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October 11, 2022

VIA ELECTRONIC DELIVERY

Ms. Shonda Green, Secretary
Department of Telecommunications and Cable
1000 Washington Street, Suite 600
Boston, Massachusetts 02118

Re: AirVoice Wireless, LLC d/b/a AirTalk Wireless
D.T.C. 22-2; Partial Responses to Information Requests

Dear Ms. Green,

On behalf of AirVoice Wireless, LLC d/b/a AirTalk Wireless (“AirVoice”), attached please find partial responses to the Department of Telecommunications and Cable's First Set of Information Requests. A Motion for Extension of Time was filed for the remaining requests.

If you have any questions or if I may provide you with additional information, please do not hesitate to contact me. Thank you for your assistance.

Respectfully submitted,

/s/ Lance J.M. Steinhart

Lance J.M. Steinhart, Esq.
Managing Attorney
Lance J.M. Steinhart, P.C.

*Attorneys for AirVoice Wireless, LLC
d/b/a AirTalk Wireless*

**RESPONSES TO FIRST SET OF INFORMATION REQUESTS BY THE
DEPARTMENT OF TELECOMMUNICATIONS AND
CABLE TO AIRVOICE WIRELESS, LLC
D.T.C. 22-2
October 11, 2022**

D.T.C. 1-5 Provide a copy of the proposed Terms of Service for AirVoice’s Lifeline subscribers in Massachusetts.

Response: See attached Exhibit 1-5. The Lifeline Terms of Service are also maintained online at <https://airtalkwireless.com/term-condition>.

Response prepared by: Henry Do, CEO

**RESPONSES TO FIRST SET OF INFORMATION REQUESTS BY THE
DEPARTMENT OF TELECOMMUNICATIONS AND
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D.T.C. 22-2
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D.T.C. 1-7 Provide a complete and detailed list of each of AirVoice's affiliates, including the names under which each does business.

Response:

- **Cintex Wireless, LLC: a Delaware limited liability company that provides Lifeline-only wireless services (under "Cintex Wireless") as an ETC in Arkansas, Maryland, Maine, Rhode Island, and West Virginia, is approved to provide ACP services in over 45 jurisdictions, and provides non-Lifeline wireless services throughout the United States under the d/b/a "SFone Wireless"**
- **NewPhone Wireless, LLC: ("NewPhone Wireless") a Louisiana limited liability company authorized to provide non-Lifeline wireless service throughout the United States and ACP services in over 45 jurisdictions, and provides Lifeline-only wireless services as an ETC in Louisiana**
- **HTH Communications, LLC: a Texas limited liability company, a global and one of the largest mobile device distributors in the United States, which has been in business for more than thirteen (13) years**
- **Softel Technologies, LLC: a Texas limited liability company, that provides distribution services to wireless providers**
- **VTel Holdings, LLC (holding company): formed to acquire 100% ownership interest in AirVoice**
- **Softel Holdings, LLC (holding company): formed to acquire 100% ownership interest in TAG Mobile, LLC, which transaction is pending and yet to be consummated**

Response prepared by: Henry Do, CEO

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DEPARTMENT OF TELECOMMUNICATIONS AND
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D.T.C. 22-2
October 11, 2022**

D.T.C. 1-8 Provide complete and detailed documentation for any states that have rescinded, revoked, or otherwise terminated AirVoice’s ETC designation or the ETC designation of any of AirVoice’s affiliates. If there are no applicable states, please specify.

Response: **To the best of AirVoice’s knowledge, no state has ever rescinded, revoked, or otherwise terminated AirVoice’s ETC designation or the ETC designation of any of AirVoice’s affiliates.**

Response prepared by: Henry Do, CEO

**RESPONSES TO FIRST SET OF INFORMATION REQUESTS BY THE
DEPARTMENT OF TELECOMMUNICATIONS AND
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D.T.C. 22-2
October 11, 2022**

D.T.C. 1-9 Provide complete and detailed documentation for any states where AirVoice, or any of its affiliates, has withdrawn a petition for ETC designation. If there are no applicable states, please specify.

Response: To the best of the Company's knowledge, the only instance where AirVoice or its affiliates have requested to withdraw an ETC petition is in New Mexico, in which AirVoice recently filed a Motion to Dismiss its pending ETC petition because the regulatory burdens imposed by the State of New Mexico for ETC certification are disproportionate to the business benefits of achieving certification in the state at present.

Response prepared by: Henry Do, CEO

**RESPONSES TO FIRST SET OF INFORMATION REQUESTS BY THE
DEPARTMENT OF TELECOMMUNICATIONS AND
CABLE TO AIRVOICE WIRELESS, LLC
D.T.C. 22-2
October 11, 2022**

D.T.C. 1-15 Provide a copy of the Order and Consent Decree adopted on December 22, 2017, by which Cintex Wireless, LLC settled a Notice of Apparent Liability with the FCC (File No. EB-IHD-13-00010671).

Response: See attached Exhibit 1-15.

Response prepared by: Henry Do, CEO

**RESPONSES TO FIRST SET OF INFORMATION REQUESTS BY THE
DEPARTMENT OF TELECOMMUNICATIONS AND
CABLE TO AIRVOICE WIRELESS, LLC
D.T.C. 22-2
October 11, 2022**

D.T.C. 1-17 Provide a copy of the Order adopted December 16, 2021 (File No. EB-IHD-20-00031449), in which NewPhone entered into a Consent Decree with the Enforcement Bureau of the FCC for the purpose of terminating the Bureau's investigation regarding whether NewPhone, as an ETC, claimed support from the USF for duplicate or otherwise ineligible subscribers.

Response: See attached Exhibit 1-17.

Response prepared by: Henry Do, CEO

**RESPONSES TO FIRST SET OF INFORMATION REQUESTS BY THE
DEPARTMENT OF TELECOMMUNICATIONS AND
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D.T.C. 22-2
October 11, 2022**

Exhibit 1-5

Lifeline Terms of Service

Terms and Conditions

AirTalk Wireless Terms and Conditions of Service

Welcome to AirTalk Wireless. Thank you for choosing us as your service provider. We are pleased to have you as a customer and we look forward to providing you with the best wireless service. Please read these terms carefully as these Terms and Conditions of Service become effective by activating or using a AirTalk Wireless phone and is a legally binding agreement between you and AirTalk Wireless. These Terms and Conditions of Service contain important information about your consumer rights. AirTalk Wireless reserves the right to change or modify the Terms and Conditions of Service at any time and at its sole discretion. Changes made to the Terms and Conditions of Service will become effective at the time the change is posted on the AirTalk Wireless website at www.airtalkwireless.com. Please check this website often for updates to the Terms and Conditions of Service. By enrolling in the AirTalk Wireless Lifeline and/or ACP Programs and by using the AirTalk Wireless Service, you, the participant, acknowledge and agree to the following terms and conditions. If you disagree with any item contained herein, please immediately discontinue use of the Services and contact AirTalk Wireless Customer Support at +1 (855) 924-7825 or email info@airtalkwireless.com to terminate

1. Lifeline Program

Lifeline Support is a monthly support that reduces the cost of monthly wireless telephone service or residential home telephone service. An eligible AirTalk Wireless customer may receive a Lifeline discount on wireless service, but the Lifeline discount is available for only one telephone connection per household. Lifeline support may vary between states but will at least equal the \$ amount AirTalk Wireless receives in Federal Universal Service Support.

Subscribers may qualify for the AirTalk Wireless Lifeline program if they participate in one of the government programs listed below or qualified based on household income eligibility standards as defined below. When completing the AirTalk Wireless application, subscriber acknowledges and consents to the use of Subscriber's Name, Telephone Number, Address, Date of Birth, Last Four Digits of the Subscriber's Social Security Number, amount of support being sought, means of qualification for support and dates of service initiation and termination to be given to the Universal Service Administrative Company (USAC) (the administrator of the program) and/or its agents for the purpose of verifying that subscriber does not receive more than one Lifeline benefit. Refusal to grant this permission will mean consumer is not eligible for Lifeline service. Subscriber grants authorization to AirTalk Wireless to access any records required to verify subscribers statements herein and to confirm continued eligibility for Lifeline assistance. This consent survives any termination of this agreement. If the subscriber or any member of the subscriber 's family participates in a Lifeline program from another provider, the subscriber is responsible for notifying the other provider that they have been approved for the AirTalk Wireless Lifeline program and request their service with the other provider be disconnected. Notice to terminate service from any other provider's Lifeline program must be given if activating new service in the AirTalk Wireless Lifeline program.

AirTalk Wireless subscribers may qualify for a Lifeline service offering if the subscriber meets certain State and Federal eligibility requirements. These requirements are determined by the particular state where the subscriber resides. These State and Federal eligibility requirements are also based on either program-based eligibility or income-based eligibility.

Program Based Eligibility

Program based eligibility varies by state. AirTalk Wireless subscribers are eligible to receive Lifeline discounts, under the program-based eligibility, if they participate in one or more of the following programs and the state participates in that program:

Food Stamps / Supplemental Nutrition Assistant Program (SNAP)

Medicaid

Supplemental Security Income (SSI)

Federal Public Housing Assistance (Section 8)

Veterans and Survivors Pension Benefit

Bureau of Indian Affairs General Assistance (BIA)

Tribal Temporary Assistance for Needy Families (Tribal TANF)

Head Start (only those households meeting its income qualifying standard)

Food Distribution Program in Indian Reservation (FDPIR)

Income Based Eligibility

Income based eligibility varies by state. Some states do not offer income-based eligibility for Lifeline. AirTalk Wireless subscribers are eligible to receive Lifeline, under the income-based eligibility, if subscriber's household income meets or is less than 135% of the Federal Poverty Guidelines for a household of the subscriber's size. Proof of income documentation may be provided to National Verifier to demonstrate income-based eligibility.

Last 3 months consecutive paystubs

Last year income tax return form (Federal, State, or Tribal tax return)

Last year W2 form

Letter from the SSA stating the benefits customer receives per month. Letter cannot be older than 12 months

IRS Form

Veterans Administration Statement of Benefits

Retirement/Pension Statement of Benefits

Unemployment/Workers' Compensation Statement of Benefits

Divorce Decree

Child Support Award Letter

Letter from Employer verifying income

Any other official documents with income information

Lifeline Rules

Lifeline is a federal benefit and willfully making false statements to obtain the benefit can result in fines, imprisonment, de-enrollment or being barred from the program;

Only one Lifeline service is available per household;

A household is defined, for purposes of the Lifeline program, as any individual or group of individuals who live together at the same address and share income and expenses;

A household is not permitted to receive Lifeline benefits from multiple providers;

Violation of the one-per-household limitation constitutes a violation of the Commission's rules and will result in the applicant's de-enrollment from the program;

Lifeline is a non-transferable benefit and the applicant may not transfer his or her benefit to any other person.

2. AirTalk Wireless Lifeline Programs Restrictions

Subscribers applying for service in AirTalk Wireless Lifeline program agree to, and declare under penalty and perjury, that all of the following conditions below (including but not limited to) apply:

AirTalk Wireless Lifeline program is limited to one connection per household.

Subscribers must meet the income-based or program-based eligibility criteria for receiving Lifeline service and have provided documentation of eligibility if required.

Subscribers applying for service certifies that the subscriber do not participate in any other Lifeline program.

If subscriber participates in another Lifeline program at the time applying for AirTalk Wireless Lifeline service, the subscriber agrees to cancel Lifeline service with any other provider.

Subscriber agrees to immediately, and no later than within 30 days, notify AirTalkWireless of any address change.

Subscriber affirms they meet the head of household requirement and they are not claimed as a dependent on another person's tax returns (unless over the age of 60).

Subscriber affirms they will immediately, and no later than within 30 days, notify AirTalk Wireless if they no longer participate in at least one of the state or federal programs required to receive Lifeline discounts or no longer satisfy the criteria for receiving the Lifeline discount.

Subscriber affirms they will immediately, and no later than within 30 days, notify AirTalk Wireless if they no longer participate in at least one of the state or federal programs required to receive Lifeline discounts or no longer satisfy the criteria for receiving the Lifeline discount.

Subscriber acknowledges that providing false or fraudulent information to receive Lifeline benefits is punishable by law.

Subscriber acknowledges that it may be required to re-certify continued eligibility for Lifeline at any time, and failure to re-certify as to subscriber's continued eligibility within 30 days will result in de-enrollment and the termination of the subscriber's Lifeline benefits.

Subscriber applying for AirTalk Wireless Lifeline service affirms, under penalty and perjury, that all foregoing representations made when applying for service are true and correct to the best of the subscriber's knowledge.

