the U.S. Department of the Treasury’s Office of Foreign Assets Control.
- (p) “Operating Procedures” means the standard internal operating procedures and compliance policies established by the Company to implement the Compliance Plan.
- (q) “Parties” means the Company, and the FCC, each of which is a “Party.”
- (r) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- (s) “Section 214 and 310 Rules” means sections 214 and 310 of the Act and other provisions of the Act, the Rules, and Commission orders related to, *inter alia*, obtaining prior approval before transferring control of Commission authorizations, licenses and making specified foreign ownership changes.
- (t) “Truphone or Company” means Truphone, Inc. and its affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest.

II. BACKGROUND

3. *Legal Background.* Section 310(b)(4) of the Act establishes a 25 percent limit on ownership by foreign individuals, corporations, and governments in U.S.-organized entities that directly

or indirectly control, *inter alia*, common carrier radio station licensees.⁶ Pursuant to section 310(b)(4), the Commission may permit higher levels of foreign equity or voting interest in a Commission licensee if it determines that such higher levels are consistent with the public interest, which includes assessing, with the assistance and expertise of the Executive Branch, whether approval of the increase is consistent with U.S. national security, law enforcement, foreign policy, and trade policy concerns.⁷ The Commission has adopted rules governing the procedures and setting the conditions for obtaining the Commission's prior approval of transactions involving entities seeking to hold equity or voting interests exceeding the 25 percent limits.⁸ Commission approval must be obtained before direct or indirect aggregate foreign ownership of a U.S.-organized entity that controls a common carrier radio station license exceeds 25 percent of the U.S. entity's equity interests and/or 25 percent of its voting interests. Further, even after a U.S.-organized entity controlling a licensee is granted a foreign ownership ruling to exceed the statutory limits in section 310(b)(4), prior Commission approval has been required since adoption of the *2013 Foreign Ownership Order* before any foreign individual or entity not previously approved by the Commission acquires, directly or indirectly, more than five percent of direct or indirect equity or voting interest in the entity.⁹

4. Section 310(d) of the Act provides that no radio licenses “shall be transferred, assigned, or disposed of in any manner, voluntarily or involuntarily, directly or indirectly, or by transfer of control of any corporation holding [the] license,” unless the license holder applies for Commission authority to transfer the license, and the Commission finds that the transfer is in the “public interest, convenience, and necessity.”¹⁰

5. Section 214(a) of the of the Act requires telecommunications carriers to obtain a certificate of public convenience and necessity before constructing, extending, acquiring, or operating any line, or engaging in transmission over that line. Any carrier that provides common carrier services between the United States and a foreign point must request and receive such authority by application to the Commission pursuant to section 63.18 of the Commission's rules.¹¹ Through this process, the

⁶ 47 U.S.C. § 310(b)(4)

⁷ The Commission considers national security, law enforcement, foreign policy and trade policy concerns in its public interest review of an application and will seek input from the Executive Branch on these issues. *Foreign Participation Order* at 23918-21, paras. 61-66. See also *Process Reform for Executive Branch Review of Certain FCC Applications and Petitions Involving Foreign Ownership*, Report and Order, 35 FCC Rcd 10927 (2020) (*Executive Branch Review Order*).

⁸ 47 CFR §§ 1.5000-1.5004. See *Review of Foreign Ownership Policies for Common Carrier and Aeronautical Radio Licenses Under Section 310(b)(4) of the Communications Act of 1934 as Amended*, Second Report and Order, 28 FCC Rcd 5741 (2013) (*2013 Foreign Ownership Order*) (adopting rules for foreign ownership rulings for common carrier and aeronautical licensees); see also *Review of Foreign Ownership Policies for Broadcast, Common Carrier and Aeronautical Radio Licensees under Section 310(b)(4) of the Communications Act of 1934, as Amended*, Report and Order, 31 FCC Rcd 11271 (2016) (*2016 Foreign Ownership Order*) (extending the foreign ownership rules to broadcast licensees and moving the rules to 47 CFR §§ 1.5000-1.5004). Before the adoption of rules in the *2013 Foreign Ownership Order*, foreign ownership declaratory rulings were issued on a case-by-case basis with language and conditions specific to the particular petition.

