

Before the  
Federal Communications Commission  
Washington, DC 20554

In the Matter of	)	
	)	
Purple Communications, Inc.	)	File No.: EB-TCD-12-00000376
	)	Acct. No.: 201432170007
	)	FRN: 0015419872
	)	
Purple Communications, Inc.	)	File No.: EB-TCD-15-00020486
	)	Acct. No.: 201732170005
	)	FRN: 0015419872
	)	
CSDVRS, LLC	)	File No.: EB-TCD-15-00020485
	)	Acct. No.: 201732170004
	)	FRN: 0016043143

**ORDER**

**Adopted: February 13, 2017**

**Released: February 15, 2017**

By the Commission: Commissioner O’Rielly issuing a statement.

1. The Federal Communications Commission has entered into a Consent Decree with Purple Communications, Inc. (Purple), CSDVRS, LLC (CSDVRS), and their parent company, ZVRS Holding Company (ZVRS Holding)<sup>1</sup> to resolve pending enforcement matters involving Purple and CSDVRS.

2. After reviewing the terms of the Consent Decree and evaluating the facts before us, we find that the public interest would be served by adopting the Consent Decree and terminating the referenced investigations regarding Purple’s and CSDVRS’ compliance with the Commission’s TRS Rules, including implementing a reasonable verification process, and submitting accurate data to the TRS Fund, Section 225 of the Communications Act of 1934, as amended (Act)<sup>2</sup>, and Sections 64.601 *et seq.* of the Commission’s rules (Rules).<sup>3</sup>

3. Our authority to adopt such a consent decree stems from our authority under Section 4(i) of the Communications Act to “perform any and all acts . . . and issue such orders . . . as may be necessary in the execution of [the Commission’s] functions.”<sup>4</sup> We affirmatively find it necessary to adopt a consent decree to execute our function of enforcing violations of the Communications Act and our Rules. We make clear that, as the resolution of a particular dispute with the consent of both parties, this consent decree has no precedential effect on third parties.

4. In the absence of material new evidence relating to these matters, we do not set for hearing the question of Purple’s or CSDVRS’ basic qualifications to hold or obtain any Commission license or authorization.<sup>5</sup>

<sup>1</sup> ZVRS acquired Purple Communications, Inc. in February 2017.

<sup>2</sup> 47 U.S.C. § 225.

<sup>3</sup> 47 CFR § 64.601 *et seq.*

<sup>4</sup> 47 U.S.C. § 154(i).

<sup>5</sup> *See* 47 CFR § 1.93(b).

5. Accordingly, **IT IS ORDERED** that, pursuant to Sections 4(i) and 503(b) of the Act,<sup>6</sup> the attached Consent Decree **IS ADOPTED** and its terms incorporated by reference.

6. **IT IS FURTHER ORDERED** that the above-captioned matters **ARE TERMINATED** in accordance with the terms of the attached Consent Decree and that, pursuant to paragraph 14 of the Consent Decree, Purple's Applications for Review<sup>7</sup> are **DISMISSED**.

7. **IT IS FURTHER ORDERED** that a copy of this Order and Consent Decree shall be sent by first class mail and certified mail, return receipt requested, to Jennifer Richter, Attorney, Akin Gump Strauss Hauer & Feld LLP, 1333 New Hampshire Avenue, NW, Washington, DC, 20036.

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch  
Secretary

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<sup>6</sup> 47 U.S.C. §§ 154(i), 503(b).

<sup>7</sup> Application for Review of Demand for Repayment of TRS Funds by Purple Communications, Inc. (filed Feb. 26, 2014); Application for Review of Demand for Repayment of TRS Funds by Purple Communications, Inc. (filed Jul. 25, 2014).

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CSDVRS, LLC	)	File No.: EB-TCD-15-00020485
	)	Acct. No.: 201732170004
	)	FRN: 0016043143

**CONSENT DECREE**

1. The Federal Communications Commission (Commission) and ZVRS Holding Company (ZVRS Holding), Purple Communications, Inc. (Purple), and CSDVRS, LLC (CSDVRS), by their authorized representatives, hereby enter into this Consent Decree for the purpose of settling the above referenced matters.

**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.<sup>1</sup>
  - (b) “Adopting Order” means an order of the Commission 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) “Call Data” means the specific data associated with each TRS call for which compensation is sought.
  - (e) “Call Detail Records” or “CDRs” means the record of all Call Data TRS Providers submit to the TRS Fund Administrator in seeking compensation from the TRS Fund for calls handled during a specific period.<sup>2</sup>
  - (f) “Commission” and “FCC” mean the Federal Communications Commission and any or 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 the Companies are subject by virtue of their business activities.
  - (h) “Companies” mean ZVRS Holding, Purple, and CSDVRS.

<sup>1</sup> 47 U.S.C. § 151 *et seq.*

<sup>2</sup> See 47 CFR § 64.604(c)(5)(iii)(D)(2).