3. Other AirTalk Wireless Requirements

Subscriber applying for service may be required to provide a Social Security Number in order to certify or verify eligibility for Lifeline service. (Social Security information is strictly confidential and will not be disclosed to others without a subscriber's written consent). Subscriber affirms they are at least 18 years old.

Subscriber authorizes representatives of any state or federal assistance program to discuss or provide documentation needed to verify participation requested by AirTalk Wireless. Subscriber also authorizes any state or federal assistance program representative to verify subscriber's eligibility for Lifeline program.

Subscribers applying for Lifeline program authorizes AirTalk Wireless LLC or its duly appointed representatives to have access to records relating to the applicant to verify eligibility for the AirTalk Wireless Lifeline service.

4. Annual Recertification, Verification, or Termination of Lifeline Programs

Subscribers participating in the AirTalk Wireless Lifeline program will be automatically recertified on an annual basis, their qualification to continue to participate in Lifeline programs based on the appropriate state or federal recertification and after reverification requirements. Every subscriber in the National Verifier recertification will go through an initial automated data check that will check for the subscriber's eligibility. Subscribers whose eligibility cannot be verified via the initial automated check will be required to self-certify their eligibility. USAC (Universal Service Administrative Company) will conduct outreach to

these subscribers and require that they self-certify. Subscribers that fail the initial data source checks will be prompted to self-certify during a 60-day window. Failure to self-certify during this time will result in automatic de-enrollment. USAC can determine, at its sole discretion, if a subscriber meets the annual recertification requirements and if the subscriber fails to re-qualify for Lifeline service. If USAC is unable to recertify the required Lifeline qualifications, the subscriber will be deemed ineligible to further participate in the AirTalk Wireless Lifeline program.

AirTalk Wireless reserves the right to cancel or suspend, without notice, a subscriber's account for any fraudulent related reasons or upon the request of any state or federal authority's request. AirTalk Wireless subscribers have the ability to terminate from the Lifeline program for any reason. Subscribers who choose to terminate from the Lifeline program may send notice of termination to the address or fax listed below or email listed below with their request. Customers also can call the Customer Service number below to de-enroll from Lifeline service. Identification will be required by providing the customers Full Name, AirTalk Wireless Number, DOB and last 4 numbers of their Social Security Number. Upon termination from the program, subscribers will no longer receive discounted minutes each month and will be required to re-qualify for Lifeline if they choose to enroll in another AirTalk Wireless Lifeline program.

Please send all termination requests (include name, wireless number, and identity related information) to:

AirTalk Wireless, LLC

Attn: Disconnect Department

9920 Brooklet Drive

Houston, TX 77099

Fax to: 1-832-617-7842

Customer Service: +1 (855) 924-7825

If you do not accept any of these Terms and Conditions of Service, do not activate or use service provided by AirTalk Wireless and contact AirTalk Wireless Customer Service at +1 (855) 924-7825. By accepting these Terms and Conditions of Service, you represent that you are at least 18 years of age, you meet the eligibility requirements for AirTalk Wireless service, and you agree that you may not assign your rights or delegate any of your duties under these terms without the prior written consent of AirTalk Wireless. Any attempted assignment or delegation without proper consent from AirTalk Wireless shall be void.

5. Affordable Connectivity Program Terms & Conditions

Lifeline program participants are eligible to participate in the new federal government funded Affordable Connectivity (ACP) Program enrollment opens on December 31, 2021.

The Affordable Connectivity or ACP Program is a limited-time program that provides discounts on monthly broadband Internet access service and certain connected devices. ACP Program discounts are funded by the US Government's Coronavirus relief effort and administered by the Federal Communications Commission (FCC). This program is separate from the US Government's Lifeline program, but your benefits can be combined so you can receive AirTalk's Data, talk & text for FREE every month while the program remains open. Our standard terms and conditions apply.

The Affordable Connectivity monthly service and device discounts are non-transferrable. An eligible household is limited to one monthly service discount and one device discount. ACP Program benefits may be obtained from any participating provider of your choosing and your monthly service benefit may be transferred to another provider at any time.

You may opt-in for the Affordable Connectivity at the time of enrollment with AirTalk Wireless or anytime thereafter. Existing customers can also opt-in by replying to the opt-in SMS, opt-in mail, or opt-in email. By opting in, you attest that you have read and understand the disclosures described on this page, that you agree to these ACP Terms and Conditions, and that you are opting in to receive your ACP discounted broadband service from AirTalk Wireless.

By opting-in to the ACP, you authorize AirTalk Wireless and its contracted partners, for the purpose of applying for, determining eligibility, enrolling in and seeking reimbursement of Affordable Connectivity Program (ACPP) service & device benefits, to collect, use, share and retain your personal information, including but not limited to information required for the purpose of establishing eligibility for and enrolling in the Lifeline program, and including, but not limited to, full name, full residential address, date of birth, social security number, telephone number, eligibility criteria and status, the date on which the ACPP service discount was initiated and if applicable, terminated, ACPP connected device distribution date/type/make and model/status, usage status and other compliance requirements, the amount of support being sought for the service and/or device, and information necessary to establish identity and verifiable address, to the Universal Service Administrative Company (USAC) to ensure proper administration of the ACPP service and/or connected device benefits. Failure to provide consent will result in your being denied the Affordable Connectivity service and/or the connected device benefits.

You agree that any state, local, Tribal government, school, or school district may share information about your receipt of benefits that would establish eligibility for the ACP and that such information will be used only to determine ACP eligibility.

You give express consent for AirTalk Wireless and its contracted partners to contact you to validate your eligibility for or desire to participate in AirTalk Wireless's ACP offers and other products and services via email, telephone, or text messaging. Text messaging and data rates may apply.

Service Offer

AirTalk Wireless will combine your Lifeline and ACP discounts to make FREE Data, Talk and Text Plan. Minutes and Data include a limit (CAP) on the amount of data or minutes a subscriber can use. You can get an free amount of additional data or minutes for the remainder of the monthly period by contacting AirTalk Wireless Customer Care at +1 (855) 924-7825 or email iinfo@airtalkwireless.com.

Device offer

AirTalk will make applicable devices available to ACP-enrolled subscribers for an applicable price for commitment and an applicable price for no commitment. Commitment is to commit to 120 day's service with AirTalk. If at any time the subscriber decides to terminate the service prior to 120 day's of service, the subscriber will be responsible to pay \$125 for the cost of the device that he or she receives. The subscriber also agrees that if his/her ACP and/or Lifeline be transferred from AirTalk Wireless to another provider, AirTalk Wireless can contact him or her via voice call, SMS message, or email to confirm that he or she approved the transfer of benefit. He or she may then request to keep his or her AirTalk Wireless service, and authorize AirTalk Wireless to transfer his or her benefit back to AirTalk Wireless. AirTalk Wireless may perform functional tests on the devices prior to shipment to assure the subscribers can use the service immediately upon receipt of the devices. The usage with the testing will not count towards subscriber ACP and/or Lifeline.

Expiration date

The ACP program will end after the Public Health Emergency no longer exists, or as deemed by the FCC. Once the program is over, your plan will revert to the standard Lifeline offer. You may also choose to keep this FREE plan but will be subject to the standard rates. We will notify you when there is a change to the program. Our standard terms and conditions will apply.

Eligibility

An individual is eligible if they meet one of the following criteria:

Has an income that is at or below 200% of the federal poverty guidelines;

Participates in certain assistance programs, such as SNAP, Medicaid, Federal Public Housing Assistance, SSI, WIC, or Lifeline;

Participates in Tribal specific programs, such as Bureau of Indian Affairs General Assistance, Tribal TANF, or Food Distribution Program on Indian Reservations;

Is approved to receive benefits under the free and reduced-price school lunch program or the school breakfast program, including through the USDA Community Eligibility Provision in the 2019-2020, 2020-2021, or 2021-2022 school year;

Received a Federal Pell Grant during the current award year;

Meets the eligibility criteria for a participating provider's existing low-income program.

6. Supported Services

Lifeline and/or ACP supported services are available to AirTalk Wireless subscribers who participate in Lifeline and/or ACP. Questions regarding supported services can be made in writing to info@airtalkwireless.com or by contacting a AirTalk Wireless representative at: +1 (855) 924-7825.

Lifeline and/or ACP supported service includes voice, data and text service. Lifeline and/or supported service provides access to the emergency services provided by local government or other public safety organizations such as 911 or enhanced 911, to the extent the local government in AirTalk Wireless' service has implemented 911 or E911 service.

7. AirTalk Wireless Services

AirTalk Wireless service is provided at the company's discretion. AirTalk Wireless LLC. may change pricing or the company's Terms and Conditions of Service, from time to time, without notice. Unless expressly prohibited by law, AirTalk Wireless reserves the right to modify or cancel a subscriber's service, an account, or take corrective action at any time and for any reason, including, but not limited to, violation of any provision of these Terms and Conditions of Service. Check the AirTalk Wireless website, www.airtalkwireless.com, for the most recent pricing and changes to the Terms and Conditions of Service. A subscriber's right to use AirTalk Wireless service is subject to AirTalk Wireless business practices, policies, procedures, rates and Terms and Conditions of Service. AirTalk Wireless may change the Terms and Conditions of Service at any time. AirTalk Wireless will notify subscribers of change to the Terms and Conditions of Service that are determined to be materially adverse to a subscriber's service 30 days in advance of the change. If subscriber does not terminate service within 30 days of receiving this notice of a change in the Terms and Conditions of Service, subscriber agrees to accept any such changes.

AirTalk Wireless LLC provides mobile telecommunications services using the geographic areas covered by the Nationwide Sprint and Verizon Network footprint. AirTalk Wireless may provide Lifeline supported services in these areas based on state authorized licensing areas. AirTalk Wireless does not guarantee coverage availability in all areas. Local phone numbers may not be available in all areas. Subscribers do not have the ability to use AirTalk Wireless service with any other wireless phone, device, or on another network. Subscribers may not use an AirTalk Wireless handset with any other service or network. Airtime may be used for domestic calling from the United States and for other services as provided in these Terms and Conditions of Service. AirTalk Wireless service is for personal use only and may not be used in a manner that interferes with another AirTalk Wireless customer's use of service. AirTalk Wireless as determined that ability to provide good service to subscribers may be impaired

when customers place abnormally high number of calls, sends or receive unusually high number of messages, or repeatedly place calls of unusually long duration, relative to typical usage by other AirTalk Wireless customers on similar service plans. Such non-typical usage suggests that a wireless phone is being used for other than personal use and is in violation of these Terms and Conditions of Service. AirTalk Wireless services are provided solely for live dialogue between two individuals. AirTalk Wireless services may not be used for any type of monitoring services, any data transmissions, or other non-personal related connections that do not consist of uninterrupted live dialogue between two individuals. An AirTalk Wireless subscriber account may be terminated, without notice, if a subscriber's usage is determined to be used in violation of the Terms and Conditions of Service for non-personal use, pager service, voicemail retrieval service, or other uses deemed inappropriate.

AirTalk Wireless services use radio transmissions and are therefore affected by limitations. Coverage is not available everywhere. Quality of service may be affected by conditions beyond AirTalk Wireless control, including atmospheric, geographical, or topographical conditions. Service may also be affected by damage to wireless handsets. AirTalk Wireless does not guarantee, or warrant, that service will be available at any specific time or geographical location, or that service will be provided without possible interruption. You should therefore never solely rely on your wireless phone for emergency calls, such as to 911. AirTalk Wireless customers have access to dial 911 in an emergency. However, occasionally a subscriber may attempt to call 911 in an area where there is no wireless coverage. If there is no wireless coverage, a subscriber's call to 911 may not go through and the subscriber should dial 911 from the nearest landline phone.

By applying or activating service with AirTalk Wireless, a subscriber agrees not to use AirTalk Wireless services in any way that is illegal, abusive, or fraudulent. This will be determined by AirTalk Wireless in its sole discretion. You may also not alter any of the software or hardware on your AirTalk Wireless handset for any purpose. AirTalk Wireless phones may not be sold to third parties.

In order to verify if you reside within a service area please visit www.airtalkwireless.com. You may enter your ZIP code or locate coverage maps on the website to verify coverage. The map is only an approximation of actual coverage and may differ substantially from the areas of coverage shown on the website. Coverage can be affected by many factors such as weather, terrain, buildings, equipment, signal strength or many other factors that may affect network coverage. AirTalk Wireless does not guarantee coverage or network availability.