⁹ *2013 Foreign Ownership Order*, 28 FCC Rcd at 5786-87, para. 83; see also 47 CFR §1.5004(a)(1) ([T]he 100 percent aggregate allowance “is subject to the requirement that the licensee seek and obtain Commission approval before any foreign individual, entity, or ‘group’ not previously approved acquires, directly and/or indirectly, more than 5 percent of the U.S. parent’s outstanding capital stock (equity) and/or voting stock, or a controlling interest[.]”).

¹⁰ 47 U.S.C. § 310(d).

¹¹ The Commission has forborne from applying its domestic 214 authority to commercial mobile radio service (CMRS) carriers.

applicant provides the Commission with, among other things, contact information, ownership information, information on any affiliations it may have with foreign carriers, certification that it will comply with Commission rules, and certification that the applicant is not subject to denial of federal benefits pursuant to the Anti-Drug Abuse Act of 1988. Under section 63.24 of the Commission's rules, control of an international section 214 authorization, other than a *pro forma* transfer of control, may be transferred to another party only by application and after prior Commission approval.¹²

6. *Factual Background.* Truphone is a Delaware corporation and the sole owner of Smartcall, LLC (Smartcall). In turn, Smartcall is the sole owner of iSmart Mobile, LLC (iSmart). iSmart holds a PCS broadband license in Butte, Montana (call sign WPSJ976), that is a common carrier radio station license and thus subject to the requirements of section 310(b) of the Act.¹³ Truphone also holds an international section 214 authorization.¹⁴ Truphone, Ltd., a privately held limited company organized under the laws of England and Wales, is the direct parent of Truphone.

7. Since 2011, Truphone's ownership and reports regarding its foreign ownership have changed over time without accurate and requisite reporting to the Commission. In response to the Enforcement Bureau's LOI, Truphone provided new details regarding its foreign ownership and the trusts associated therein.¹⁵ Subsequent to the issuance of the LOI, on March 16, 2022, Truphone notified the Commission that further changes had been made to its ownership structure upon learning of them from its owners.¹⁶ Specifically, the Company informed the Enforcement Bureau that the two trusts which make up Redrock Group Ltd., one of Truphone's parent entities, were amended on March 5, 2022.¹⁷ Additionally, Truphone stated that Minden Worldwide Limited, which holds a 22.8 percent interest in Truphone, changed owners on March 15, 2022, and that ownership of Minden Worldwide Limited had been transferred to Greenleas Holdings Limited, a foreign entity that is organized in the British Virgin Islands.¹⁸

8. On April 21, 2022, the Commission issued a Notice of Apparent Liability for Forfeiture proposing a forfeiture penalty of \$660,639 against Truphone for alleged willful and repeated violations of sections 214 and 310(b)(4) and (d) of the Act by failing to obtain the Commission's approval prior to

¹² 47 CFR § 63.24(a). A *pro forma* transfer of control does not require prior Commission approval, but the carrier is required to notify the Commission of the transfer within 30 days of the transfer. 47 CFR § 63.24(f).

¹³ In addition, iSmart holds two fixed microwave industrial business pool licenses (call signs WRDX252 and WRDX253) that are not common carrier radio licenses and thus not subject to the requirements of section 310(b) of the Act.

¹⁴ ITC-214-20081112-00494 (Intl. Sec. 214 granted Mar. 23, 2009).

¹⁵ Response to Letter of Inquiry, from Thomas Bardo, Esq., Nelson Mullins Riley & Scarborough, counsel for Truphone, Inc. to Marlene H. Dortch, Secretary, FCC at 1 (Apr. 29, 2021) (on file in EB-IHD-21-00031626) (LOI Response).

¹⁶ Letter from Thomas Bardo, Esq., Nelson Mullins Riley & Scarborough, counsel for Truphone, Inc. to Jeffrey Gee, Chief, Investigations and Hearings Division, FCC Enforcement Bureau at 1 (Mar. 16, 2022).

¹⁷ Whiteclif is (and had been) wholly owned by Redrock Group Ltd., a British Virgin Islands-registered company. Redrock Group Ltd. is, in turn, wholly owned by two entities, Dapore Holding Ltd. (66.7 percent) and Elpins Co. Ltd. (33.3 percent), both of which are investment holding companies organized in Cyprus. Dapore Holdings Ltd. is owned by the Dapore Trust, which is an irrevocable investment trust organized under the laws of Cyprus for the benefit of Alexander Abramov, who is a citizen of Russia and Cyprus, and his family members. Elpins Co. Ltd. is owned and controlled by the Elpins Trust, which is an irrevocable investment trust organized under the laws of Cyprus for the benefit of Alexander Frolov, who is a citizen of Russia and Cyprus, and his family members.