- (i) “Compliance Plan” means the compliance obligations, programs, and procedures described in this Consent Decree.
- (j) “Covered Personnel” means all employees, independent contractors, subcontractors and agents of the Companies, who perform or directly supervise, oversee, or manage the performance of duties required to meet the Companies’ responsibilities under, and compliance with, this Consent Decree, the Communications Laws, and the TRS Rules.
- (k) “CSDVRS” shall mean CSDVRS, LLC, d/b/a/ ZVRS, its parent, subsidiaries, and successors in interest.
- (l) “Default Provider” shall have the same meaning as the term is defined in 47 CFR § 64.601(a)(11).
- (m) “Effective Date” means the date by which all of the following have been accomplished: (i) the Bureau and the Companies have signed the Consent Decree; (ii) the Companies have signed and delivered the Promissory Note to the Commission; (iii) the Kinderhook Funds have signed and delivered to the Commission the guarantee referred to in paragraphs 24 and 25 of this Consent Decree; and (iv) release by the Commission of the Adopting Order adopting this Consent Decree.
- (n) “Enterprise Customer” shall mean businesses, organizations and/or facilities including but not limited to hospitals, schools, government agencies and correctional institutions that have videophone equipment and/or software used for VRS assigned to the entity and not assigned to a Registered Internet-based TRS user.
- (o) “Internet-based TRS” or “iTRS” shall have the same meaning as the term is defined in 47 CFR § 64.601(a)(15).
- (p) “Investigations” means the investigation of Purple commenced by the Bureau in File No. EB-TCD-12-00000376 regarding the apparent violation of the *Second Internet-Based TRS Order* and 47 CFR § 64.604(c)(5)(iii)(D), the investigation of CSDVRS commenced by the Bureau in EB-TCD-15-00020485 and Purple Communications, Inc. commenced by the Bureau in EB-TCD-15-00020486 regarding Purple’s and CSDVRS’s compliance with the TRS Rules.
- (q) “Operating Procedures” means the standard internal operating procedures and all compliance policies and procedures established by the Companies to implement the Compliance Plan.
- (r) “Parties” means the Companies, and the Commission, each of which is a “Party.”
- (s) “Person” shall have the same meaning as the term is defined in 47 U.S.C. § 153(39).
- (t) “Promissory Note” shall mean the debt instrument signed by Purple, CSDVRS, and ZVRS Holding whereby the Companies agree to pay to the order of the Commission the amount of \$4,000,000 plus accrued interest.
- (u) “Providers” shall mean entities who are eligible to receive compensation from the TRS Fund for providing compensable TRS service.
- (v) “Purple” shall mean Purple Communications, Inc., its parent, subsidiaries, and successors in interest.
- (w) “Registered Internet-based TRS User” or “Registered User” shall have the same meaning as is defined in 47 CFR § 64.601(a)(27).

- (x) “Request for Reimbursement” shall mean the monthly submission TRS Providers make to the TRS Fund Administrator for reimbursements for the costs of handling TRS calls.<sup>3</sup>
- (y) “Rules” means the Commission’s regulations found in Title 47 of the Code of Federal Regulations.
- (z) “Self-Certification” or “Self-Certification of Eligibility” shall mean a written attestation from a Registered User meeting the requirements of 47 CFR § 64.611(a)(3)(ii)-(iii).
- (aa) “Subsidiaries” shall mean any Person which is subject to the TRS Rules by virtue of its business activities and ZVRS Holding owns at least a majority of the shares and has control, de facto or de jure.
- (bb) “Telecommunications Relay Service” or “TRS” shall have the same meaning as the term is defined in 47 CFR § 64.601(a)(32).
- (cc) “Ten-digit Number” or “TDN” shall mean a geographically appropriate North American Numbering Plan number assigned to a Registered User of Video Relay Service.
- (dd) “TRS Fund” or “Fund” shall mean the fund used to compensate Providers for their reasonable costs of providing interstate relay service and Internet-based forms of TRS, which include interstate and intrastate relay calls.<sup>4</sup>
- (ee) “TRS Fund Administrator” shall mean the entity designated by the Commission to administer the TRS Fund.<sup>5</sup>
- (ff) “TRS Numbering Administrator” shall have the same meaning as the term is defined in 47 CFR § 64.601(a)(35).
- (gg) “TRS Numbering Directory” shall have the same meaning as the term is defined in 47 CFR § 64.601(a)(36).
- (hh) “TRS Rules” means the regulations set forth at 47 CFR §§ 64.601 through 64.636 and §§ 5101 through 5111, Commission orders implementing and interpreting 47 U.S.C. § 225 of the Act, and any other Rules and orders applicable to iTRS Providers.
- (ii) “TRS User Registration Database” or “TRS-URD” shall have the same meaning as the term is defined in 47 CFR § 64.601(a)(37).
- (jj) “User Account” shall mean information collected and maintained about a Registered Internet-based TRS User by a Default Provider, including, but not limited to, a Registered User’s name, mailing address, assigned Ten-digit Number, IP address, provider generated account number, e-mail address, and password.
- (kk) “Video Relay Service” or “VRS” shall have the same meaning as the term is defined in 47 CFR § 64.601(a)(40).
- (ll) “Work Number” means a ten-digit number associated with Covered Personnel that is designated for a place of business.