8. AirTalk Wireless ETC Services

AirTalk Wireless Lifeline plans are only available for activation by customers who reside in the areas in which AirTalk Wireless LLC has been designated as a Eligible Telecommunications Carrier (ETC). To receive subsidized wireless service, a subscriber's principal residence address must be within an AirTalk Wireless ETC service area. Visit www.airtalkwireless.com to check whether you reside in an AirTalk Wireless ETC service area. To be eligible for AirTalk Wireless service, a subscriber must meet the applicable eligibility standards described throughout these Terms and Conditions of Service, which may

be amended by AirTalk Wireless. Where applicable, AirTalk Wireless Lifeline plans are provided to you by AirTalk Wireless LLC and are governed by tariffs. Tariffs are on file with the appropriate public utility commissions in each state when required and supersede any term related to the Lifeline Assistance program. AirTalk Wireless may provide access to tariffs through its website. Please be aware that tariffs posted online may not be official documents and you assume full responsibility for any tariff information you access on the AirTalk Wireless website. AirTalk Wireless bears no liability for the accuracy of any documents available on this website.

9. AirTalk Wireless Service Rates (Airtime), Features, Coverage, and Activation Fees

Airtime is valued at \$0.20 per minute of use. Airtime charges apply to standard voice usage calls for both local and domestic long-distance calls. AirTalk Wireless voice usage is deducted in full-minute increments and all partial minutes are rounded up to the next minute. Airtime usage is rounded up to the nearest whole minute. Airtime applies to all message retrieval and voice calls. Unanswered outbound calls will be billed if the ring time exceeds 30 seconds. Ring time is defined as the amount of time between the point when a call is initiated (pressing the TALK button) and when it is answered (or terminated before being answered). Credits will not be given for dropped calls. Any unused airtime that expires is forfeited upon expiration or termination of eligibility in the AirTalk Wireless Lifeline Assistance program. Roaming charges, if they apply, will be billed at a rate of \$0.59 per minute of use and will be deducted from the available minutes. Roaming charges occur when a subscriber makes a call using the facilities of another wireless service provider due to the location the call was placed. Roaming occurs when you make or receive calls outside the home network calling area. AirTalk Wireless does not provide any guarantees as to the availability or quality of service while roaming. A AirTalk Wireless customer must have airtime minutes available to make or receive a call. AirTalk Wireless handsets will only operate when you have airtime minutes available on your wireless account. If you run out of your allotment of airtime, you may purchase and add additional airtime to your account.

INTERNATIONAL DIALING: International calling is not allowed on any AirTalk Wireless Plan unless you have purchased an international calling plan. Currently AirTalk Wireless offers international calling to Canada, Mexico and Argentina, Brazil, Colombia, Costa Rica, Guadeloupe, Paraguay, Peru and Venezuela. International dialing is blocked, however, there are no guarantees that all international calling can be blocked from your handset. If you attempt an international call and are successful but have not purchased an international plan, your account will be blocked from making any additional calls for the remainder of the billing cycle except for emergency calls where available.

LIFELINE FREE PLAN: Each month you will receive Free Minutes, 4.5 GB of Data and Free Text Messages. Text messaging will be assessed at a rate of 1 minute per text message for sending and 1 minute per text message for receiving text messages. Unused minutes will not roll over from month to month.

AirTalk Wireless Additional Minutes & Data Plans: AirTalk Wireless may offer Additional Data Plans for purchase. Please visit www.airtalkwireless.com for the current rates of adding additional data rate plans. If you use all of your monthly data before a new monthly cycle starts and you add an Additional

Data Offering Plan to your account, you will be charged based off the Data Offering Plan you choose for data. Subscribers may add an Additional Data Offering Plan to their AirTalk Wireless account online or over the phone to your account by paying by credit/debit card. AirTalk Wireless Additional Data Offering Plans come in various increments. Sales taxes may apply and maybe added to the minute plan purchased. All data plans offered by AirTalk Wireless include a limit (CAP) on the amount of data a subscriber can use. Purchased Data Plans cannot be transferred or applied to any other wireless service or account.

AirTalk Wireless Calling Features include Caller ID, Call Waiting, Three-Way Calling, Call Forwarding, and Voicemail. Caller ID may display both your billing name and your wireless number when placing outbound calls. AirTalk Wireless does not have the ability to block your name and number when making outbound calls.

Subscribers who successfully submit a AirTalk Wireless application for the Lifeline program will receive a wireless phone provided by AirTalk Wireless including an allotment of airtime minutes, data and text each month for a period of twelve (12) consecutive months from the date service is started. AirTalk Wireless reserves the right to change, or modify the actual amount of airtime minutes and eligible subscribers will receive on a monthly basis without notice. AirTalk Wireless reserves the right to determine, at its sole discretion, whether or not an applicant meets the eligibility requirements to participate or continue to participate in the AirTalk Wireless Lifeline.

About Data Services & Content: Our data Services and your Device may allow you to access the Internet, text, pictures, video, games, graphics, music, email, applications, sound and other materials ("Data Content") or send Data Content elsewhere. Some Data Content is available from our vendors, or us while other Data Content can be accessed from others (for example, third party websites, games, ringers, applications, etc.). We make absolutely no guarantees about the Data Content that you access on your Device. Data Content may be: (1) unsuitable for children/minors; (2) unreliable or inaccurate; or (3) offensive, indecent, or objectionable. You are solely responsible for evaluating the Data Content accessed by you or anyone through your Services. We strongly recommend that you monitor your data usage by children/minors. Data Content from third parties may also harm your Device or its software. We are not responsible for any Data Content. We are not responsible for any damage caused by any Data Content that you access through your Services, that you load on your Device, or that you request that our representatives' access or load on your Device. To protect our networks and Services or for other reasons, we may place restrictions on accessing certain Data Content (such as certain websites, applications, etc.); impose separate charges; limit throughput or the amount of data that you can transfer; or otherwise limit or terminate Services. If we provide you storage for Data Content that you have purchased, then we may delete the Data Content without notice or place restrictions/limits on the use of storage areas. Data Content stored on a Device, transmitted over our networks, or stored by Access Wireless may be deleted modified, or damaged. You may not be able to make or receive voice calls while using data Services. Data Content provided by our vendors or third parties is subject to

cancellation or termination at any time without notice to you and you may not receive a refund for any unused portion of the Data Content.

Specific Terms & Restrictions On Using Data Services: In addition to the rules for using all of our other Services, unless we identify the Service or Device that you have selected as specifically intended for that purpose (for example, wireless routers, Data Link, etc.), you may not use our data Services: (1) with server devices or host computer applications, or other systems that drive continuous, heavy traffic or data sessions; (2) as a substitute or backup for private lines or frame relay connections; or (3) for any other unintended use as we determine in our sole discretion. We reserve the right to limit, suspend, or constrain any heavy, continuous data usage that adversely impacts our networks' performance or hinders access to our networks. If your Services include Web or data access, you also can't use your Device as a modem for computers or other equipment, unless we identify the Service or Device you have selected as specifically intended for that purpose (for example, with "phone as modem" plans, broadband internet access service, mobile broadband card plans, wireless router plans, etc...).

Porting/Transferring a Phone Number: We do not guarantee that number transfers to or from us will be successful. If you authorize another carrier to transfer a number away from us, then that is considered a request by you to us to terminate all of the Services associated with that number.

10. AirTalk Wireless Taxes and Surcharges

AirTalk Wireless charges state and local sales taxes. Pricing listed on the AirTalk Wireless website or listed in advertising methods for wireless service may not include certain taxes or surcharges. Subscribers are responsible for all charges applicable to the use of AirTalk Wireless service regardless if the subscriber was the actual user of the service. The amount of these taxes and surcharges are subject to change and may vary by geographic area. AirTalk Wireless may charge and collect sales taxes and regulatory fees on all Additional Minutes or Data Offering Plans in each state. Third party authorized retailers who sell AirTalk Wireless Additional Minutes or Data Offering Plans may become responsible for the collecting and paying of sales taxes and required regulatory fees for transactions that occur through such third party authorized retailers. Changes to a tax or surcharge will become effective as provided by the appropriate taxing authority and changes to applicable contribution amounts for Federal Universal Service Fund ("FUSF") will apply. Taxes and fees are subject to change without notice.

AirTalk Wireless Text Messaging Rates

A AirTalk Wireless subscriber can send and receive text messages of up to 160 characters. This text message includes the address and subject line. The type of messages a device can receive will depend on the wireless handset capabilities. Standard plan message rates apply when sending or receiving text messages, regardless if the message is viewed. Any unused messages that expire from one monthly billing cycle will not carry over to the next monthly billing cycle, unless the monthly plan specifically allows carry over messages. Text messages sent to you by AirTalk Wireless are free of charge.

A AirTalk Wireless subscriber can send and receive text messages of up to 160 characters. This text message includes the address and subject line. The type of messages a device can receive will depend on the wireless handset capabilities. Standard plan message rates apply when sending or receiving text messages, regardless if the message is viewed. Any unused messages that expire from one monthly billing cycle will not carry over to the next monthly billing cycle, unless the monthly plan specifically allows carry over messages. Text messages sent to you by AirTalk Wireless are free of charge.

Domestic Text Messaging Rates: Any unused messages will expire at the end of your monthly subscription period and will not be applied to subsequently purchased minutes, unless your plan includes roll over minutes. Subscriber messaging plans do not include international text or voicemail messages.

International Text Messaging Rates: AirTalk Wireless does not allow international text messages. Attempting to send international messages could result in deactivation of service and de-enrollment from AirTalk Wireless Lifeline Assistance Program.

Premium SMS: Premium SMS is a text message to a designated “short code.” Buying or attempting to buy SMS services from anyone other than AirTalk Wireless is strictly prohibited. Premium SMS campaigns may include activities such as sending a vote, playing a game, expressing opinions, subscribing to some type of service, or some type of interaction with a television program. AirTalk Wireless does not participate in Premium SMS services or campaigns. You are solely responsible for any charges incurred for Premium SMS services or campaigns. Any text messages sent to a “short code” using AirTalk Wireless service will not likely be successfully sent or received. Any charges you may incur as a result of any attempts to participate in Premium SMS campaigns or services are not refundable, regardless whether you incur charges as deductions from your AirTalk Wireless minutes.

12. Preventing or Sending Spam:

AirTalk Wireless subscribers receiving unwanted text messages ('spam') should contact the source and request to unsubscribe or remove the subscriber's wireless phone number from the service. If a AirTalk Wireless subscriber intentionally sends spam from a AirTalk Wireless handset, the subscriber may be terminated without notice. Contact AirTalk Wireless Customer Service at toll free +1 (855) 924-7825 if additional help or information is required.

AirTalk Wireless may send messages to your AirTalk Wireless handset or alternative phone number via SMS.

13. AirTalk Wireless Directory Assistance, Additional Charges and Services

Directory assistance calls are not charged at a rate per call. Directory assistance calls are deducted from subscriber's available minutes at a 1:1 ratio. AirTalk Wireless reserves the right to access a rate per call in the future. Notice of such will be added to these Terms of Service and will be posted to our website.

Calls to 900 / 976 or other pay-per-call service numbers are not available to AirTalk Wireless subscribers. AirTalk Wireless will block any calls to 1-900, 1-976, some international calling, or other pay-per-call services. However, if any charges are received by AirTalk Wireless from the underlining carrier for these types of calls, these charges will be passed through to the end user for payment. Nonpayment of these charges when billed to the subscriber will constitute automatic disconnection of service.

Calls placed to 800/866/877 or other toll-free numbers will incur standard minute usage of a 1:1 ratio. AirTalk Wireless allows subscribers to make or receive domestic long-distance calls inside the domestic USA as long as coverage is available. AirTalk Wireless does not allow free calls to other subscribers using AirTalk Wireless service. AirTalk Wireless subscriber handsets do not provide rate information for services used to make or receive voice calls or messages.

Please contact AirTalk Wireless Customer Service at +1 (855) 924-7825, or visit our website at www.airtalkwireless.com, for additional pricing information or answers to any questions about AirTalk Wireless

14. AirTalk Wireless Refunds, Returns, or Lost Equipment Policy:

Refunds:

AirTalk Wireless is not responsible for, nor will we refund any lost, stolen, misused, or damaged AirTalk Wireless Additional Minutes or Data Offering Plans. AirTalk Wireless does not accept returns or provide refunds of any AirTalk Wireless Additional Minutes or Data Offering Plans unless it is determined AirTalk Wireless did not perform the duty of service. All purchases of AirTalk Wireless Additional Minutes or Data Offering Plans are final and non-refundable regardless of who uses or possesses the subscriber's wireless phone after airtime is purchased, and regardless of whether the wireless phone is used with the subscriber's consent or knowledge. Monthly charges are non-refundable.