¹⁸ Truphone also has disclosed that Greenleas Holdings Limited is wholly owned by Grano Trust, which is established for the benefit solely of the family members of Roman Abramovich, who is a citizen of Israel, Portugal and Russia.

exceeding the ownership limits placed on foreign persons and/or entities that control, *inter alia*, U.S. common carriers, the unauthorized transfer of control of radio licensees, and inaccurately reporting ownership information and thereby transferring control to an entity not vetted by the Commission.¹⁹ These actions—specifically as it related to potential Executive Branch review of transactions prior to April 2020, as well as the Committee’s potential review of transactions after its establishment in April 2020 by Executive Order 13913—circumvented the Commission’s ability to seek the relevant expertise necessary to assess whether the transactions described above presented national security or law enforcement risks to the interests of the United States. The Parties negotiated the following terms and conditions of settlement and hereby enter in this Consent Decree as provided below.

III. TERMS OF AGREEMENT

9. **Adopting Order.** The provisions of this Consent Decree shall be incorporated by the Commission in an Adopting Order.

10. **Jurisdiction.** The Company agrees that the Commission has jurisdiction over it and the matters contained in this Consent Decree and has the authority to enter into and adopt this Consent Decree.

11. **Effective Date.** The Parties agree that this Consent Decree shall become effective on the Effective Date as defined herein. As of the Effective Date, the Parties agree that this Consent Decree shall have the same force and effect as any other order of the Commission.

12. **Termination of Investigation.** In express reliance on the covenants and representations in this Consent Decree and to avoid further expenditure of public resources, the Commission agrees to direct the Bureau to terminate the Investigation. In consideration for the termination of the Investigation, the Company agrees to the terms, conditions, and procedures contained herein. The Commission further agrees that, in the absence of new material evidence, it will not use the facts developed in the 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 the Company concerning the matters that were the subject of the Investigation or to set for hearing the question of the Company’s basic qualifications to be Commission licensees or hold Commission licenses or authorizations based on the matters that were the subject of the Investigation.²⁰

13. **Schedule of Divestiture Filings.** The Company agrees that it will submit the Commission forms and/or filings identified on the Schedule of Filings attached to this Consent Decree, and that it will make best efforts to submit the aforementioned forms and filings by the date identified in the Schedule of Filings. The Company agrees that, if the Commission or any other regulatory body of competent jurisdiction informs the Company that any of the aforementioned forms or filings are incomplete or otherwise unacceptable for filing or grant, it shall promptly amend such forms or filings to address such deficiencies.

14. **Status Reports.** The Company agrees that it will submit to the Commission periodic status reports summarizing the status of the Company’s efforts to submit the aforementioned forms and filings (Status Reports). Such Status Reports shall include the dates that each form or filing was made and identify delays affecting submission, if any, and when the delayed submission is expected to be made. The first Status Report shall be made two weeks after the Effective Date, and each subsequent Status Report shall be submitted to the Commission every four weeks thereafter until the Company completes its final submission listed in the Schedule of Filings.

¹⁹ *NAL*, at para. 20.

²⁰ See 47 CFR § 1.93(b).

15. **Foreign Ownership.** The Company agrees and represents that upon the consummation of all of the transactions and/or transfers and assignments authorized by filings identified on the Schedule of Filings described in paragraph 13 herein, all direct and indirect ownership interests in Truphone that are held by Alexander Abramov, his immediate family members, or any entities under his control; Alexander Frolov, his immediate family members, or any entities under his control; and Roman Abramovich, his immediate family members, or any entities under his control shall be fully divested. Truphone further agrees that it will take the necessary steps to ensure that no individuals or entities designated by OFAC's Specially Designated Nationals and Blocked Persons List have any ownership or investment interests in the Company at any time.

16. **Limits on Transfer of Control.** Truphone shall not transfer control of the Company without prior Commission approval as specified in sections 63.03-63.04 and 63.24 of the Commission's rules.