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<sup>3</sup> See 47 CFR § 64.604(c)(5)(iii)(D)(I).

<sup>4</sup> See 47 CFR § 64.604(c)(5)(iii).

<sup>5</sup> See *id.*

- (mm) “ZVRS Holding Company” or “ZVRS Holding” shall mean a holding company owned by ZP 2016 Holdings, LLC, any successors and assigns of ZVRS Holding Company, and any Person controlled (de facto or de jure) by ZVRS Holding Company that provides iTRS.

## II. BACKGROUND

3. Internet-based TRS (iTRS) allows users with a hearing or speech disability to communicate with hearing persons via a communications assistant (CA) using an Internet Protocol-enabled device via the Internet.<sup>6</sup> There are currently three forms of iTRS—Video Relay Service (VRS), Internet Protocol Relay Service (IP Relay), and Internet Protocol Captioned Telephone Service (IP CTS). To be compensated from the TRS Fund for the reasonable costs incurred in providing service to eligible users, iTRS Providers must be certified by the Commission, provide iTRS in accordance with the TRS Rules, and submit “true and adequate data” to TRS Fund Administrator.<sup>7</sup>

4. Since May 2008, iTRS users have been required to register with an iTRS Provider to use VRS and IP Relay.<sup>8</sup> Once the iTRS Provider verifies the information the user provides during registration and obtains a Self-Certification stating that the user is eligible to use iTRS, the iTRS Provider will assign the Registered User a Ten-digit Number (TDN),<sup>9</sup> and then the iTRS Provider becomes the Registered User’s Default Provider.<sup>10</sup> The Default Provider is required to maintain the confidentiality of all registration information except where disclosure is required by law.<sup>11</sup>

5. The Commission has taken additional steps to detect and prevent waste, fraud, and abuse in the TRS Fund. For example, the Commission adopted the verification requirement to eliminate the anonymity that facilitated the misuse of IP Relay.<sup>12</sup> In 2011, the Commission made it unlawful for Providers to compensate, give preferential work schedules, or otherwise reward CAs based upon the number of VRS minutes or calls relayed.<sup>13</sup>

6. In 2013, the Commission adopted widespread reforms that imposed many new requirements on VRS Providers.<sup>14</sup> The reforms were intended to ensure that VRS continues to be

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<sup>6</sup> See 47 CFR § 64.601 (a)(15).

<sup>7</sup> 47 CFR § 64.604(c)(5)(iii)(D)(1). Data submitted to the TRS Fund Administrator is also used to determine TRS Fund revenue requirements and the per-minute compensation rate. TRS Providers are also required to retain all data to support claims for payment from the TRS Fund for five years. See 47 CFR § 64.604(c)(5)(iii)(D)(7). The TRS Fund Administrator and the Commission have the authority to examine and verify TRS provider data as necessary to assure the accuracy and integrity of TRS Fund payments. 47 CFR § 64.604(c)(5)(iii)(D)(6).

<sup>8</sup> *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, E911 Requirements for IP-Enabled Service Providers*, Second Report and Order and Order on Reconsideration, 24 FCC Rcd 791, 792, para. 1 (2008) (*Second Internet-Based TRS Order*) (collectively, with the *First Internet-Based TRS Order*, the *iTRS Numbering Orders*).

<sup>9</sup> The TDN allows iTRS users to be called in the same manner that voice telephone users are called. The TDN also enables emergency calls placed by iTRS users to be routed directly and automatically to the appropriate emergency services authority or public-safety answering point (PSAP) by iTRS Providers.

<sup>10</sup> The user may choose to subsequently port his or her TDN to another iTRS provider. The new iTRS provider then becomes the user’s Default Provider and must fulfill all of the requirements of the Default Provider.

<sup>11</sup> See 47 CFR § 64.611(a)(3)(iv).

<sup>12</sup> See 47 CFR § 64.615(a)(5).

<sup>13</sup> See 47 CFR § 64.604(c)(5)(iii)(N)(3).

<sup>14</sup> See *Structure and Practices of the Video Relay Service Program, Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities*, CG Docket Nos. 10-51, 03-123, Report and Order and Further Notice of Proposed Rulemaking, 28 FCC Rcd 8618 (2013) (*2013 VRS Reform Order*).

available to those who need it, while protecting the service and the TRS Fund from certain improper practices that harm both the service and the Fund. For example, to ensure that VRS registration is limited to eligible individuals with a hearing or speech disability, the Commission directed the development and implementation of a TRS User Registration Database (TRS-URD) and adopted a centralized eligibility verification requirement which required VRS Providers to collect and submit the last four digits of the Social Security number of individuals registering for VRS service.<sup>15</sup>

7. Purple is an iTRS provider based in Rocklin, California and certified by the Commission to provide VRS, IP Relay, and IP CTS.<sup>16</sup> In May 2014, the Commission issued an order which proposed an \$11.9 million fine against Purple for failing to implement a reasonable verification process and improperly billing the TRS Fund for calls associated with unverified IP Relay users in apparent violation of the *Second Internet-Based TRS Order* and Section 64.604(c)(5)(iii)(D) of the TRS Rules.<sup>17</sup> In December 2015, the Commission denied Purple's request for cancellation or reduction of the proposed forfeiture and fined Purple \$11.9 million.<sup>18</sup>