Returns:

Wireless handsets purchased directly from or received from AirTalk Wireless may be returned for a full refund within 15 days of receipt. A subscriber must return the complete handset as received at the time of activation. For instructions, please contact AirTalk Wireless' Customer Service at +1 (855) 924-7825. AirTalk Wireless provides new and used handsets to subscribers. All handset models provided to Lifeline subscribers are selected at the sole discretion of AirTalk Wireless. Handset models may vary. AirTalk Wireless reserves the right to replace handsets with various models at its sole discretion. All wireless handsets purchased directly from AirTalk Wireless include a 15-day warranty from AirTalk Wireless. If you experience a handset malfunction call AirTalk Wireless' Customer Service at +1 (855) 924-7825 or email info@airtalkwireless.com. Lost or Stolen Equipment:

If a AirTalk Wireless Subscriber loses or has their handset stolen, the subscriber is responsible for all charges incurred until AirTalk Wireless is notified of the lost or stolen wireless phone. To report a lost or

stolen wireless phone, please contact AirTalk Wireless's Customer Service at +1 (855) 924-7825 or info@airtalkwireless.com. Upon receiving notice of the lost or stolen phone, AirTalk Wireless will suspend the account immediately. If a subscriber does not either activate a new AirTalk Wireless phone or notify us that they have found their wireless phone within 30 days of the suspension of the account, the account will be deactivated and the subscriber will lose the AirTalk Wireless phone number.

16. AirTalk Wireless Phone Number

AirTalk Wireless subscribers must accept the number that is assigned to them at the time of activation. The wireless phone number AirTalk Wireless provides for subscribers to use is and will remain the property of AirTalk Wireless. AirTalk Wireless may release a subscriber's wireless phone number to another subscriber, without giving notice, if the subscriber cancels service with AirTalk Wireless, or if the account expires and is deactivated. Subscribers may transfer a wireless number prior to the wireless number being reissued to another subscriber. AirTalk Wireless reserves the right to change a wireless number at any time. AirTalk Wireless will attempt to notify the subscriber prior to any change.

In some situations, a subscriber may transfer an existing carrier telephone number to their AirTalk Wireless service for use as a AirTalk Wireless phone number. To switch an existing phone number to AirTalk Wireless, please contact AirTalk Wireless' Customer Service at +1 (855) 924-7825. Before calling, please have a bill available from the existing carrier. When a subscriber transfers from another wireless carrier to AirTalk Wireless, they may have to pay a termination fee to the former carrier to early terminate the contract. AirTalk Wireless will not reimburse a subscriber for any termination fees imposed by other carriers.

17. Bring Your Own Phone Program

AirTalk Wireless affords subscribers the option to use their own mobile phone or device, as long as it is compatible with AirTalk Wireless' services and network, under its Bring Your Own Phone Program.

If you are activating your own phone under the Bring Your Own Phone Program, you are responsible for ensuring that the phone is unlocked, is compatible with the AirTalk Wireless Lifeline Service, does not interfere with the AirTalk Wireless Service, and complies with all applicable laws, rules and regulations. You are also responsible for ensuring that your phone meets all federal laws and standards. You are further responsible for the purchase and maintenance of any additional hardware and/or software required to use the Service. Not all aspects of the AirTalk Wireless Service will function on -AirTalk-provided mobile devices including those activated under the Bring Your Own Phone program. Additionally, some functions and features available on other carrier networks or referenced in the manufacturer's manual provided with your phone may not be available when using the AirTalk Wireless Service.

Termination Service

As a AirTalk Wireless customer, you are eligible to receive AirTalk Wireless Lifeline Service for up to one (1) year upon your enrollment and using the device in the AirTalk Wireless Lifeline Program, and you are eligible to receive up to another year following each successful Annual Recertification for your continued

program eligibility in the AirTalk Lifeline Program based on your continued eligibility to participate in the program and your continued usage of the AirTalk Wireless Lifeline Service. If you have no usage in a period of 30 days, "Non-Usage," you will receive notice with a fifteen (15) day grace period to correct the non-usage. If you do not respond to the notice, you will be de-enrolled, and deactivation of Lifeline Service will occur, regardless of the service end date. If it is found that you no longer meet the requirements or eligibility guidelines to receive AirTalk Wireless Lifeline Service you will be de-enrolled, and deactivation of AirTalk Wireless Lifeline Service will occur. AirTalk Wireless will not seek reimbursement for your participation in the AirTalk Wireless Lifeline Service after 30 days of non-usage. Upon de-enrollment from the AirTalk Wireless Lifeline Program, you will cease receiving the discounted or free monthly allotment of airtime or Data.

If you exceed 45 days without any usage (as defined consistent with 47 C.F.R. 54.407(c) (2)), you will be de-enrolled from the AirTalk Wireless Lifeline Program. Any of these activities, if undertaken by the subscriber, will establish "usage" of the AirTalk Wireless Lifeline service: (i) Completion of an outbound call; (ii) Purchase of Data from AirTalk Wireless to add to the subscriber's service plan; (iii) Answering an incoming call from a party other than the AirTalk Wireless or AirTalk Wireless's agents or representatives; (iv) Responding to direct contact from AirTalk Wireless and confirming that you want to continue receiving the AirTalk Wireless Lifeline service; or (v) Sending a text message.

AirTalk Wireless's provision of service begins on the 1st calendar day of each month. If, at any time during a calendar month, a AirTalk Wireless customer terminates his/her service, the customer's service will be canceled in accordance with AirTalk Wireless's respective policies and procedures.

Limitation of Liability

AirTalk Wireless LLC. will not be liable to you (subscriber) for any direct or indirect, special, incidental, consequential, exemplary or punitive damages of any kind, including lost or potential profits (regardless of whether it has been notified such loss may occur) by reason of any act or omission in its provision of equipment and/or Services. AirTalk Wireless LLC. will not be liable for any act or omission of any other company furnishing a part of our services, or our equipment or for any damages that result from any service or equipment provided by or manufactured by affiliated or non-affiliated third parties. AirTalk Wireless LLC. is not responsible, at any time, and shall not be liable to you or anyone else for any personal information such as user names, passwords, contacts, pictures, SMS, or any additional content you may have stored on your phone or which may remain on your phone during and/or after you no longer have service with AirTalk Wireless. Unless prohibited by law, you (subscriber) agree to limit claims for damages or other monetary relief against each other to direct and actual damages. AirTalk Wireless assumes no risk or responsibility for a subscriber's use of any content provided by AirTalk Wireless services. There is no fiduciary duty that exists between you (subscriber) and AirTalk Wireless, LLC. or its affiliates. You (subscriber), also agree that AirTalk Wireless will not be liable for any missed voice mails, any messages from your voicemail system, any data content, or any storage or deletion of contacts from a handset address book provided by AirTalk Wireless.

19. Use of AirTalk Wireless Customer Information

By agreeing to Terms and Conditions of Service herein, you also agree to the terms of AirTalk Wireless Privacy Policy available online at <https://airtalkwireless.com>. The Privacy Policy may change from time to time and includes important information on what data we collect about you, how we use this data and with whom we share that data. Customer Proprietary Network Information (CPNI) is information that AirTalk Wireless obtains when providing your telecommunications services to you. CPNI includes the types of telecommunications services you currently purchase, how you use them, and the billing information related to those services, including items such as the types of local, long distance and wireless telecommunications services that you have purchased and your calling details. Your telephone, name and address are not considered CPNI.

20. Right to Terminate Your AirTalk Wireless Lifeline Service

You agree not to give away, resell, or offer to resell the AirTalk Wireless Mobile Device or service provided by the AirTalk Wireless Lifeline Program. You also agree your AirTalk Wireless Mobile Device will not be used for any purpose that is not allowed by this agreement or that is illegal. AirTalk Wireless can, without notice, limit, suspend, or end your service and de-enroll you from the AirTalk Wireless Lifeline Program for violating this provision or for any other good cause, including, but not limited to, if you: (a) violate any of the Terms and Conditions of Service; (b) lie to any representative of AirTalk Wireless or attempt to defraud any representative of AirTalk Wireless; (c) allow anyone to tamper with your AirTalk Wireless Mobile Device; (d) threaten or commit violence against any representative of AirTalk Wireless, any of our employees or Customer Support Representatives; (e) use vulgar and/or inappropriate language when interacting with AirTalk Wireless representatives; (f) steal from AirTalk Wireless; (g) harass AirTalk Wireless representatives; (h) interfere with AirTalk Wireless operations; (i) engage in abusive messaging, emailing, or calling; (j) modify your device from its manufacturer's specification; or (k) use the service in a way that adversely affects our network or the service available to AirTalk Wireless's other customers. We reserve the right to, without notice, limit, suspend, or end your service for any other operational or governmental reason. In addition to permanently terminating your service, criminal offenses (i.e., selling or giving away your service; threatening violence, etc.) will be reported to the appropriate legal authorities for prosecution.

21. Unauthorized Usage and/or Tampering

The AirTalk Wireless Mobile Device is provided exclusively for use by you, the end consumer, with the AirTalk Wireless Service available solely in the United States. Any other use of your AirTalk Wireless Mobile Device, including, but not limited to, resale, unlocking, and/or re-flashing of the phone, is unauthorized and constitutes a violation of your agreement with AirTalk Wireless. You agree not to unlock, re-flash, tamper with, or alter your AirTalk Wireless Mobile Device or its software; engage in any other unauthorized or illegal use of your AirTalk Wireless Mobile Device or the service, or assist others in such acts; or to sell and/or export AirTalk Wireless Mobile Devices outside of the United States. These acts violate AirTalk Wireless's rights and state and federal laws. Improper, illegal, or unauthorized use of your AirTalk Wireless Mobile Device is a violation of this agreement and may result in immediate discontinuance of services and legal action against you. AirTalk Wireless will prosecute violators fully of the law.

Some AirTalk Wireless Mobile Devices have SIM cards. If your AirTalk Wireless Mobile Device has a SIM card, then you agree to safeguard your SIM card and not to allow any unauthorized person to use your SIM card. You agree not to allow any other person to, directly or indirectly alter, bypass, copy, deactivate, remove, reverse-engineer or otherwise circumvent or reproduce the encoded information stored on, or the encryption mechanisms of, your SIM card. You may not remove your SIM Card from your phone nor place the SIM Card in any other phone. Doing so could result in the immediate termination of your service and de-enrollment from the AirTalk Wireless Lifeline Program. The Carriers, AirTalk Wireless, or its service providers, may, from time to time, remotely update or change the encoded information on your SIM card. Your AirTalk Wireless Mobile Device is restricted from operating when you are located anywhere outside of the United States, including offshore or in international waters. In the event of suspension for this or any other unauthorized usage, you will not be entitled to receive any refunds for unused airtime.

22. Limitations of Service and Use of Equipment

Service is subject to transmission limitations caused by certain equipment and compatibility issues, atmospheric, topographical, and other conditions. Further, Services may be temporarily refused, limited, interrupted, or curtailed due to system capacity limitations, technology migration, or limitations imposed by AirTalk Wireless or the Carriers, or because of equipment modifications, upgrades, repairs, relocations, or other similar activities necessary or proper for the operation or improvement of AirTalk Wireless or the Carriers' radio telephone system. At any time, AirTalk Wireless reserves the right to substitute and/or replace any AirTalk Wireless equipment (including Mobile Devices) with other AirTalk Wireless equipment (including Mobile Devices) of comparable quality. Some functions and features referenced in the manufacturer's manual for a particular AirTalk Wireless Mobile Device may not be available on your phone. AirTalk Wireless does not warrant or guarantee availability of network or of any services at any specific time or geographic location or that the services will be provided without interruption. AirTalk Wireless does not guarantee access to 911 services where there is not or limited wireless coverage, a subscriber's 911 call may not go through; subscribers should dial 911 from the nearest landline phone. Neither AirTalk Wireless, nor any carrier, shall have any liability for service failures, outages, or limitations of service. Because of the risk of being struck by lightning, you should not use your AirTalk Wireless Mobile Device outside during a lightning storm. You should also unplug the AirTalk Wireless Mobile Device power cord and charger to avoid electrical shock and/or fire during a lightning storm. In the event AirTalk Wireless determines that it is necessary to interrupt the Services for any reason or there is the potential for a Services interruption due to system maintenance, AirTalk Wireless will use reasonable efforts to notify you prior to the performance of such maintenance and will attempt to schedule such maintenance during non-peak hours.

23. Law Enforcement

AirTalk Wireless intends to fully comply with the Communications Assistance for Law Enforcement Act and other similar laws or regulations. By use of the Services, you agree that, if and as required by law enforcement entities, AirTalk Wireless may monitor or facilitate monitoring, and otherwise disclose the nature and content of communications transmitted through the Services or the Mobile Device without any further notice or liability.