17. **Limits on Transfer of Control Included in Truphone's Corporate Governance.** The Company agrees that upon the divestiture of any ownership of Alexander Abramov, Alexander Frolov, and Roman Abramovich, including by any entities under their control, and by their immediate family members, it will amend the Company's bylaws to include the Limits on Transfer of Control as stated in paragraph 15 herein. This requirement shall be included in Truphone's bylaws through mergers, consolidation, amendments, restatements, or otherwise, and after the Termination Date of this Consent Decree.

18. **Admission of Liability.** The Company admits for the purpose of this Consent Decree and for Commission civil enforcement purposes, and in express reliance on the provisions of paragraphs 12 and 33 herein, that the actions described above, herein, violated sections 214, 310(b)(4) and 310(d) of the Act and associated Rules.

19. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, the Company shall designate a senior corporate manager with the requisite corporate and organizational authority to serve as a Compliance Officer and to discharge the duties set forth below. The person designated as the Compliance Officer shall be responsible for developing, implementing, and administering the Compliance Plan and ensuring that the Company 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 under this Consent Decree, the Compliance Officer shall have specific knowledge of the foreign ownership provisions of sections 214 and 310 of the Act, and sections 1.948 and 63.24 of the Rules prior to assuming his/her duties. The Compliance Officer will also take the necessary steps to ensure that Truphone implements a process so that no individuals or entities designated by OFAC's Specially Designated Nationals and Blocked Persons List have any ownership or investment interests in the Company at any time. Lastly, the Compliance officer will notify the Bureau if Truphone becomes subject to a Letter of Agreement (LOA) or National Security Agreement (NSA) with the Committee during period set forth in paragraph 22 of this Consent Decree.

20. **Compliance Plan.** For purposes of settling the matters set forth herein, the Company agrees that it shall, within sixty (60) calendar days after the Effective Date, develop and submit to the Bureau a Compliance Plan designed to ensure future compliance with the foreign ownership rules and requirements in section 214 and 310 of the Act, and sections 1.948 and 63.24 of the Rules and with the terms and conditions of this Consent Decree. Any revision to the Compliance Plan shall be submitted to the Bureau within thirty (30) days of the effective date of such revision. The Compliance Plan and any revisions thereto, including any revisions to the Operating Procedures and Compliance Manual, shall be subject to the Bureau's objection. Any Bureau objection will be provided within thirty (30) calendar days from the date of submission to the Bureau. The Bureau's failure to object to the Compliance Plan or any revisions shall not be deemed to be an endorsement or approval of the Compliance Plan and does not

waive the Bureau's authority to investigate and take enforcement action against any future apparent violation of the Act or the Commission's Rules.

- (a) **Compliance Processes.** Within thirty (30) days after the Effective Date, the Company shall develop appropriate measures to monitor all changes in ownership of the Company.
- (b) **Operating Procedures.** Within thirty (30) calendar days after the Effective Date, the Company shall establish Operating Procedures that all Covered Employees must follow to help ensure the Company's compliance with the foreign ownership provisions in section 214 and 310 of the Act and sections 1.948 and 63.24 of the Rules. The Company's Operating Procedures shall include internal procedures and policies specifically designed to ensure that: (1) the Company complies with the foreign ownership provisions of sections 214 and 310 of the Act and sections 1.948 and 63.24 of the Rules; and (2) no individuals or entities designated by OFAC's Specially Designated Nationals and Blocked Persons List have any ownership or investment interests in the Company at any time. The Company shall also develop a Compliance Checklist that describes the steps a Covered Employee must follow to ensure compliance with the foreign ownership provisions of sections 214 and 310 of the Act and sections 1.948 and 63.24 of the Rules. With regard to any mergers and acquisitions, and/or disposition of any assets or entities involving FCC authorizations or licenses, Truphone will include in its standard due diligence checklist a review for FCC authorizations and licenses, filing of necessary FCC applications, consultation with outside counsel at least thirty (30) days prior to closing any such transaction, and confirmation that it has received FCC consent for the transfer or assignment of FCC authorizations or licenses prior to closing the transaction.
- (c) **Compliance Manual.** Within sixty (60) calendar days after the Effective Date, the Compliance Officer shall develop and distribute a Compliance Manual to all Covered Employees. The Compliance Manual shall explain the Commission's foreign ownership rules and requirements and set forth the Operating Procedures that Covered Employees shall follow to help ensure the Company's regulatory compliance. The Company shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and accurate. The Company shall distribute any final revisions to the Compliance Manual promptly to all Covered Employees.
- (d) **Compliance Training Program.** The Company shall establish and implement a Compliance Training Program on compliance with the foreign ownership provisions of sections 214 and 310 of the Act and sections 1.948 and 63.24 of the Rules and the Operating Procedures. As part of the Compliance Training Program, Covered Employees shall be advised of the Company's obligation to report any regulatory noncompliance as required by paragraph 21 of this Consent Decree and shall be instructed on how to disclose noncompliance to the Compliance Officer. All Covered Employees shall be trained pursuant to the Compliance Training Program within ninety (90) calendar days after the Effective Date, except that any person who becomes a Covered Employee at any time after the initial Compliance Training Program shall be trained within thirty (30) calendar days after the date such person becomes a Covered Employee. The Company shall repeat 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.

