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FEDERAL TRADE COMMISSION
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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION
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13 FEDERAL TRADE COMMISSION,
14 Plaintiff,
15 v.

16 TRACFONE WIRELESS, INC., also d/b/a
17 STRAIGHT TALK WIRELESS, NET10
WIRELESS, SIMPLE MOBILE, and
18 TELCEL AMERICA,
19 Defendant.

Case No.: _____

**STIPULATED ORDER FOR
PERMANENT INJUNCTION AND
MONETARY JUDGMENT**

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ORDER

I. PROHIBITION AGAINST DECEPTIVE ADVERTISING OF MOBILE DATA PLANS

IT IS ORDERED that TracFone, TracFone’s officers, agents, servants, and employees, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the advertising or sale of any Mobile Data Plan, are permanently restrained and enjoined from, expressly or by implication:

- A. making a representation about the amount of Mobile Data, including that the Mobile Data is unlimited, without disclosing Clearly and Conspicuously, and in Close Proximity to the representation, all material restrictions on the amount and speed of the Mobile Data; or
- B. misrepresenting the performance or central characteristics of the Mobile Data Plan.

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1 Private Class Actions, including:

- 2 i. The notice and claims procedures;
- 3 ii. The settlement administrator; and
- 4 iii. The allocation of settlement funds among class members.

5 The FTC may not withhold approval unreasonably.

6 2. In the Private Class Actions,

- 7 i. The proposed order for preliminary approval of class action settlement is
- 8 filed within 30 days of entry of this Order; and
- 9 ii. A final settlement agreement is approved by the court within 9 months of
- 10 entry of this Order.

11 The FTC and TracFone agree to work together in good faith to extend this schedule if the court
12 requires additional time to approve a final settlement agreement.

13 B. If, as determined by a representative of the FTC, any of the conditions of Sections III.A.1
14 and III.A.2 of this Order are not met, or, if money remains after administering redress under
15 Section III.A of this Order, the FTC will have sole discretion, as provided under Section II.G of
16 this Order, as to the use of any remaining money paid to the FTC pursuant to this Order.

17 **IV. COOPERATION**

18 IT IS FURTHER ORDERED that TracFone must fully cooperate with representatives of
19 the FTC to provide consumer redress.

20 A. TracFone represents that it has provided, to the extent the information is available,
21 sufficient customer information to a settlement administrator approved by a representative of the
22 FTC to enable the settlement administrator to efficiently administer consumer redress. TracFone
23 agrees to provide within 14 days, upon written request of the settlement administrator, any
24 additional information related to redress to the extent the information is available, in the form
25 prescribed by the settlement administrator. The settlement administrator may not at any time be
26 an agent of the FTC, or any other governmental entity, for purposes of possession, custody, or
27 control of the customer information.

28 B. If, as determined by a representative of the FTC, any of the conditions of Sections III.A.1

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1 Acknowledgment obtained pursuant to this Order, unless previously submitted to the FTC.

2 B. For 10 years after entry of this Order, TracFone must submit a compliance notice, sworn
3 under penalty of perjury, within 14 days of any change in the following: (1) any designated point
4 of contact; or (2) the structure of TracFone or any entity that TracFone has any ownership interest
5 in or controls directly or indirectly that may affect compliance obligations arising under this
6 Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or
7 affiliate that engages in any acts or practices subject to this Order.

8 C. TracFone must submit to the FTC notice of the filing of any bankruptcy petition,
9 insolvency proceeding, or similar proceeding by or against TracFone within 14 days of its filing.

10 D. Any submission to the FTC required by this Order to be sworn under penalty of perjury
11 must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: “I declare
12 under penalty of perjury under the laws of the United States of America that the foregoing is true
13 and correct. Executed on: _____” and supplying the date, signatory’s full name, title (if
14 applicable), and signature.

15 E. Unless otherwise directed by a FTC representative in writing, all submissions to the FTC
16 pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the
17 U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection,
18 Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject
19 line must begin: FTC v. TracFone Wireless, Inc.

20 **VII. RECORDKEEPING**

21 IT IS FURTHER ORDERED that TracFone must create certain records for 10 years after
22 entry of the Order, except as specified in Subsection D below, and retain each such record for 5
23 years. Specifically, TracFone must create and retain the following records in connection with the
24 advertising or sale of any Mobile Data Plan:

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1 C. All records necessary to demonstrate full compliance with each provision of this Order,
2 including all submissions to the FTC; and

3 D. A copy of each unique advertisement or other marketing material subject to this Order,
4 which TracFone must create for 6 years after entry of the Order.

5 **VIII. COMPLIANCE MONITORING**

6 IT IS FURTHER ORDERED that, for the purpose of monitoring TracFone’s compliance
7 with this Order, including any failure to transfer any assets as required by this Order:

8 A. Within 14 days of receipt of a written request from a representative of the FTC, TracFone
9 must: submit additional compliance reports or other requested information, which must be sworn
10 under penalty of perjury; appear for depositions; and produce documents for inspection and
11 copying. The FTC is also authorized to obtain discovery, without further leave of court, using
12 any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including
13 telephonic depositions), 31, 33, 34, 36, 45, and 69. Provided, however, that TracFone, after
14 attempting to resolve a dispute without court action and for good cause shown, may file a motion
15 with this Court seeking an order for one or more of the protections set forth in Rule 26(c).

16 B. For matters concerning this Order, the FTC is authorized to communicate directly with
17 TracFone. TracFone must permit representatives of the FTC to interview any employee or other
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2 || **EXHIBIT:**

3 *S. Spencer Elg*
4 S. Spencer Elg
Timothy A. Butler

Date: _____