24. Limitation of Liability

AirTalk Wireless LLC. will not be liable to you (subscriber) for any direct or indirect, special, incidental, consequential, exemplary or punitive damages of any kind, including lost or potential profits (regardless of whether it has been notified such loss may occur) by reason of any act or omission in its provision of equipment and/or Services. AirTalk Wireless LLC. will not be liable for any act or omission of any other company furnishing a part of our services, or our equipment or for any damages that result from any service or equipment provided by or manufactured by affiliated or non-affiliated third parties. AirTalk Wireless LLC. is not responsible, at any time, and shall not be liable to you or anyone else for any personal information such as user-names, passwords, contacts, pictures, SMS, or any additional content you may have stored on your phone or which may remain on your phone during and/or after you no longer have service with AirTalk Wireless. Unless prohibited by law, you (subscriber) agree to limit claims for damages or other monetary relief against each other to direct and actual damages. AirTalk Wireless assumes no risk or responsibility for a subscriber use of any content provided by AirTalk Wireless services. There is no fiduciary duty that exists between you (subscriber) and AirTalk Wireless LLC. or its affiliates. You (subscriber), also agree that AirTalk Wireless will not be liable for any missed voice mails, any messages from your voicemail system, any data content, or any storage or deletion of contacts from a handset address book provided by AirTalk Wireless.

25. Indemnification

To the full extent by law, you agree to hold harmless and indemnify AirTalk Wireless LLC. and its affiliates and their respective officers, agents, directors, partners and employees, from any and all liabilities, settlements, penalties, claims, causes of action and demands brought by third parties (including any costs, expenses or attorneys' fees on account thereof), directly or indirectly, resulting from your use of AirTalk Wireless products and services, or another person whom you authorize or not to use your products or services, whether based in contract or tort (including strict liability) and regardless of the form of action. This obligation shall survive any expiration or termination of your service with AirTalk Wireless LLC.

A subscriber may reside in a state that does not allow disclaimers of implied warranties or limits remedies for breach. Therefore, the above exclusions or limitations may not apply to all subscribers. A subscriber may have other legal rights that vary by state.

26. Warranties

AirTalk Wireless customers shall have up to fifteen (15) days from the delivery date of their Mobile Device to return any defective Mobile Device and/or accessories to AirTalk Wireless. AirTalk Wireless will exchange a defective Mobile Device for a replacement phone, at AirTalk Wireless's discretion. For a defective phone replacement, call AirTalk Wireless Customer Support at +1 (855) 924-7825 or email info@airtalkwireless.com.

27. Notices

You may send notices to AirTalk Wireless by mail, 9920 Brooklet Drive, Houston, TX 77099, or by fax, 1-832-617-7842. Notices will be considered effective after received by AirTalk Wireless. If a subscriber is unable to resolve concerns with AirTalk Wireless, they may file a complaint with the Federal Communications Commission or their state commission board. Any notice sent to a subscriber will be

sent to your last known residence we have on file, or via text message to your AirTalk Wireless phone, or via text message to your alternative phone, or via email to your email.

The AirTalk Wireless Terms and Conditions of Service, contained herein, supersede all oral or written communications and understandings between you and AirTalk Wireless with respect to products and services provided to you and the terms under which they are offered to you by AirTalk Wireless. The surviving sections of this Terms and Conditions of Service shall continue to be valid and enforceable in the event that any part of these Terms and Conditions of Service is declared invalid, not applicable, or becomes unenforceable. There are no provisions of these Terms and Conditions of Service that provide any person or any entity that is not a party to these Terms and Conditions of Service with any remedy, liability, claim, reimbursement, or any cause of action, or that creates any other third-party beneficiary rights. Any legal dispute, unless otherwise specified herein, shall be subject to the exclusive jurisdiction of the federal or state courts located within the state of Texas. AirTalk Wireless reserves the right to suspend or terminate any subscriber's access to AirTalk Wireless services or to the AirTalk Wireless website or affiliated websites, at any time, should we determine in our sole discretion that a subscriber has violated any of these Terms and Conditions of Service or any other policy of AirTalk Wireless, its affiliates, or for any other reason at the sole discretion of AirTalk Wireless.

**RESPONSES TO FIRST SET OF INFORMATION REQUESTS BY THE
DEPARTMENT OF TELECOMMUNICATIONS AND
CABLE TO AIRVOICE WIRELESS, LLC
D.T.C. 22-2
October 11, 2022**

Exhibit 1-15

Cintex Order and Consent Decree

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of
Cintex Wireless, LLC

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File No.: EB-IHD-13-00010671
Acct. No.: 201432080014
FRN: 0020964524

ORDER

Adopted: December 22, 2017

Released: December 29, 2017

By the Commission: Commissioner Clyburn approving in part, dissenting in part, and issuing a statement.

1. The Federal Communications Commission (Commission) has entered into a Consent Decree to resolve its investigation into whether Cintex Wireless, LLC (Cintex Wireless) violated the Commission's rules by requesting and/or receiving support from the Lifeline program of the Universal Service Fund (USF or Fund) for ineligible, duplicative subscribers, as identified by the Universal Service Administrative Company (USAC) through periodic in-depth validations (IDVs). To settle this matter, Cintex Wireless will implement a compliance plan to ensure that it adheres to the Commission's rules and will pay a Fifty-Five Thousand Dollar (\$55,000) settlement amount.

2. After reviewing the terms of the Consent Decree and evaluating the facts before us, including that USAC has recovered the overpayments for ineligible duplicate support received by Cintex Wireless for the time periods covered by the IDVs conducted by USAC, we find that the public interest would be served by adopting the Consent Decree and resolving the Notice of Apparent Liability for Forfeiture (NAL) regarding Cintex Wireless's compliance with the Lifeline program rules set forth in Sections 54.407, 54.409, and 54.410 of the Commission's rules.

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

4. Accordingly, IT IS ORDERED that, pursuant to Sections 4(i) and 503(b) of the Act, the attached Consent Decree IS ADOPTED and its terms incorporated by reference.

5. IT IS FURTHER ORDERED that the above-captioned matter IS TERMINATED and the NAL IS RESOLVED in accordance with the terms of the attached Consent Decree.

1 This investigation, initiated under file no. EB-13-IH-0201, was subsequently assigned to file no. EB-IHD-13-00010671.

2 47 CFR §§ 54.407, 54.409, 54.410.

3 See 47 CFR § 1.93(b).

4 47 U.S.C. §§ 154(i), 503(b).

6. **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 Paul Greene, Chief Executive Officer, Cintex Wireless, LLC, 11565 Old Georgetown Road, Rockville, Maryland 20852, and to John J. Heitmann, Esq., Kelley Drye & Warren LLP, 3050 K Street, N.W., Suite 400, Washington, D.C. 20007.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of
Cintex Wireless, LLC
File No.: EB-IHD-13-000106715
Acct. No.: 201432080014
FRN: 0020964524

CONSENT DECREE

1. The Federal Communications Commission (Commission) and Cintex Wireless, LLC (Cintex Wireless), by their authorized representatives, hereby enter into this Consent Decree for the purpose of settling the Commission’s investigation, as defined below, into whether Cintex Wireless violated Sections 54.407, 54.409, and 54.410 of the Commission’s rules by requesting and/or receiving support from the Lifeline program of the Universal Service Fund (USF or Fund) for ineligible subscribers.

I. DEFINITIONS

- 2. For the purposes of this Consent Decree, the following definitions shall apply:
(a) “Act” means the Communications Act of 1934, as amended.6
(b) “Adopting Order” means an order of the Commission adopting the terms of this Consent Decree without change, addition, deletion, or modification.
(c) “Agents” means all contractors and/or subcontractors acting on behalf of the Company with respect to the sales, marketing, enrollment of new customers, and other duties related to the Company’s responsibilities under the Lifeline Rules.
(d) “Bureau” means the Enforcement Bureau of the Federal Communications Commission.
(e) “Cintex Wireless” or “Company” means Cintex Wireless, LLC, and its affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest.
(f) “Commission” and “FCC” mean the Federal Communications Commission and all of its bureaus and offices.
(g) “Communications Laws” means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which Cintex Wireless is subject by virtue of its business activities.
(h) “Compliance Plan” means the compliance obligations, program, and procedures described in this Consent Decree at paragraph 14.
(i) “Covered Employees” means all employees of Cintex Wireless who perform, or supervise, oversee, or manage the performance of, duties that relate to Cintex Wireless’s responsibilities under the Lifeline Rules.

5 This investigation, initiated under file no. EB-13-IH-0201, was subsequently assigned to file no. EB-IHD-13-00010671.

6 47 U.S.C. § 151, et seq.

- (j) “Covered Third Party” means any non-employee Person, as defined herein, that performs services involving the enrollment and de-enrollment of Lifeline consumers, or any duties that relate to the Lifeline eligibility and de-enrollment rules, pursuant to a contractual relationship or agreement with Cintex Wireless, including any person performing work related to the Lifeline Rules on behalf of Cintex Wireless.
- (k) “Effective Date” means the date by which both the Bureau and Cintex Wireless have signed the Consent Decree.
- (l) “ETC” means an eligible telecommunications carrier designated under, or operating pursuant to, Section 214(e) of the Communications Act, as amended, 47 U.S.C. § 214(e), as eligible to offer and receive support for one or more services that are supported by the federal universal support mechanisms.
- (m) “Investigation” means the investigation commenced by the Bureau in File Nos. EB-13-IH-0201 and EB-IHD-13-00010671, and in *Cintex Wireless, LLC*, Notice of Apparent Liability for Forfeiture, 28 FCC Rcd 17124 (2013), regarding whether Cintex Wireless violated the Lifeline Rules.
- (n) “Lifeline Rules” means Title 47, Code of Federal Regulations, Sections 54.400--54.423, Section 254 of the Act, and Commission orders related to Lifeline service to low-income consumers.
- (o) “Operating Procedures” means the standard internal operating procedures and compliance policies established by Cintex Wireless to implement the Compliance Plan.
- (p) “Parties” means Cintex Wireless and the Commission, each of which is a “Party.”
- (q) “Person” shall have the same meaning defined in Section 153(39) of the Communications Act, as amended, 47 U.S.C. § 153(39).
- (r) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- (s) “USAC” means the Universal Service Administrative Company, which serves as the administrator for the federal Universal Service Fund.⁷

II. BACKGROUND

3. Lifeline is a Universal Service Fund (USF) program that helps qualifying consumers connect to jobs, family members, and emergency services.⁸ Lifeline service is provided by designated eligible telecommunications carriers (ETCs) pursuant to the Communications Act of 1934, as amended (Act).⁹ An ETC may generally request Federal Lifeline support in the amount of \$9.25 per month for each qualifying low-income consumer it serves, provided the ETC passes through the support amount to the consumer.¹⁰ To request reimbursement, ETCs must certify to the Universal Service Administrative

⁷ See 47 CFR § 54.701.

⁸ *Lifeline & Link Up Reform & Modernization*, Report and Order and Further Notice of Proposed Rulemaking, 27 FCC Rcd 6656, 6662–67, paras. 11–18 (2012) (*Lifeline Reform Order*); see 47 CFR §§ 54.400–54.423.

⁹ 47 U.S.C. § 254(e) (providing that “only an eligible telecommunications carrier designated under section 214(e) of this title shall be eligible to receive specific Federal universal service support”); 47 U.S.C. § 214(e) (prescribing the method by which carriers are designated as ETCs).

¹⁰ See 47 CFR § 54.403(a)(1)–(2). ETCs may receive additional federal Lifeline support of up to \$25 per month for providing Lifeline service to an eligible resident of Tribal lands, as defined in 47 CFR § 54.409(e). See 47 CFR (continued....)

Company (USAC) that they have followed the Rules relating to Lifeline.¹¹ Section 54.407 of the Rules specifies that the support provided to an ETC is limited to “the number of actual qualifying low-income customers” it serves.¹² Additionally, pursuant to Sections 54.407 and 54.410 of the Rules, ETCs must obtain certification of every subscriber’s eligibility and certify their own compliance with the Rules.¹³

4. Furthermore, Section 54.410(a) of the Rules requires ETCs to implement policies and procedures for ensuring that their subscribers are eligible to receive Lifeline service.¹⁴ Among other things, the Commission’s Rules define an eligible, or “qualifying low-income consumer,” as one who is not already receiving a Lifeline service and where no one else in the household is a Lifeline subscriber.¹⁵ The Commission has made clear that “qualifying low-income consumers may receive no more than a single Lifeline benefit.”¹⁶ In February 2012, the FCC defined “duplicative support” as “when a Lifeline subscriber is receiving two or more Lifeline services concurrently or two or more subscribers in a household are receiving Lifeline services or Tribal Link Up support concurrently.”¹⁷ Therefore, ETCs generally must implement procedures designed to ensure that they are not seeking support from the Lifeline program for duplicate subscribers.¹⁸

5. In 2011, USAC began conducting in-depth data validations (IDVs) to identify subscribers who were improperly receiving duplicative Lifeline support.¹⁹ If USAC determined that a subscriber was the recipient of multiple Lifeline benefits from that same ETC (e.g., intra-company duplicates), it notified the ETC of the instances of duplicate support, recouped duplicate payments, and directed the ETC to de-enroll the intra-company duplicate subscribers.²⁰

(Continued from previous page) _____
§ 54.403(a)(3).

