



# TRANS WORLD INTERNET EXCHANGE AGENT AGREEMENT

Agent Name: \_\_\_\_\_

Address/City/State/Postal Code/Country: \_\_\_\_\_

TWIX Agent Authorization Number: \_\_\_\_\_

This Agreement is between Trans World Internet Exchange, LLC., by and through ("TWIX") and the agent named above ("Agent") and establishes the terms and conditions for Agent's participation in the TWIX Agent Program (the "Program"). Under the Program, TWIX will provide marketing and promotional support to Agent as specified in this Agreement related to Agent's sale of TWIX products.

## 1. Agent Qualification

1.1 In order to ensure adequate technical and marketing support to end users, eligibility to sell TWIX products is subject to meeting requirements as described in the Program Materials attached hereto as Attachment B. These Program Materials contain a detailed description of the benefits to an Agent of as well as the requirements of an Agent under this program. Agent will not sell TWIX products without arranging for adequate pre-sales support.

## 2. Relationships

2.1. Agent is an independent contractor engaged in selling TWIX products to its prospective buyers. Agent is not an employee, contractor, or legal representative of TWIX for any purpose, and has no authority to act for, bind or commit TWIX.

2.2. Agent has no authority to make any commitment on behalf of TWIX with respect to quantities, delivery, modifications, interfacing capability, suitability of services or suitability in specific applications. Agent has no authority to modify the warranty offered with TWIX products. Agent will indemnify TWIX from liability for any modified warranty or other commitment by Agent not specifically authorized by TWIX.

2.3. Agent will not represent itself in any way that implies Agent is an employee, contractor, or branch of TWIX. Agent will immediately change or discontinue any representation or business practice found to be misleading or deceptive by TWIX immediately upon notice from TWIX.

## 3. Term, Limitations, Termination

3.1. The term of this Agreement is twelve (12) months from the date of acceptance by Agent and TWIX. This Agreement shall automatically renew on each subsequent year for a one-year term, unless it is terminated earlier in accordance with this Agreement.

3.2. TWIX or Agent may terminate this Agreement without cause at any time upon thirty (30) days written notice or with cause at any time upon fifteen (15) days written notice, except that neither the expiration nor earlier termination of this Agreement shall release either party from any obligation which has accrued as of the date of termination.

3.3. TWIX may, from time to time, give Agent written notice of amendments to this Agreement. Any such amendment will automatically become a part of this Agreement thirty (30) days from the date of the notice, unless otherwise specified in the notice.

3.4. Upon expiration, non-renewal or termination of this Agreement, all interests in accrued marketing funds (if any) will automatically lapse.

## 4. Agent Programs

4.1. TWIX's Agent program will contain various participation levels. There are three levels of participation in the Program. There may be a fee associated with each level. Agent's participation level, and obligation to pay the associated fee will be indicated in Attachment A hereto. TWIX will invite Agent from time to time to participate in the co-operative advertising, market development and promotional programs offered by TWIX as defined in the Program Materials. Agent may, at its option, participate in such programs during the term of this Agreement. TWIX reserves the right to terminate or modify such programs at any time at its sole discretion.

4.2. Agent shall exert best efforts to market TWIX products, and shall use all promotional materials supplied by TWIX. It is Agent's responsibility to help its customers determine which service would best serve their needs.

4.3. As defined in the Program Materials, Agent shall have sufficient technical knowledge of the TWIX products in general, and will have access to appropriate TWIX sales and technical training.

4.4. TWIX does not represent that it will continue to manufacture or provide any particular item or model of product indefinitely or even for any specific period. TWIX specifically reserves the right to modify any of the specifications or characteristics of its products, to remove any product from the market, and/or to cease providing or supporting it.

4.5. Agent is expected and encouraged to advertise and promote the sales of TWIX products through all appropriate media including trade show exhibits, catalogs and direct mailings, space advertising, educational meetings, sales aids, etc. TWIX must approve all such materials that use TWIX's name or trademarks. TWIX will assist Agent in advertising and promoting TWIX products in accordance with TWIX's policy.

## 5. Limitation of Liability

UNDER NO CIRCUMSTANCES, INCLUDING ANY INFRINGEMENT CLAIMS, SHALL TWIX BE LIABLE TO AGENT OR ANY OTHER PARTY FOR ANY RE-PROCUREMENT COSTS, LOST REVENUE OR PROFITS OR FOR ANY OTHER SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, EVEN IF COMPANY HAS BEEN INFORMED OF SUCH POTENTIAL LOSS OR DAMAGE.

## 6. Use of TWIX Trademarks

6.1. Agent acknowledges the following:

6.1.a. TWIX owns all right, title and interest in TWIX products and TWIX names and logo types.

6.1.b. TWIX is the owner of certain other trademarks and tradenames used in connection with certain product lines and services.

6.1.c. Agent will acquire no interest in any such trademarks or tradenames by virtue of this Agreement, its activities under it, or any relationship with TWIX.



6.2. During the term of this Agreement, Agent may indicate to the trade and to the public that it is an Authorized Agent of TWIX products. With TWIX's prior written approval, Agent may also use the TWIX trademarks and tradenames to promote and solicit sales or licensing of TWIX products if done so in strict accordance with TWIX's guidelines. Agent will not adopt or use such trademarks or tradenames, or any confusingly word or symbol, as part of its company name or allow such marks or names to be used by others.