8. CSDVRS, LLC is an iTRS provider based in Clearwater, Florida and certified by the Commission to provide only VRS.<sup>19</sup> In February 2015, ZVRS Holding acquired CSDVRS. In December

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<sup>15</sup> See *2013 VRS Reform Order*, 28 FCC Rcd at 8680; 47 CFR § 64.611(a)(4); see also *infra* note 23 (noting that the TRS-URD is not yet operational and Purple and CSDVRS are required to submit information to the TRS-URD within 60 days of the Commission's notice to Providers that the TRS-URD is ready to accept information).

<sup>16</sup> See *Notice of Conditional Grant of Application of Purple Communications, Inc., for Recertification as a Provider of Video Relay Service and Internet Protocol Relay Service Eligible for Compensation from the Interstate Telecommunications Relay Service (TRS) Fund*, Public Notice, 27 FCC Rcd 112 (CGB 2012); *Notice of Grant of Conditional Certification for Purple Communications, Inc., to Provide Internet Protocol Captioned Telephone Service*, CG Docket Nos. 03-123 and 10-51, Public Notice, 29 FCC Rcd 13728 (CGB 2014) (extending Purple's IP CTS certification for 5 years); *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities; Structure and Practices of the Video Relay Service Program; Purple Communications, Inc.; Application for Certification to Provide Internet Protocol Captioned Telephone Service*, CG Docket Nos. 10-51 and 03-123, Order, 29 FCC Rcd 14889 (CGB 2014) (lifting the conditions imposed in an earlier Public Notice). In October 2014, Purple notified the Commission that, as of November 2014, the Company was terminating its provision of IP Relay. See Letter from John Cannon, Stradling Yocca Carlson & Rauth, P.C., to Marlene H. Dortch, FCC Secretary, CG Docket No. 03-123 (Oct. 15, 2014). Purple's conditional certification and eligibility to receive compensation from the TRS Fund for the provision of IP Relay terminated on December 26, 2014. See *Purple Communications, Inc., Application for Re-Certification as an Eligible IP-CTS, IP-Relay and Video Relay Services Provider*, CG Docket Nos. 03-123 and 10-51, Order, 29 FCC Rcd 13996 (CGB 2014).

<sup>17</sup> See *Purple Communications, Inc.*, Notice of Apparent Liability for Forfeiture, 29 FCC Rcd 5491 (2014) (*NAL*). Purple filed a response to the *NAL* in June 2014 requesting that the Commission cancel or reduce the proposed forfeiture. See *Purple Communications, Inc.*, Response to Notice of Apparent Liability for Forfeiture (June 2, 2014) (on file in EB-TCD-12-00000376).

<sup>18</sup> See *Purple Communications, Inc.*, Forfeiture Order, 30 FCC Rcd 14892 (2015) (*Forfeiture Order*). To recover monies that were paid to Purple from the TRS Fund as a result of the violations cited in the *Forfeiture Order*, the Commission's Office of Managing Director issued a Demand Letter, demanding repayment. See Letter from Jon Wilkins, Acting Managing Director, FCC Office of the Managing Director, to John Ferron, President and CEO, Purple Communications, Inc. (Feb. 18, 2014) (on file in EB-TCD-12-00000376). On March 12, 2014, Purple responded to the Demand Letter. See Letter from John F. Cannon, Stradling Yocca Carlson & Rauth, P.C., Counsel to Purple, to Jon Wilkins, FCC Office of the Managing Director, and Neil Dellar, FCC Office of the General Counsel (Mar. 12, 2014) (on file in EB-TCD-12-00000376). Later, the debt was revised to reflect the removal of monies associated with minutes counted more than once. See Letter from Jon Wilkins, FCC Office of the Managing Director, to John F. Cannon, Stradling Yocca Carlson & Rauth, P.C., Counsel to Purple (July 7, 2014) (on file in EB-TCD-12-00000376).

<sup>19</sup> See *Consumer and Governmental Affairs Bureau Grants CSDVRS, LLC. Full Certification as a Provider of Video Relay Service Eligible for Compensation From the Interstate Telecommunications Relay Service (TRS) Fund*, Public Notice, 27 FCC Rcd 14505 (CGB 2012); *Notice of Grant of Conditional Certification for CSDVRS, LLC, To*

(continued....)

2015, the Bureau started an inquiry into Providers' compliance with, among other things, the obligations in the 2013 VRS Reform and iTRS Numbering Orders. The Bureau's Telecommunications Consumers Division (TCD) issued a Letter of Inquiry (LOI) to CSDVRS on December 18, 2015, and to Purple on December 30, 2015.<sup>20</sup>

9. ZVRS Holding acquired Purple on February 14, 2017.<sup>21</sup> Purple and CSDVRS will continue to offer VRS under their existing brands as wholly owned subsidiaries of ZVRS Holding until the businesses are integrated, but no more than three years from the Effective Date.