¹¹ See 47 CFR § 54.407(d). USAC administers the Lifeline program and is responsible for support calculation and disbursement payments to ETCs. See 47 CFR § 54.702(b).

¹² 47 CFR § 54.407(a)–(b).

¹³ See 47 CFR §§ 54.407(d), 54.410(b)–(c), 54.416. To receive reimbursement, ETCs must file an FCC Form 497 with USAC, on which they must certify compliance with the Rules. See *Lifeline Reform Order*, 27 FCC Rcd at 6698, 6714, paras. 91, 125.

¹⁴ 47 CFR § 54.410(a). See also *Lifeline Reform Order*, 27 FCC Rcd at 6879, App. A.

¹⁵ 47 CFR §§ 54.400(a); 54.409(c).

¹⁶ See *Lifeline & Link Up Reform & Modernization*, Report and Order, 26 FCC Rcd 9022, 9022–23, para. 2 (2011) (*Lifeline Duplicates Order*). See also *Lifeline & Link-Up*, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 8302, 8306, para. 4 (2004); see also 47 CFR § 54.409(c) (qualifying Lifeline customers must not already be receiving a Lifeline service); 47 CFR § 54.401 (defining Lifeline); 47 CFR § 54.400(h) (defining “household” as “any individual or group of individuals who are living together at the same address as one economic unit”); *Lifeline Reform Order*, 27 FCC Rcd at 6760, para. 241 (noting that the costs of wireless handsets are not supported by Lifeline).

¹⁷ See generally *Lifeline Reform Order*, 27 FCC Rcd 6656; 47 CFR § 54.400(g). The Lifeline Reform Order also required ETCs, upon notification from USAC, to de-enroll subscribers who were found to have received duplicative support. 47 CFR § 54.405(e)(2).

¹⁸ 47 CFR § 54.410.

¹⁹ See *Lifeline Duplicates Order*, 26 FCC Rcd at 9023, para. 2, nn.4–5; Letter from Sharon E. Gillett, Chief, Wireline Competition Bureau, FCC, to D. Scott Barash, Acting CEO, USAC, WC Docket Nos. 11-42, 03-109, CC Docket No. 96-45, 26 FCC Rcd 8588 (WCB 2011).

²⁰ *Id.*

6. Cintex Wireless is a Delaware limited liability company²¹ that provided prepaid wireless Lifeline service to customers as a designated ETC in Arkansas, Maryland, Rhode Island and West Virginia.²² To receive reimbursement for Lifeline services provided, Cintex Wireless was required to file claims regularly with USAC.²³ USAC conducted IDVs of the reimbursement requests submitted by Cintex Wireless for subscribers in the following four states for the months specified: Arkansas (August 2012, February 2013, and April 2013), Maryland (June 2012 and March 2013), West Virginia (June 2012, December 2012, and April 2013), and Rhode Island (July 2012 and March 2013). Based on USAC's analysis, Cintex Wireless allegedly had 1,842 individual intra-company duplicate lines for which Cintex Wireless sought Lifeline support reimbursement.²⁴ According to USAC, these requests allegedly resulted in \$17,326 in overpayments to Cintex Wireless over the months covered by the IDVs.²⁵

7. On December 13, 2013, the Commission issued a Notice of Apparent Liability for Forfeiture and Order proposing a forfeiture penalty of \$9,461,978 against Cintex Wireless for alleged willful and repeated violations of Sections 54.407, 54.409, and 54.410 of the Rules²⁶ by allegedly requesting and/or receiving Lifeline support for allegedly ineligible subscriber lines identified in the IDVs.²⁷ The Company submitted a response to the NAL on February 21, 2014 denying the allegations and seeking cancellation or reduction of the proposed forfeiture.²⁸ The Parties negotiated the following terms and conditions of settlement and hereby enter into this Consent Decree as provided below.

III. TERMS OF AGREEMENT

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

9. **Jurisdiction.** Cintex Wireless 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.

10. **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 adopted by the Commission.

11. **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 terminate the Investigation. In consideration for the termination of the Investigation, Cintex Wireless 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

²¹ See Delaware Secretary of State, Division of Corporations, Cintex Wireless LLC, File No. 4381064 (formed June 29, 2007).

²² See *Cintex Wireless, LLC*, Notice of Apparent Liability for Forfeiture, 28 FCC Rcd 17124, 17126-27, para. 8 (2013) (*Cintex NAL*). See also Cintex Wireless LLC's Revised Compliance Plan, WC Dockets Nos. 09-197 and 11-42, at 2 (Jan. 9, 2013). Other service areas served by Cintex Wireless are not at issue in this enforcement action.

²³ *Cintex NAL*, 28 FCC Rcd at 17126, para. 6. See also 47 CFR § 54.407; *Lifeline Reform Order*, 27 FCC Rcd at 6786-87, paras. 301-02.

²⁴ *Cintex NAL*, 28 FCC Rcd at 17126, para. 9.

²⁵ *Id.*

²⁶ 47 CFR §§ 54.407, 54.409, 54.410.

²⁷ See generally *Cintex NAL*.

²⁸ See Cintex Wireless, LLC's Response to Notice of Apparent Liability for Forfeiture (Feb. 21, 2014) (on file in EB-IHD-13-00010671).

proceeding, formal or informal, or take any action on its own motion against Cintex Wireless concerning the matters that were the subject of the Investigation. The Commission also 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 proceeding, formal or informal, or to set for hearing the question of Cintex Wireless's basic qualifications to be a Commission licensee or hold Commission licenses or authorizations.²⁹

12. **Stipulation.** Cintex Wireless stipulates for the purpose of this Consent Decree and for Commission civil enforcement purposes, and in express reliance on the provisions in paragraph 11 herein, that it sought reimbursement for certain subscribers who had improperly certified eligibility in violation of the Commission's rules prohibiting duplicative support. This Consent Decree shall not be used as evidence or precedent in any action or proceeding, except an action to enforce this Consent Decree, and does not constitute a finding of law or fact. The Parties agree this Consent Decree is for settlement purposes only and does not constitute an adjudication on the merits or a factual or legal determination regarding compliance or non-compliance.

13. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, Cintex Wireless 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, including the Compliance Training Program, and ensuring that Cintex Wireless complies with the terms and conditions of the Compliance Plan and this Consent Decree. The Compliance Officer shall regularly assess the compliance efforts and performance of Cintex Wireless and any Covered Third Party. 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 Lifeline Rules prior to assuming his/her duties. The Compliance Officer's salary or bonus shall not be related in any manner to sales. Any vendor that Cintex Wireless uses to perform tasks associated with compliance with the Lifeline Rules will be subject to the Compliance Officer's oversight.

14. **Compliance Plan.** For purposes of settling the matters set forth herein, Cintex Wireless agrees that it shall, within sixty (60) calendar days after the Effective Date, develop and implement a Compliance Plan designed to ensure future compliance with the Lifeline Rules and with the terms and conditions of this Consent Decree. With respect to the Lifeline Rules, Cintex Wireless will implement, at a minimum, the following procedures:

- (a) **Operating Procedures.** Within sixty (60) calendar days after the Effective Date, Cintex Wireless shall establish Operating Procedures that all Covered Employees and Covered Third Parties must follow to help ensure Cintex Wireless's compliance with the Lifeline Rules. Cintex Wireless's Operating Procedures shall include internal procedures and policies specifically designed to ensure that applicants for Lifeline service and Covered Employees and Covered Third Parties have not violated the Commission's Rules prohibiting duplicate support. Cintex Wireless shall also develop a Compliance Checklist that describes the steps a Covered Employee and Covered Third Party must follow to ensure compliance with the Lifeline Rules, including those prohibiting duplicate support. Cintex Wireless's Operating Procedures also shall include the following:
 - i. Agent Identifiers: All Covered Employees and Covered Third Parties involved with sales, marketing, and/or enrollment of new Lifeline customers shall be required to have individual numerical codes or other identifiers, which must be recorded when a Covered Employee

²⁹ See 47 CFR § 1.93(b).

or Covered Third Party processes a Cintex Wireless Lifeline customer enrollment form.³⁰

- ii. Responsibility for Agents: Cintex Wireless will accept legal responsibility with respect to compliance with the Lifeline Rules for the sales, marketing, and/or enrollment activities of all Cintex Wireless Lifeline personnel and its Agents.
 - iii. Agent Phishing: All Covered Employees and Covered Third Parties shall be expressly prohibited from signing themselves up for Lifeline, or entering their own information into NLAD.
 - iv. Whistleblowers: Cintex Wireless will create procedures for Covered Employees and Covered Third Parties to anonymously report wrongdoing by the company by providing the Commission Whistleblower Hotline's phone number to all employees.
- (b) **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 and Covered Third Parties. The Compliance Manual shall explain the Lifeline Rules and set forth the Operating Procedures that Covered Employees and Covered Third Parties shall follow to help ensure Cintex Wireless's compliance with the Lifeline Rules. Cintex Wireless shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and accurate. Cintex Wireless shall distribute any revisions to the Compliance Manual promptly to all Covered Employees and Covered Third Parties.
- (c) **Compliance Training Program.** Cintex Wireless shall establish and implement a Compliance Training Program on compliance with the Lifeline Rules, including eligibility and self-certification requirements for Lifeline consumers, and the Operating Procedures. As part of the Compliance Training Program, Covered Employees shall be advised of Cintex Wireless's obligation to report any noncompliance with the Lifeline Rules under paragraph 15 of this Consent Decree and shall be instructed on how to disclose noncompliance to the Compliance Officer. All Covered Employees and Covered Third Parties 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 or Covered Third Party 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 or Covered Third Party and, in any event, before such person is permitted to engage in sales transactions. Cintex Wireless 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.

15. **Reporting Noncompliance.** Cintex Wireless shall report any noncompliance with the Lifeline 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 Cintex Wireless 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 the Cintex Wireless has taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted to the Chief, Investigations and Hearings Division, Enforcement

³⁰ When Cintex begins to use the National Lifeline Eligibility Verifier in a geographic area in which it provides Lifeline service, this obligation will be superseded.

Bureau, Federal Communications Commission, 445 12th Street, SW, Room 4-C224, Washington, DC 20554, with a copy submitted electronically to Jeffrey.Gee@fcc.gov, Kalun.Lee@fcc.gov and to Mindy.Littell@fcc.gov.

16. **Compliance Reports.** Cintex Wireless shall file compliance reports with the Commission one-hundred and twenty (120) 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 Cintex Wireless's efforts during the relevant period to comply with the terms and conditions of this Consent Decree and the Lifeline Rules. In addition, each Compliance Report shall include a certification by the Compliance Officer, as a representative of and on behalf of Cintex Wireless, stating that the Compliance Officer has personal knowledge that Cintex Wireless: (1) has established and implemented the Compliance Plan; (2) has utilized the Operating Procedures since the implementation of the Compliance Plan; and (3) 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 15 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.³¹
- (c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as a representative of and on behalf of Cintex Wireless, shall provide the Commission with a detailed explanation of the reason(s) why and describe fully: (1) each instance of noncompliance; (2) the steps that Cintex Wireless has taken or will take to remedy such noncompliance, including the schedule on which proposed remedial actions will be taken; and (3) the steps that Cintex Wireless 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 to the Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW, Room 4-C224, Washington, DC 20554, with a copy submitted electronically to Jeffrey.Gee@fcc.gov, Kalun.Lee@fcc.gov, and Mindy.Littell@fcc.gov.

17. **Termination Date.** The requirements set forth in paragraphs 13 through 16 of this Consent Decree shall expire thirty-six (36) months after the Effective Date.

18. **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 Act³² against Cintex Wireless 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 Cintex Wireless with the Communications Laws.

19. **Settlement Amount.** Cintex Wireless agrees to a settlement amount with a value of Fifty-Five Thousand Dollars (\$55,000), which it will pay to the United States Treasury within thirty (30)

³¹ 47 CFR § 1.16.