6.3. At the expiration or termination of this Agreement, Agent shall immediately discontinue any use of TWIX products and TWIX names or trademarks or any other combination of words, designs, trademarks or tradenames that would indicate that it is or was an Agent of TWIX products.

**7. Product Warranty**

7.1. The warranty terms and conditions will be as specified in the PRODUCT Master Service Agreement.

7.2. TWIX'S WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES WHETHER EXPRESS, IMPLIED OR STATUTORY INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

**8. Proprietary Information**

8.1 TWIX and Agent shall each exercise due diligence to maintain in confidence and not disclose to any third party any proprietary information furnished by the other to it on a confidential basis and identified as such when furnished. Except in accordance with this Agreement, neither party shall use such information without permission of the party that furnished it. As used in this paragraph, "due diligence" means the same precaution and standard of care which that party uses to safeguard its own proprietary data, but in no event less than reasonable care. The provisions of this Section shall survive for five (5) years beyond the expiration, non-renewal or termination of this Agreement.

8.2 This Agreement does not grant any license under any patents or other intellectual property rights owned or controlled by or licensed to TWIX. Agent shall not have any right to provide TWIX products.

**9. Export Controls**

Regardless of any disclosure made by Agent to TWIX or Distributor of an ultimate destination of TWIX products, Agent shall not export, either directly or indirectly, any documentation, TWIX products, or system incorporating such TWIX products without first obtaining a license as required by the government of the country in which Agent wishes to sell TWIX products .

**10. Compliance with Laws**

Agent agrees to comply with all laws and regulations that are applicable to the business that Agent transacts. Agent agrees to indemnify and hold TWIX harmless for all liability or damages caused by Agent's failure to comply with the terms of this provision.

**11. Government Contract Conditions**

In the event that Agent elects to sell TWIX products or services to the U.S. Government, Agent does so solely at its own option and risk, and agrees not to obligate TWIX as a subcontractor or otherwise to the U.S. Government. Agent remains solely and exclusively responsible for compliance with all statutes and regulations governing sales to the U.S. Government. TWIX makes no representations, certifications or warranties whatsoever with respect to the ability of its goods, services or prices to satisfy any such statutes and regulations.

**12. Miscellaneous**

Notices under this Agreement must be sent by telegram, teletype or registered or certified mail to the appropriate party at its address stated on the first page of this Agreement (or to a new address if the other has been properly notified of the change). A notice will not be effective until the addressee actually receives it. This Agreement and its schedules represent the entire agreement between the parties regarding this subject. This Agreement supersedes all previous oral or written communications between the parties regarding the subject, and it may not be modified or waived except in writing and signed by an officer or other authorized representative of each party. Neither party will be liable to the other for any delay or failure to perform if that delay or failure results from a cause beyond its reasonable control. If any provision is held invalid, all other provisions shall remain valid, unless such invalidity would frustrate the purpose of this Agreement. Delaware' law governs this Agreement without consideration to that body of law referred to as "conflicts of laws". TWIX and Agent will attempt to settle any claim or controversy arising out of it through consultation and negotiation in good faith and a spirit of mutual cooperation. Any dispute which cannot be resolved through negotiation or mediation may be submitted to the courts of appropriate jurisdiction.

**Agent**

Company: \_\_\_\_\_

Signed: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Trans World Internet Exchange, LLC.**

Signed: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



**Attachment A**  
**Agent Participation Designation**

Agent shall participate in the Trans World Internet Exchange Agent program at the following level:

\_\_\_\_\_ Master Agent - \$20,000 U.S. Dollars

\_\_\_\_\_ Registered Agent - \$5,000 U.S. Dollars

\_\_\_\_\_ Associate Agent - \$0.00 U.S. Dollars



## Attachment B

### PROGRAM MATERIALS

#### Master Agent

Master Agents are eligible to receive higher commission rates when compared to Associate Agents and Registered Agents. Master Agents earn fixed rate commissions based upon monthly recurring sales revenue. Master Agents are eligible to earn additional commissions based on committed sales quota volume.

##### Requirements

- Required to maintain a minimum annual sales quota of \$500,000 U.S. Dollars
- Employ at a minimum of three (3) or more sales persons that have been trained in selling Trans World Internet Exchange products and services

##### Benefits

- 14% commission on Monthly Recurring Charges (MRC) for the first year of the customer contract
- 10% commission on MRC for assisting with the subsequent second year renewal of a customer contract
- 6% commission on MRC for assisting with the subsequent third year renewal of a customer contract
- 4% commission on all Non-Recurring Charges (NRC)

#### Associate Agent

All Associate Agents are required to maintain a minimum annual sales quota of \$100,000 U.S. Dollars, employ at a minimum of one (1) or more sales persons that have been trained in Trans World Internet Exchange products and services. Associate Agents are eligible to receive higher commission rates when compared to Registered Agents.

##### Requirements

- Required to maintain a minimum annual sales quota of \$75,000 U.S. Dollars
- Employ at a minimum of one (1) or more sales persons that have been trained in selling Trans World Internet Exchange products and services

##### Benefits

- 12% commission on MRC for the first year of the customer contract
- 6% commission on MRC for assisting with subsequent second year renewal of a customer contract
- 2% commission on NRC

#### Registered Agent

Registered Agents do not have an annual sales volume commitment. The Registered Agent program is free to all participants. Registered Agents earn fixed rate commissions based upon monthly recurring sales revenue.

##### Requirements

- Required to demonstrate a general understanding of TWIX products and services

##### Benefits

- 10% commission on MRC
- Commissions are paid monthly for the first year of the customer contract