21. **Reporting Noncompliance.** The Company shall report any noncompliance with the foreign ownership provisions in sections 214 and 310 of the Act and sections 1.948 and 63.24 of the 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 the Companies have taken or will take to remedy such noncompliance; (iii) the schedule on which such remedial actions will be taken; and (iv) the steps that the Companies have taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted by U.S. mail and electronically to Jeffrey Gee, Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 45 L Street, N.E., Washington, D.C. 20554, with copies submitted electronically to EnforcementBureauIHD@fcc.gov, Jeffrey.Gee@fcc.gov, Kalun.Lee@fcc.gov, William.Knowles-Kellett@fcc.gov, and Georgina.Feigen@fcc.gov.

22. **Compliance Reports.** The Company shall file compliance reports with the Commission ninety (90) calendar days after the Effective Date, twelve (12) months after the Effective Date, twenty-four (24) months after the Effective Date and thirty-six (36) months after the Effective Date.

- (a) Each Compliance Report shall include a detailed description of the Company's efforts during the relevant period to comply with the terms and conditions of this Consent Decree and the foreign ownership provisions of sections 214 and 310 of the Act and sections 1.948 and 63.24 of the Rules. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of the Company, stating that the Compliance Officer has personal knowledge that the Company: (i) has established and implemented 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 21 of this Consent Decree.
- (b) The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification and shall comply with Section 1.16 of the Rules and be subscribed to as true under penalty of perjury in substantially the form set forth therein.²¹
- (c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of the Company, 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 the Company 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 the Company has taken or will take to prevent the recurrence of any such noncompliance, including the schedule on which such preventive action will be taken.
- (d) All Compliance Reports shall be submitted by U.S. mail and electronically to Jeffrey Gee, Chief, Investigations and Hearings Division, Enforcement Bureau Federal Communications Commission, 45 L Street, N.E., Washington, D.C. 20554, and must include the NAL/Acct. No. referenced in the caption., with a copy submitted electronically to EnforcementBureauIHD@fcc.gov; Jeffrey.Gee@fcc.gov; Kalun.Lee@fcc.gov, William.Knowles-Kellett@fcc.gov; and Georgina.Feigen@fcc.gov.

²¹ 47 CFR § 1.16.

23. **Termination Date.** Unless stated otherwise, the requirements set forth in paragraphs 14, 19-22, and 26-27 of this Consent Decree shall expire thirty-six (36) months after the Effective Date.

24. **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 Act²² against the Company 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 the Company with the Communications Laws.

25. **Civil Penalty.** The Companies will pay a Civil Penalty to the United States Treasury in the amount of six hundred thousand dollars (\$600,000.00) within thirty (30) days of the Effective Date. Truphone acknowledges and agrees that upon execution of this Consent Decree, the Civil Penalty payment shall become a "Claim" or "Debt" as defined in 31 U.S.C. § 3701(b)(1).²³ Upon an Event of Default, all procedures for collection as permitted by law may, at the Commission's discretion, be initiated. Truphone shall send electronic notification of payment to EnforcementBureauIHD@fcc.gov, Jeffrey.Gee@fcc.gov, Kalun.Lee@fcc.gov, William.Knowles-Kellett@fcc.gov, and Georgina.Feigen@fcc.gov on the date said payment is made. Payment of the Settlement Payment must be made by credit card using the Commission's Registration System (CORES) at <https://apps.fcc.gov/cores/userLogin.do>, ACH (Automated Clearing House) debit from a bank account, or by wire transfer from a bank account.²⁴ The Commission no longer accepts Civil Penalty payments by check or money order. Below are instructions that payors should follow based on the form of payment selected:²⁵