³² 47 U.S.C. § 208.

calendar days of the Effective Date. Cintex Wireless shall send electronic notification of the payment to the Chief, Investigations and Hearings Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW, Room 4-C224, Washington, DC 20554, with a copy submitted electronically to Jeffrey.Gee@fcc.gov, Kalun.Lee@fcc.gov, and Mindy.Littell@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 respective Account Number and FRN referenced above. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.³³ 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 that should be followed based on the form of payment selected:

- 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 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.

Questions regarding payment procedures should be addressed to the Financial Operations Group Help Desk by phone, 1-877-480-3201, or by e-mail, ARINQUIRIES@fcc.gov.

20. **Waivers.** As of the Effective Date, Cintex Wireless 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. Cintex Wireless 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 Consent Decree or the Adopting Order, neither Cintex Wireless nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and Cintex Wireless shall waive any statutory right to a trial de novo. Cintex Wireless hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act³⁴ relating to the matters addressed in this Consent Decree.

21. **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.

³³ An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

³⁴ See 5 U.S.C. § 504; 47 CFR §§ 1.1501–1.1530.

22. **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.

23. **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 Cintex Wireless does not expressly consent) that provision will be superseded by such Rule or Order.

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

25. **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.

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

27. **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.

28. **Authorized Representative.** Each Party represents and warrants to the other 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. **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.

Rosemary C. Harold, Chief
Enforcement Bureau

Date

Paul Greene
Chief Executive Officer
Cintex Wireless, LLC

Date

**STATEMENT OF
COMMISSIONER MIGNON L. CLYBURN
APPROVING IN PART AND DISSENTING IN PART**

Re: *Cintex Wireless, LLC*, Order, File No.: EB-IHD-13-00010671

Waste, fraud, and abuse must not be tolerated in any of our Universal Service programs, which is why I will vote to approve these consent decrees. This company has repaid what it wrongfully claimed from USF and voluntarily agreed to remit to the Treasury several multiples of the harm done to the Fund. This investigation and its overall finding represent an efficient use of the Commission's resources, and we eliminate uncertainty for these companies while strongly reinforcing our expectations of Lifeline providers.

However, I am forced to also register a dissent in this case, because while I believe the Commission should have taken strong and decisive action, the Enforcement Bureau under this Chairman continues to show bias. It essentially gives hall passes to large, well-known corporations when wrongdoing is found, while it fines little-known small businesses and individuals substantial sums of money for harms which are often substantially narrower. When a company or an individual violates our rules, they should be punished, but that punishment should fit the offense. Any wrongdoing committed by a provider that has accepted an obligation to serve the public, should be fairly and consistently met with forfeitures and negotiated settlements that are more than a mere slap on the wrist. Large corporations simply view relatively meager fines as a mere nuisance expense. My wish for the season? That we stop this seemingly preferential trend that consistently benefits one class of provider, and that the Commission's rules are vigorously and fairly enforced for all.

**RESPONSES TO FIRST SET OF INFORMATION REQUESTS BY THE
DEPARTMENT OF TELECOMMUNICATIONS AND
CABLE TO AIRVOICE WIRELESS, LLC
D.T.C. 22-2
October 11, 2022**

Exhibit 1-17

NewPhone Order and Consent Decree

5. **IT IS FURTHER ORDERED** that the above-captioned matter **IS TERMINATED** in accordance with the terms of the attached Consent Decree.

6. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by e-mail to Danielle Frappier, Esq., and Christopher Savage, Esq., Davis Wright Tremaine LLP, Counsel to NewPhone Wireless LLC, via e-mail at DanielleFrappier@dwt.com and ChrisSavage@dwt.com.

FEDERAL COMMUNICATIONS COMMISSION

Rosemary C. Harold
Chief
Enforcement Bureau

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of
NewPhone Wireless LLC
File No.: EB-IHD-20-00031449
CD Acct. No.: 202232080001
FRN: 0021322953

CONSENT DECREE

1. The Enforcement Bureau of the Federal Communications Commission and NewPhone Wireless LLC (NewPhone or Company), by their authorized representatives, hereby enter into this Consent Decree for the purpose of terminating the Bureau’s Investigation, as defined below, into whether NewPhone violated sections 54.404(b), 54.405(e), 54.407, 54.409, 54.410, and 54.417 of the Commission’s Lifeline Rules.1

2. The Bureau’s Investigation focused on whether NewPhone, as an eligible telecommunications carrier (ETC), claimed support from the Lifeline program of the Universal Service Fund (USF or Fund) for duplicate or otherwise ineligible subscribers by creating new enrollments using beneficiary data from existing customer accounts. To resolve this matter, NewPhone agrees to implement a compliance plan and make a \$100,000 settlement payment.

I. DEFINITIONS

- 3. For the purposes of this Consent Decree, the following definitions shall apply:
(a) ‘Act’ means the Communications Act of 1934, as amended.2
(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) ‘CD Acct No.’ means account number 202232080001, associated with payment obligations described in paragraph 20 of this Consent Decree.
(e) ‘Commission’ and ‘FCC’ mean the Federal Communications Commission and all of its bureaus and offices.
(f) ‘Communications Laws’ means collectively, the Act, the Rules, and the published and promulgated orders and decisions of the Commission to which NewPhone is subject by virtue of its business activities, including but not limited to the Lifeline Rules.

1 See 47 CFR §§ 54.404(b); 54.405(e); 54.407; 54.409; 54.410; 54.417.

2 47 U.S.C. § 151 et seq.

- (g) “Company” means NewPhone Wireless LLC, its agents (including Marketing Agents), 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 16.
- (i) “Covered Employees” means all employees and agents of NewPhone who perform, supervise, oversee, or manage the performance of, the duties that relate to NewPhone’s responsibilities under the Communications Laws, including the Lifeline Rules and the activities of the Company’s Marketing Agents.
- (j) “Effective Date” means the date by which both the Bureau and NewPhone have signed the Consent Decree and the Bureau has released an Adopting Order.
- (k) “ETC” means an eligible telecommunications carrier designated under, or operating pursuant to, section 214(e) of the Communications Act, as amended, 47 U.S.C. § 214(e), as eligible to offer and receive support for one or more services through federal universal low-income support mechanisms.
- (l) “Investigation” means the investigation commenced by the Bureau in File No. EB-IHD-20-00031449 regarding whether NewPhone violated the Lifeline Rules.
- (m) “Lifeline Rules” means Title 47, Code of Federal Regulations, sections 54.407(a), (c), 54.410(a), 54.410(b), and 54.410(c) of the Commission’s rules, and other provisions of the Act, the Rules, and Commission orders which provides that Lifeline ETCs may only claim Lifeline support for eligible, qualifying customers.
- (n) “LOI” means the Letter of Inquiry issued by the Bureau to NewPhone on September 23, 2021 in EB-IHD-20-00031449 in connection with the Company’s compliance with the Lifeline Rules.
- (o) “Marketing Agents” means all contractors and/or subcontractors acting on behalf of the Company with direct responsibility for the sales, marketing, enrollment of new customers, and other duties directly related to the Company’s responsibilities under the Lifeline Rules.
- (p) “Operating Procedures” means the standard internal operating procedures and compliance policies established by NewPhone to implement the Compliance Plan.
- (q) “Parties” means NewPhone and the Bureau, each of which is a “Party.”
- (r) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- (s) “NewPhone or Company” means NewPhone Wireless LLC and its affiliates, subsidiaries, predecessors-in-interest, and successors-in-interest.
- (t) “USAC” means the Universal Service Administrative Company, which serves as the administrator for the federal Universal Service Fund.³

II. BACKGROUND

4. *Legal Framework.* The Lifeline program was established in 1985 to ensure that low-income consumers had access to affordable, landline telephone service.⁴ In 2008, the Commission

³ See 47 CFR § 54.701.

⁴ See *MTS and WATS Market Structure and Amendment of Parts 67 & 69 of the Commission’s Rules and Establishment of a Joint Board*, Report and Order, 50 Fed. Reg. 939 (Jan. 8, 1985).

expanded the program to allow participation by non-facilities-based providers.⁵ Today, the Lifeline program has significantly grown to include discounts on voice or broadband Internet access services, as well as bundled service, to qualifying low-income consumers, ensuring that all Americans can take advantage of the benefits that voice and broadband Internet access service bring, including being able to connect to jobs, family, education, health care providers, and emergency services.⁶

5. Pursuant to the Act, in order to participate in the Lifeline program and receive federal universal service support for providing Lifeline service, a service provider must be designated as an ETC by either a state commission or the FCC if the ETC is not subject to the state commission's jurisdiction.⁷ Once designated, an ETC may receive federal Lifeline support in the applicable amount of support per month, per subscriber.⁸ ETCs are required to pass these discounts along to eligible low-income consumers.⁹ Pursuant to section 54.407 of the Commission's rules, in order to receive reimbursement for offering Lifeline, among other things, an ETC must certify "as part of each request for reimbursement that . . . [it] is in compliance with all of the [Commission's] rules"¹⁰ for the program.

6. The Commission's Lifeline rules establish specific requirements that ETCs must fulfill in order to claim and receive federal Lifeline support.¹¹ Section 54.407(a) of the Commission's rules states that Lifeline support shall be paid to an ETC "based on the number of actual qualifying low-income customers listed in the National Lifeline Accountability Database that the eligible telecommunications carrier serves directly as of the first of the month."¹² The key tenets of the rules prescribing which customers can be claimed by ETCs for discounted Lifeline service are: (1) disbursements of Lifeline support can only be based on the number of "actual qualifying low-income consumers" served by an ETC as that term is defined in Commission rules,¹³ (2) such qualifying low-income consumers must be served directly by the ETC as of the first day of the month, and (3) such consumers must have been determined to be eligible.¹⁴

⁵ See, e.g., *Petition of TracFone Wireless, Inc. for Forbearance*, Order, 20 FCC Rcd 15095 (2005); *TracFone Wireless, Inc., Petition for Designation as an Eligible Telecommunications Carrier in New York et al.*, Order, 23 FCC Rcd 6206 (2008).

⁶ See 47 CFR § 54.401(a) ("Lifeline means a non-transferable retail service offering . . . [t]hat provides qualifying low-income consumers with [reduced price] voice telephony service or broadband Internet access service. . . ."); 47 CFR § 54.401(b) (permitting Lifeline discounts to be applied to bundled services).

⁷ 47 U.S.C. § 254(e) ("[O]nly an eligible telecommunications carrier designated under section 214(e) . . . shall be eligible to receive specific Federal universal service support.").

⁸ 47 CFR § 54.403(a). An ETC providing voice service with broadband meeting the applicable minimum standards may claim \$9.25 per month, and it may receive up to an additional \$25 per month if the qualifying low-income consumer resides on Tribal lands. See 47 CFR §§ 54.403(a), 54.408.

⁹ See 47 CFR § 54.403(a); *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, Report and Order, 27 FCC Rcd at 6681, para. 53 (2012) (*2012 Lifeline Reform Order*).

¹⁰ 47 CFR § 54.407(d).

¹¹ See 47 CFR §§ 54.400 – 54.422.

¹² 47 CFR § 54.407(a).

¹³ *Id.*; see also 47 CFR §§ 54.409 (establishing the criteria to constitute a "qualifying low-income consumer"); 54.410(b)–(c) (establishing procedural requirements for determining whether a consumer is a qualifying low-income consumer).

¹⁴ 47 CFR §§ 54.400(a), 54.407(a), 54.409.

7. The Commission’s rules strictly prohibit an ETC from seeking reimbursement for a subscriber unless the ETC has confirmed that subscriber’s eligibility to receive Lifeline service.¹⁵ ETCs are required to “implement policies and procedures for ensuring that their Lifeline subscribers are eligible to receive Lifeline services.”¹⁶ In particular, ETCs must confirm that a consumer is an actual “qualifying low-income consumer” meeting the eligibility criteria set forth in the Commission’s rules.¹⁷ Section 54.409 requires Lifeline subscribers to meet certain income-based criteria.¹⁸ In addition, the consumer “must not already be receiving a Lifeline service” and cannot receive more than one Lifeline-supported service at a time, either individually or within a group of individuals who live together at the same address as one economic unit (defined in the Commission’s rules as a “household”).¹⁹ In other words, the Commission’s rules prohibit a consumer from receiving duplicate support.²⁰ Moreover, pursuant to section 54.410(d) of the Commission’s rules, ETCs must ensure that a prospective subscriber has certified his/her eligibility to receive Lifeline service.²¹

8. USAC is the administrator of the federal universal service programs, including Lifeline.²² As the administrator, USAC collects and distributes universal service funds. In the 2012 *Lifeline Reform Order*, the Commission established the National Lifeline Accountability Database (NLAD), a system used by USAC to receive and process subscriber data and prevent ETCs from enrolling a new subscriber without first confirming that the subscriber or someone in the subscriber’s household does not already receive Lifeline service.²³ In late 2019, the Commission began launching the National Lifeline Eligibility Verifier in a phased introduction in states and territories.²⁴ Beginning on January 22, 2020, the

¹⁵ See 47 CFR §§ 54.410(b)(1)(i), (c)(1)(i).