10. The Commission and ZVRS Holding negotiated the following terms and conditions of settlement and hereby enter into this Consent Decree as provided below.

### III. TERMS OF AGREEMENT

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

12. **Jurisdiction.** The Companies agree that the Commission has jurisdiction over the matters contained in this Consent Decree, and has the authority to enter into and adopt this Consent Decree.

13. **Effective Date.** The Parties agree that this Consent Decree shall become effective on the Effective Date. 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 Investigations.** 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 Investigations. In consideration for the termination of the Investigations, the Companies agree to the terms, conditions, and procedures contained herein. The Parties, by and through their counsel, have agreed that this Consent Decree fully and finally resolves all issues between them arising from the Investigations and matters addressed in this Consent Decree and precludes further investigations, administrative proceedings, litigation, or enforcement action between the Bureau and the Companies on the resolved issues except for purposes of enforcing this Consent Decree.

15. Except for TRS reimbursements already recovered through this agreement, nothing in the settlement prevents the TRS Fund Administrator or the Commission from recovering any monies the Companies, the Commission, or TRS Fund Administrator determines were overpayments made to Purple or CSDVRS from the TRS Fund either before the Effective Date or during the term of this Consent Decree.<sup>22</sup>

16. **Representations and Warranties.** The Companies represent and warrant that for up to thirty-six (36) months following the Effective Date, Purple and CSDVRS will continue to operate and submit Requests for Reimbursement to the TRS Fund Administrator as separate VRS Providers, each

(Continued from previous page) \_\_\_\_\_

*Provide Video Relay Service After its Acquisition By Kinderhook Capital Fund IV, L.P.*, CG Docket Nos. 03-123 & 10-51, Public Notice, 29 FCC Rcd 16237 (CGB 2014).

<sup>20</sup> See Letter of Inquiry from Richard A. Hindman, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, to Robert Rae, CEO, Purple Communications, Inc. (Dec. 30, 2015) (on file in EB-TCD-15-00020486); Letter of Inquiry from Richard A. Hindman, Chief, Telecommunications Consumers Division, FCC Enforcement Bureau, to Sherri Turpin, CEO, CSDVRS, LLC (Dec. 18, 2015) (on file in EB-TCD-15-00020485).

<sup>21</sup> When ZVRS Holdings acquired Purple Communications, Inc., the company held only a certification to provide VRS and VRS assets. The Commission, ZVRS Holdings, and Purple agree that ZVRS Holdings and Purple are responsible for compliance issues and liabilities that relate only to Purple's provision of VRS.

<sup>22</sup> Such recovery is governed by the Commission's rules and the Debt Collection Improvement Act of 1996. See 47 CFR §§ 64.604(c)(5)(iii)(D), (E), (L), 1.1911(e); 31 U.S.C. § 3701 *et seq.*; 31 CFR § 900.1 *et seq.*



under its own certification. Any liability for noncompliance by either company during the period of separate operations will be deemed the liability of the company and ZVRS Holding.

17. The Companies further represent and warrant that no later than thirty-six (36) months after the Effective Date, ZVRS Holding, Purple, and CSDVRS shall file with the Commission's Consumer and Governmental Affairs Bureau (CGB) a notice of relinquishment of Purple's VRS certification, and consolidate the VRS operations of Purple and CSDVRS under the CSDVRS certification.

18. The Companies also represent and warrant they are jointly and severally liable for the payments to be made pursuant to this Consent Decree and the associated Promissory Note.

19. **Compliance Officer.** ZVRS Holding's General Counsel shall serve as the Compliance Officer for Purple and CSDVRS, and discharge the duties set forth below. The Compliance Officer shall be responsible for overseeing Purple's and CSDVRS's regulatory compliance efforts, including developing, implementing, and administering the Compliance Plan and ensuring that Purple and CSDVRS comply with the terms and conditions of the Compliance Plan and this Consent Decree. Compliance Managers for Purple and CSDVRS will report directly to the General Counsel for purposes of compliance oversight.

20. **Compliance Plan.** For purposes of settling the matters set forth herein, the Companies agree that they shall within one hundred twenty (120) calendar days after the Effective Date, develop a Compliance Plan designed to ensure future compliance with the terms and conditions of this Consent Decree. The Compliance Plan shall, at minimum, include Operating Procedures and the following components:

- (a) **Data Integrity.** Develop and implement data integrity measures to ensure the accuracy of Call Data submitted to the TRS Fund Administrator.
  - i. **Internal Databases.** Purple and CSDVRS will ensure that the companies' internal user database(s) clearly segment Registered Users from users who were previously registered with Purple or CSDVRS but are no longer Registered Users.
    1. If a user is no longer a Purple or CSDVRS Registered User and the TDN the company assigned to the user is in its internal database, Purple and CSDVRS shall notify the TRS Numbering Administrator either directly or through its numbering partner no later than one hundred twenty (120) calendar days after the Effective Date, that the TDN should be deleted from TRS Numbering Directory if associated with the Provider submitting the notification.
    2. Purple and CSDVRS shall establish procedures to ensure that their internal user database(s) are updated when a user is no longer a Purple or CSDVRS Registered User.
    3. Purple and CSDVRS shall only submit to the administrator for the TRS-URD data associated with Registered Users, including Self-Certifications.<sup>23</sup>
    4. Upon a request from the Commission or the TRS Fund Administrator, Purple and CSDVRS shall produce customer information including, but not limited to, TDNs associated with Enterprise Customers, a list of TDNs ported away from Purple or CSDVRS, or all deactivated TDNs/User Accounts.