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. In the OBI field, enter the FRN(s) captioned above and the letters "FORF". In addition, a completed Form 159²⁶ or printed CORES form²⁷ must be faxed to the Federal Communications Commission at 202-418-2843 or e-mailed to RROGWireFaxes@fcc.gov on the same business day the wire transfer is initiated. Failure to provide all required information in Form 159 or CORES may result in payment not being recognized as having been received. When completing FCC Form 159 or CORES, enter the Account Number in block number 23A (call sign/other ID), enter the letters "FORF" in block number 24A (payment type code), and enter in block number 11 the FRN(s) captioned above (Payor FRN).²⁸ For additional detail and wire transfer instructions, go to <https://www.fcc.gov/licensing-databases/fees/wire-transfer>.
- Payment by credit card must be made by using CORES at <https://apps.fcc.gov/cores/userLogin.do>. To pay by credit card, log-in using the FCC Username

²² 47 U.S.C. § 208.

²³ Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (Apr. 26, 1996).

²⁴ Payments made using CORES do not require the submission of an FCC Form 159.

²⁵ For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #1).

²⁶ FCC Form 159 is accessible at <https://www.fcc.gov/licensing-databases/fees/fcc-remittance-advice-form-159>.

²⁷ Information completed using the Commission's Registration System (CORES) does not require the submission of an FCC Form 159. CORES is accessible at <https://apps.fcc.gov/cores/userLogin.do>.

²⁸ Instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

associated to the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Manage Existing FRNs | FRN Financial | Bills & Fees” from the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the “Open Bills” tab and find the bill number associated with the CD Acct. No. The bill number is the CD Acct. No. with the first two digits excluded (e.g., CD 1912345678 would be associated with FCC Bill Number 12345678). After selecting the bill for payment, choose the “Pay by Credit Card” option. Please note that there is a \$24,999.99 limit on credit card transactions.

- Payment by ACH must be made by using CORES at <https://apps.fcc.gov/cores/userLogin.do>. To pay by ACH, log in using the FCC Username associated to the FRN captioned above. If payment must be split across FRNs, complete this process for each FRN. Next, select “Manage Existing FRNs | FRN Financial | Bills & Fees” on the CORES Menu, then select FRN Financial and the view/make payments option next to the FRN. Select the “Open Bills” tab and find the bill number associated with the CD Acct. No. The bill number is the CD Acct. No. with the first two digits excluded (e.g., CD 1912345678 would be associated with FCC Bill Number 12345678). Finally, choose the “Pay from Bank Account” option. Please contact the appropriate financial institution to confirm the correct Routing Number and the correct account number from which payment will be made and verify with that financial institution that the designated account has authorization to accept ACH transactions.

26. **Event of Default.** Truphone agrees that an Event of Default shall occur upon:

- (a) The failure by Truphone to pay the full amount of the Civil Penalty payment on or before the due date specified in this Consent Decree;
- (b) Alexander Abramov or any of his immediate family members holding direct or indirect ownership of Truphone after the consummation of all of the transactions and/or transfers and assignments authorized by filings identified on the Schedule of Filings described in paragraph 13 herein;
- (c) Alexander Frolov or any of his immediate family members holding direct or indirect ownership of Truphone after the consummation of all of the transactions and/or transfers and assignments authorized by filings identified on the Schedule of Filings described in paragraph 13 herein;
- (d) Roman Abramovich or any of his immediate family members holding direct or indirect ownership of Truphone after the consummation of all of the transactions and/or transfers and assignments authorized by filings identified on the Schedule of Filings described in paragraph 13 herein;
- (e) The failure by Truphone to submit its Status Reports by the applicable deadline as extended by the Commission upon the reasonable request of the Company; or
- (f) Truphone transfers control of the Company without prior Commission approval as specified in sections 63.03-63.04 and 63.24 of the Commission’s rules.