¹⁶ *Id.* at § 54.410(a).

¹⁷ *Id.* at § 54.409(c).

¹⁸ *Id.* at §§ 54.400(a), 54.409.

¹⁹ *Id.* at § 54.409(c).

²⁰ *Id.* at §§ 54.400(h); 54.409(c). Since 2011, the Commission has addressed potential waste, fraud, and abuse in Lifeline by preventing duplicate payments for multiple Lifeline-supported services to the same individual. See, e.g., *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, Report and Order, 26 FCC Rcd 9022–23, 9026, paras. 1, 7 (2011) (*Lifeline Duplicates Order*) (clarifying that each eligible Lifeline consumer is entitled to only one Lifeline benefit); *2012 Lifeline Reform Order*, 27 FCC Rcd at 6662–67, paras. 11–18, and 6689, para. 74, n.192 (emphasizing the restriction on duplicates and moving the rule from section 54.401(a) to revised section 54.409(c)); *Lifeline and Link Up Reform and Modernization*, WC Docket No. 11-42, Order, 28 FCC Rcd 9057 (WCB 2013) (*2013 Lifeline Reform Order*) (codifying the requirement that ETCs verify a Lifeline subscriber’s eligibility before activating service); see also *Bridging the Digital Divide for Low-Income Consumers, Lifeline and Link Up Reform and Modernization*, WC Docket Nos. 17-287, 11-42, 09-197, Fifth Report and Order, 34 FCC Rcd 10886, 10922-24, paras 87-91 (2019) (*2019 Lifeline Reform Order*) (adopting enrollment process improvements to assist USAC’s efforts to detect improper duplicate addresses among Lifeline subscribers in the NLAD).

²¹ 47 CFR § 54.410(d).

²² See 47 CFR §§ 54.701(a), 54.702(b).

²³ See *2012 Lifeline Reform Order*, 27 FCC Rcd at 6734, para. 179; 47 CFR §§ 54.404(b) (prescribing steps for ETCs to check NLAD to determine whether providing a prospective subscriber for the Lifeline program would result in duplicative support); see also *Wireline Competition Bureau Clarifies Minimum Requirements for States Seeking to Opt-Out of National Lifeline Accountability Database*, Pub. Notice, 27 FCC Rcd 12321 (WCB 2012).

²⁴ See *Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42, Third Report and Order, Further Report and Order, and Order on Reconsideration, 31 FCC Rcd 3962, 4021, para. 165 (2016).

Commission required Lifeline ETCs in Louisiana to begin using the National Verifier's eligibility determination process for all consumers applying for Lifeline service.²⁵

9. *Factual Background.* NewPhone is a Louisiana limited liability company headquartered in Houston, Texas.²⁶ The Company has resold mobile wireless Lifeline service since 2012 exclusively in Louisiana.²⁷ USAC referred this matter to the Bureau on August 25, 2020, concerning NewPhone's apparent claims for ineligible Lifeline subscribers between August 2018 and June 2020, with a majority of the claims occurring in 2020. The claims appeared to involve duplicate or otherwise ineligible accounts that used beneficiary data from other existing Lifeline customers.

10. On September 23, 2020 the Bureau issued NewPhone an LOI to obtain information about the claims.²⁸ NewPhone filed its response to the LOI on November 23, 2021.²⁹ Within weeks after USAC notified NewPhone of the apparently improper use of beneficiary data, the Company terminated its relationship with the Marketing Agents involved in the enrollments.³⁰ USAC worked with NewPhone from early August through October 2020 to address the issues raised by the claims.³¹ On October 30, 2020, NewPhone submitted revised claims which USAC agreed addressed the full amount at issue in its investigation. Because USAC determined NewPhone had promptly submitted revised claims in the full amount USAC sought, there was no need to issue a recovery letter. NewPhone and the Bureau enter into this Consent Decree and agree to the following terms and conditions.

III. TERMS OF AGREEMENT

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

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

13. **Effective Date; Violations.** 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.

14. **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, NewPhone agrees to the terms, conditions, and procedures contained herein. The Bureau 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 any new proceeding on its own motion against NewPhone concerning the matters that were the subject of the Investigation, or to set for hearing the

²⁵ See *Wireline Competition Bureau Announces the Launch of the National Lifeline Eligibility Verifier for All New Enrollments in Nine States*, Pub. Notice, 34 FCC Rcd 12300 (WCB 2019).

²⁶ See Letter from Danielle Frappier and Christopher Savage, Counsel for NewPhone Wireless LLC, to Jeffrey J. Gee, Chief, Investigations & Hearings Division, FCC Enforcement Bureau, at 2 (Nov. 23, 2020) (LOI Response) (on file in EB-IHD-20-00031449).

²⁷ *Id.* at 3.

²⁸ Letter from Jeffrey J. Gee, Chief, Investigations & Hearings Division, FCC Enforcement Bureau, to Henry Hung Do, President/CEO, and Thuy Nguyen, Controller, NewPhone Wireless LLC (Sept. 23, 2020) (LOI) (on file in EB-IHD-20-00031449).

²⁹ LOI Response, *supra* note 26.

³⁰ *Id.* at 11.

³¹ *Id.* at 7.

question of NewPhone's basic qualifications to be a Commission licensee or hold Commission licenses or authorizations based on the matters that were the subject of the Investigation.³²

15. **Compliance Officer.** Within thirty (30) calendar days after the Effective Date, NewPhone 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 NewPhone 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 Lifeline Rules prior to assuming his/her duties.

16. **Compliance Plan.** For purposes of settling the matters set forth herein, NewPhone agrees that it shall, within ninety (90) calendar days after the Effective Date, develop and implement a Compliance Plan designed to ensure future compliance with the Communications Laws and with the terms and conditions of this Consent Decree. With respect to the Lifeline Rules, NewPhone will implement, at a minimum, the following procedures:

- (a) **Operating Procedures.** Within ninety (90) calendar days after the Effective Date, NewPhone shall establish Operating Procedures that all Covered Employees must follow to help ensure NewPhone's compliance with the Lifeline Rules. NewPhone's Operating Procedures shall include internal procedures and policies specifically designed to ensure that the Company complies with the Lifeline Rules. NewPhone shall also develop a Compliance Checklist that describes the steps that a Covered Employee must follow to ensure compliance with the Lifeline Rules.
- (b) **Compliance Manual.** Within ninety (90) 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 Lifeline Rules and set forth the Operating Procedures that Covered Employees shall follow to help ensure NewPhone's compliance with the Lifeline Rules. NewPhone shall periodically review and revise the Compliance Manual as necessary to ensure that the information set forth therein remains current and accurate. NewPhone shall distribute any revisions to the Compliance Manual promptly to all Covered Employees.
- (c) **Compliance Training Program.** NewPhone shall establish and implement a Compliance Training Program on compliance with the Lifeline Rules and the Operating Procedures. As part of the Compliance Training Program, Covered Employees shall be advised of NewPhone's obligation to report any noncompliance with the Lifeline Rules under paragraph 17 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 one hundred twenty (120) 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. NewPhone 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.

³² See 47 CFR § 1.93(b).

17. **Reporting Noncompliance.** NewPhone shall report any noncompliance with the Lifeline 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 NewPhone 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 NewPhone has 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 & Hearings Division, Enforcement Bureau, Federal Communications Commission, 45 L Street, N.E., Washington, D.C. 20554, Jeffrey.Gee@fcc.gov, with copies submitted electronically to Mindy.Littell@fcc.gov and EnforcementBureauIHD@fcc.gov.

18. **Compliance Reports.** NewPhone 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 NewPhone's efforts during the relevant period to comply with the terms and conditions of this Consent Decree and the Lifeline Rules. In addition, each Compliance Report shall include a certification by the Compliance Officer, as an agent of and on behalf of NewPhone, stating that the Compliance Officer has personal knowledge that NewPhone: (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 17 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.³³
- (c) If the Compliance Officer cannot provide the requisite certification, the Compliance Officer, as an agent of and on behalf of NewPhone, 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 NewPhone 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 NewPhone 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 & Hearings Division, Enforcement Bureau, Federal Communications Commission, 45 L Street, N.E., Washington, D.C. 20554, Jeffrey.Gee@fcc.gov, with copies submitted electronically to Mindy.Littell@fcc.gov and EnforcementBureauIHD@fcc.gov.

19. **Termination Date.** Unless stated otherwise, the requirements set forth in paragraphs 15 through 18 of this Consent Decree shall expire thirty-six (36) months after the Effective Date.

20. **Settlement Payment.** NewPhone will pay a Settlement Payment to the United States Treasury in the amount of one hundred thousand dollars (\$100,000) within thirty (30) calendar days of the Effective Date. NewPhone acknowledges and agrees that upon execution of this Consent Decree, the

³³ 47 CFR § 1.16.

Settlement Payment shall become a “Claim” or “Debt” as defined in 31 U.S.C. § 3701(b)(1).³⁴ Upon an Event of Default, all procedures for collection as permitted by law may, at the Commission’s discretion, be initiated. NewPhone shall send electronic notification of payment to Jeffrey.Gee@fcc.gov, Mindy.Littell@fcc.gov, and EnforcementBureauHD@fcc.gov on the date said payment is made. Payment of the Settlement Payment must be made by credit card, ACH (Automated Clearing House) debit from a bank account, or by wire transfer using the Commission’s Registration System (the Commission’s FRN Management and Financial system).³⁵ 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:³⁶

- Payment by wire transfer must be made to ABA Number 021030004, receiving bank TREAS/NYC, and Account Number 27000001. A completed Form 159 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.³⁷ Failure to provide all required information in Form 159 may result in payment not being recognized as having been received. When completing FCC Form 159, 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).³⁸ 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 the Commission’s Registration System (CORES) at <https://apps.fcc.gov/cores/userLogin.do>. To pay by credit card, 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” 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 the Commission’s Registration System (CORES) at <https://apps.fcc.gov/cores/paymentFrnLogin.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

³⁴ Debt Collection Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321, 1358 (Apr. 26, 1996).

³⁵ Payments made using CORES do not require the submission of an FCC Form 159.

³⁶ For questions regarding payment procedures, please contact the Financial Operations Group Help Desk by phone at 1-877-480-3201 (option #6), or by e-mail at ARINQUIRIES@fcc.gov.

³⁷ FCC Form 159 is accessible at <https://www.fcc.gov/licensing-databases/fees/fcc-remittance-advice-form-159>.

³⁸ Instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

verify with that financial institution that the designated account has authorization to accept ACH transactions.

21. **Event of Default.** NewPhone agrees that an Event of Default shall occur upon the failure by NewPhone to pay the full amount of the Settlement Payment on or before the due date specified in this Consent Decree.

22. **Interest, Charges for Collection, and Acceleration of Maturity Date.** 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 NewPhone.

23. **Waivers.** As of the Effective Date, NewPhone 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. NewPhone 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 Consent Decree or the Adopting Order, neither NewPhone nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and NewPhone shall waive any statutory right to a trial *de novo*. NewPhone hereby agrees to waive any claims it may otherwise have under the Equal Access to Justice Act³⁹ relating to the matters addressed in this Consent Decree.

24. **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.

25. **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.

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

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

28. **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.

³⁹ See 5 U.S.C. § 504; 47 CFR §§ 1.1501–1.1530.

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

30. **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.

31. **Authorized Representative.** Each Party represents and warrants to the other 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.

32. **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.

Rosemary C. Harold
Chief
Enforcement Bureau

Date

Henry Hung Do
President and Chief Executive Officer
NewPhone Wireless LLC

Date

**BEFORE THE
MASSACHUSETTS DEPARTMENT OF TELECOMMUNICATIONS AND CABLE**

In the Matter of AirVoice Wireless, LLC's)	
Petition for Limited Designation as an Eligible)	
Telecommunications Carrier in Massachusetts)	D.T.C. 22-2
for the Limited Purpose of Offering Wireless)	
Lifeline Service to Qualified Households)	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing documents upon all persons in the service list compiled by the Secretary of the Department in this proceeding and all parties of record in accordance with the requirements of 207 CMR 1.05(1) (Department's Procedural Rules).

Dated at Alpharetta, Georgia this 11th day of October, 2022.

s/ Heather Kirby

Heather Kirby
Regulatory Specialist
Lance J.M. Steinhart, P.C.

D.T.C. 22-2 Service List

Petition of AirVoice Wireless, LLC d/b/a AirTalk Wireless for Designation as an Eligible Telecommunications Carrier

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