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<sup>23</sup> The Parties acknowledge that the TRS-URD is not yet operational. Consistent with 47 CFR §§ 64.611(a)(4)(ii) and (iii), Purple and CSDVRS are only required to submit information to the TRS-URD within sixty (60) days of receiving notice from the Commission that the TRS-URD is ready to accept information.

- ii. External Databases. Purple and CSDVRS shall establish ongoing procedures to ensure that data maintained for Purple and CSDVRS assigned TDNs represent each of the company's current Registered Users and their associated TDNs in all databases used to validate Registered Users or TDNs.
  - iii. Call Detail Records. Purple and CSDVRS shall establish or revise the processes used to ensure the integrity of monthly Call Detail Records submitted with Requests for Reimbursements. Specifically, at a minimum, Purple and CSDVRS shall verify that all calls marked compensable on CDRs include incoming and outgoing TDNs, are validly formatted, and have IP addresses that comply with 47 CFR § 64.604(a)(7).
  - iv. Resubmission of Monthly Requests for Reimbursement. Purple and CSDVRS agree that each company shall:
    1. Limit the number of revised Request(s) for Reimbursement made to the TRS Fund Administrator for any month to two resubmissions where the resubmission will result in reimbursements to Purple or CSDVRS.
    2. Notify the TRS Fund Administrator within ten (10) business days after Purple or CSDVRS becomes aware that either of the companies has received reimbursements from the TRS Fund that it should not have received. The company discovering an overpayment shall work with the TRS Fund Administrator to arrange to refile the necessary monthly Request(s) for Reimbursement and reimburse the TRS Fund for any monies the company should not have received.
- (b) Customer Records. Assess, develop and implement procedures and processes to certify that customer records are accurately recorded, maintained, and reproducible upon request of the Commission or TRS Fund Administrator.
- i. Purple and CSDVRS shall maintain customer records in a manner that allows each of the companies to produce data associated with Registered Internet-based TRS Users and Enterprise Customers.
  - ii. Purple and CSDVRS shall obtain and maintain Self-Certifications for all Registered Users and transmit such documents to the administrator for the TRS-URD.<sup>24</sup>
  - iii. Purple and CSDVRS shall collect from Enterprise Customers information that at a minimum includes: a central point of contact for each Enterprise Customer (name, address, title, telephone number, e-mail address); the location (building address) of any devices that allow users to make VRS calls; the TDN assigned to each device; information as to whether the device is located in a private area, such as an individual's office, or a public area; the date the Enterprise Customer signed up for service, and the date that each TDN was activated.
- (c) Compliance Training Program. Develop and implement a new Compliance Training Program, which shall be fully implemented within one hundred and fifty (150) calendar days after the Effective Date and thereafter, annually, to ensure compliance with the TRS Rules and the terms and conditions of this Consent Decree.

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<sup>24</sup> See *supra* note 23 (noting that the TRS-URD is not yet operational and Purple and CSDVRS are required to submit information to the TRS-URD within 60 days of the Commission's notice to Providers that the TRS-URD is ready to accept information).