27. **Liquidated Damages, Interest, Charges for Collection, and Acceleration of Maturity Date.** Each Party hereby agrees that any Event of Default under this Consent Decree shall be considered harm to the FCC, and the liquidated damages of such harm is valued at not less than two hundred fifty thousand dollars (\$250,000) and will be considered part of the Civil Penalty Payment immediately upon the Event of Default. After an Event of Default has occurred under this Consent Decree, the then unpaid amount of the Settlement Payment shall accrue interest, computed using the U.S. Prime Rate in effect on the date of the Event of Default plus 4.75%, from the date of the Event of Default until payment in full. Upon an Event of Default, the then unpaid amount of the Settlement Payment, together with interest, any

penalties permitted and/or required by the law, including but not limited to 31 U.S.C. § 3717 and administrative charges, plus the costs of collection, litigation, and attorneys' fees, shall become immediately due and payable, without notice, presentment, demand, protest, or notice of protest of any kind, all of which are waived by Truphone.

28. **Waivers.** As of the Effective Date, Truphone 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. Truphone shall retain the right to challenge Commission interpretation of the Consent Decree or any terms contained herein. If any Party (or the United States on behalf of the Commission) brings a judicial action to enforce the terms of the Consent Decree or the Adopting Order, neither Truphone nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Truphone shall waive any statutory right to a trial *de novo*. Truphone hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act²⁹ relating to the matters addressed in this Consent Decree.

29. **Severability.** The Parties agree that if any of the provisions of the Consent Decree shall be held unenforceable by any court of competent jurisdiction, such unenforceability shall not render unenforceable the entire Consent Decree, but rather the entire Consent Decree shall be construed as if not containing the particular unenforceable provision or provisions, and the rights and obligations of the Parties shall be construed and enforced accordingly.

30. **Invalidity.** 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.

31. **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 Truphone does not expressly consent) that provision will be superseded by such Rule or order.

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

33. **Final Settlement.** 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 either an adjudication on the merits or a factual or legal finding regarding any compliance or noncompliance with the requirements of the Communications Laws. This Consent Decree shall not be used as evidence or precedent in any action or proceeding, except an action to enforce this Consent Decree.

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

35. **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.

36. **Authorized Representative.** Each Party represents and warrants to the others that it has full power and authority to enter into this Consent Decree. Each person signing this Consent Decree on behalf of a Party hereby represents that he or she is fully authorized by the Party to execute this Consent Decree and to bind the Party to its terms and conditions.

²⁹ See 5 U.S.C. § 504; 47 CFR §§ 1.1501–1.1530.

37. **Counterparts.** This Consent Decree may be signed in counterpart (including electronically or by facsimile). Each counterpart, when executed and delivered, shall be an original, and all of the counterparts together shall constitute one and the same fully executed instrument.

Loyaan A. Egal
Acting Chief
Enforcement Bureau

Date

Hendrikus Bernardus Odenhoven
Acting Chief Executive Officer and Director
Truphone, Inc.

Date

ATTACHMENT

Schedule of Required Filings

<u>Filings</u>	<u>Deadline</u>
Notification of the involuntary transfer of control of Truphone's international section 214 authorization	Within 30-days upon the Company entering UK Administration.
Notification of the involuntary transfer of control of Truphone's wireless licenses ¹	Within 30-days upon the Company entering UK Administration.
Restatement of pending 2019 310(b) PDR – ISP-PDR-20191226-00010 – that provides the complete ownership (including what was found during the enforcement investigation) and other information required by the International Bureau	Within 15 days of the effective date of the CD.
Application that provides the correct ownership information for the 2011 transfer of control of Truphone's international section 214 authorization ²	Within 15 days of the effective date of the CD.
Application that provides the correct ownership information for the 2011 transfer of control of Truphone's wireless licenses ³	Within 15 days of the effective date of the CD.
Petition for Declaratory Ruling under section 310(b)(4) and 47 CFR § 1.5000(a)(1) to allow the new owners of Truphone UK (German/Swiss nationals) to have an indirect controlling interest in Truphone	No later than 30 days after the execution of the purchase agreement between seller and purchaser.
Application for the transfer of control of Truphone's international section 214 authorization to new owners ⁴	No later than 30 days after the execution of the purchase agreement between seller and purchaser.
Application for the transfer of control of Truphone's wireless licenses ⁵	No later than 30 days after the execution of the purchase agreement between seller and purchaser.
Notice to the Enforcement Bureau of the Company's completion of filings, with copies to the International and Wireless Telecommunications Bureaus	Simultaneous with the submission of each filing.

¹ 47 CFR §1.948(c)(2).

² 47 CFR § 63.24(e).

³ 47 CFR § 1.948(c).

⁴ 47 CFR § 63.24(e).

⁵ 47 CFR § 1.948(c).