- i. The Compliance Training Program shall include a review of Purple's and CSDVRS's:
    1. Obligation to report any noncompliance with the TRS Rules and this Consent Decree including how to disclose noncompliance to the Compliance Officer, the Office of the Inspector General (OIG), and the Bureau.
    2. Policies and procedures for ensuring that only compensable minutes are marked for reimbursement in submissions to the TRS Fund Administrator, including policies on use of Work Numbers.
  - ii. All persons identified as an executive or officer of either Purple or CSDVRS shall participate in annual compliance training. Such training should initially be delivered within one hundred and twenty (120) calendar days after the Effective Date.
  - iii. Purple and CSDVRS shall train all Covered Personnel pursuant to the Compliance Training Program.
  - iv. Any person who becomes Covered Personnel, or an executive or officer of either Purple or CSDVRS at any time after the initial Compliance Training has been delivered shall be trained within thirty (30) calendar days after the date such person becomes Covered Personnel, or an executive or officer.
- (d) **Transitional Compliance Reporting.** Within one hundred twenty (120) calendar days after the Effective Date, ZVRS Holding will conduct an assessment of Purple's and CSDVRS's compliance with the TRS Rules. Representatives of ZVRS Holding, Purple, and CSDVRS shall meet with FCC staff at least three times (once within four (4) months of the Effective Date, once within six (6) months of the Effective Date, and once within nine (9) months after the Effective Date) to discuss this assessment, the policies and procedures developed in response to paragraphs 20(a)-(c) herein, the implementation timeline, ZVRS Holding's integration of Purple and CSDVRS, and any compliance issues resulting from or discovered through the integration efforts.
- (e) **Notifications to the Commission.** Within sixty (60) calendar days after the Effective Date, ZVRS Holding will establish a process for ensuring that Purple and CSDVRS submit specific notifications to the Commission and the TRS Fund Administrator, including written notice to TCD and CGB at least ninety (90) calendar days before the consolidation or dissolution of one or both VRS companies. Notification shall be submitted electronically to the Deputy Chief, Telecommunications Consumers Division (TRS), Enforcement Bureau via e-mail to [fcceaccess@fcc.gov](mailto:fcceaccess@fcc.gov); and to the Deputy Chief, Disability Rights Office, Consumer and Governmental Affairs Bureau via e-mail to [TRSreports@fcc.gov](mailto:TRSreports@fcc.gov).
- (f) **Compensation Plans Involving Compensable Minutes.** Within sixty (60) calendar days after the Effective Date, ZVRS Holding will review and ensure that Purple and CSDVRS have eliminated all compensation plans, bonus plans, incentives, scheduling preferences, and all other requirements that link billable or reimbursable minutes to Covered Personnel.
- (g) **Subsidiaries.** ZVRS Holding shall have a reasonable period of time, which in no event shall exceed six (6) months, to bring its Subsidiaries into compliance with this Consent Decree.
21. **Reporting Noncompliance.** The Companies shall report any noncompliance with the TRS Rules and this Consent Decree within fifteen (15) calendar days after discovery of such noncompliance. Such reports shall include a detailed explanation of: (i) each instance of noncompliance;

(ii) the steps that the Companies have taken or will take to remedy such noncompliance; (iii) the schedule on which such remedial actions will be taken; and (iv) the steps that the Companies have taken or will take to prevent the recurrence of any such noncompliance. All reports of noncompliance shall be submitted to the Chief, Telecommunications Consumers Division, Enforcement Bureau, Federal Communications Commission, Room 3-C366, 445 12th Street, S.W. Washington, D.C. 20554, with a copy submitted electronically to the Deputy Chief, Telecommunications Consumers Division (TRS), Enforcement Bureau via e-mail to [fccebaaccess@fcc.gov](mailto:fccebaaccess@fcc.gov); and to the Deputy Chief, Disability Rights Office, Consumer and Governmental Affairs Bureau via e-mail to [TRSreports@fcc.gov](mailto:TRSreports@fcc.gov).

22. **Compliance Reports.** The Companies shall file compliance reports with the Commission twelve (12), twenty-four (24), thirty-six (36), forty-eight (48), and sixty (60) months after the Effective Date. Each Compliance Report shall include a detailed description of the Companies' efforts during the relevant period to comply with the terms and conditions of this Consent Decree and the TRS Rules. At a minimum, each Compliance Report shall include:

- (a) A detailed description of each plan or program regarding compensation, bonuses, incentives, or scheduling offered to Covered Personnel that involves billable minutes.
- (b) A detailed description of all incidents of noncompliance identified since the last Compliance Report was filed and the date such incidents were reported to the Commission pursuant to paragraph 20.
- (c) A certification by the Compliance Officer, as an agent of and on behalf of ZVRS Holding, stating that he or she has personal knowledge that: (i) Purple and CSDVRS have established and implemented the Compliance Plan; (ii) Purple and CSDVRS have utilized the Operating Procedures since the implementation of the Compliance Plan; and (iii) no instances of material noncompliance with the terms and conditions of this Consent Decree have occurred, including the reporting obligations set forth in paragraph 21 of this Consent Decree, that have not been reported to the Commission.
  - i. The Compliance Officer's certification shall be accompanied by a statement explaining the basis for such certification, shall comply with Section 1.16 of the Rules, and shall be subscribed to as true under penalty of perjury in the form set forth therein.<sup>25</sup>
  - ii. If the Compliance Officer cannot provide the requisite certification, he or she, as an agent of and on behalf of ZVRS Holding, shall provide the Commission with a detailed explanation of the reason(s) why not and describe fully: (i) each instance of noncompliance; (ii) the steps that Purple and CSDVRS have taken or will take to remedy such noncompliance, including the schedule on which proposed remedial actions will be taken; and (iii) the steps that Purple and CSDVRS have 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, Telecommunications Consumer Division, Enforcement Bureau, Federal Communications Commission, 445 12th Street, SW, Washington, DC 20554, with a copy submitted electronically to the Deputy Chief, Telecommunications Consumers Division (TRS), Enforcement Bureau via e-mail to [fccebaaccess@fcc.gov](mailto:fccebaaccess@fcc.gov). A copy of each Compliance Report

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<sup>25</sup> 47 CFR § 1.16.

shall also be submitted electronically to the Deputy Chief, Disability Rights Office, Consumer and Governmental Affairs Bureau via e-mail to TRSreports@fcc.gov.

23. **Termination Date.** Unless stated otherwise, the requirements set forth in paragraph 20 shall expire 60 months after the Effective Date.

24. **Fund Reimbursement.** The Companies will reimburse the TRS Fund the sum of \$6,116,527.09. The Companies will pay \$5,116,527.09 on the Effective Date. The remaining \$1,000,000 shall be made to the Commission in sixty (60) installments (each an Installment Payment) in accordance with the terms of the Promissory Note. Upon receipt of payments from the Companies (or from, or on behalf of, any guarantor of the Promissory Note), the Commission will transmit such payments to the TRS Fund Administrator. As evidence of such installment payment obligations, the Companies shall execute the Promissory Note, which will be guaranteed by Kinderhook Capital Fund, IV, L.P. and Kinderhook Capital Fund, IV-B, L.P.

25. **Civil Penalty.** The Companies will pay a civil penalty in the amount of \$3,000,000 (Civil Penalty). Such payment shall be made to the Commission in sixty (60) installments (each an Installment Payment) in accordance with the terms of the Promissory Note. Upon receipt of payments from the Companies (or from, or on behalf of, any guarantor of the Promissory Note), the Commission will transmit such payments to the United States Treasury. As evidence of such installment payment obligations, the Companies shall execute the Promissory Note, which will be guaranteed by Kinderhook Capital Fund, IV, L.P. and Kinderhook Capital Fund, IV-B, L.P.

26. The Companies shall send electronic notification of all payments under the Promissory Note via e-mail to fcecbaccess@fcc.gov on the date said payment is made. The payments must be made by check or similar instrument, wire transfer, or credit card, and must include Account Number 201432170007 and FRN 0015419872. Regardless of the form of payment, a completed FCC Form 159 (Remittance Advice) must be submitted.<sup>26</sup> When completing the FCC Form 159, enter the NAL/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, SLMOC2GL, 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.

<sup>26</sup> An FCC Form 159 and detailed instructions for completing the form may be obtained at <http://www.fcc.gov/Forms/Form159/159.pdf>.

27. **Event of Default.** The Parties agree that an Event of Default shall occur upon failure by the Companies to pay any amount due under the terms of the Consent Decree or the Promissory Note.

28. **Interest, Charges for Collection, and Acceleration of Maturity Date.** Upon an Event of Default, all procedures for collection permitted by the DCIA and other provisions of law<sup>27</sup> may, at the Commission's discretion, be initiated in accordance with the terms of the Promissory Note, which may result in the following becoming immediately due and payable in accordance with the terms of the Promissory Note: (a) any unpaid amount under the Promissory Note, which shall accrue interest at a rate of 10 percent per annum from the date of the Event of Default until payment in full; (b) any penalties permitted and/or required by the law, including but not limited to 31 U.S.C. § 3717; and (c) any administrative charge(s), including the costs of collection, litigation, and attorneys' fees.

29. **Waivers.** As of the Effective Date, the Companies waive any and all rights they 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. The Companies 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 the Companies nor the Commission shall contest the validity of the Consent Decree or the Adopting Order, and the Companies shall waive any statutory right to a trial *de novo*. The Companies hereby agree to waive any claims they may otherwise have under the Equal Access to Justice Act<sup>28</sup> relating to the matters addressed in this Consent Decree.

30. **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.

31. **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.

32. **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 the Companies do not expressly consent), that provision will be superseded by such Rule or Order.

33. **Successors and Assigns.** The Companies agree that the provisions of this Consent Decree shall be binding on their successors, assigns, and transferees.

34. **Final Settlement.** The Parties agree and acknowledge that this Consent Decree shall constitute a final settlement between the Parties with respect to the Investigations.

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

36. **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.

37. **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

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<sup>27</sup> See 31 CFR Part 900 *et seq.*

<sup>28</sup> See 5 U.S.C. § 504; 47 CFR §§ 1.1501–1.1530.

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.

38. **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.

\_\_\_\_\_  
Michael Carowitz  
Acting Chief  
Enforcement Bureau

\_\_\_\_\_  
Date

\_\_\_\_\_  
Sherri Turpin  
Chief Executive Officer  
ZVRS Holding Company

\_\_\_\_\_  
Date

\_\_\_\_\_  
Sherri Turpin  
On behalf of CSDVRS, LLC

\_\_\_\_\_  
Date

\_\_\_\_\_  
Sherri Turpin  
On behalf of Purple Communications, Inc.

\_\_\_\_\_  
Date

**STATEMENT OF  
COMMISSIONER MICHAEL O'RIELLY**

Re: *Purple Communications, Inc., CSDVRS, LLC; File Nos. EB-TCD-12-00000376, EB-TCD-15-00020486, EB-TCD-15-00020485*

I appreciate the opportunity to vote on this Order and Consent Decree, and I thank my colleagues for working with me to improve the items, including to make clear that Consent Decrees are not precedential or binding on third parties. I write only to note that the statute, in my view, does not clearly address the authority to issue Consent Decrees. For many years, the FCC has relied on 4(i), but I am not certain that provides direct authority. As Congress looks at potential improvements to the Communications Act, I respectfully offer this as an area where further clarity would be welcome and appreciated.