

TW Networks Advertiser Program

Terms and Conditions

TW Networks, of 2 Commercial St., Sharon Commerce Center, Sharon, MA 02067 provides you access to TW Networks.com subject to your compliance with the terms and conditions below ("Agreement"). Please read this Agreement carefully. By enrolling or participating as a TW Networks advertiser ("Advertiser") with TW Networks, whereby you agree to pay a commission for the promotion of goods and services and allow Publishers to place Advertiser Links on their website(s), you, the Advertiser, agree to be bound by these terms and conditions.

1. DEFINITIONS.

The following terms shall have the meanings set forth below:

"Publisher" means a person or company that agrees to promote Advertiser Services or the Advertiser Site in accordance with Advertiser Terms and Advertiser Campaign Terms in exchange for payment.

"Event" means an individual action by an End User; such as a Lead or Sale Event, within a Campaign that is tracked and recorded in by TW Networks for which payment has been promised to a Publisher by the Advertiser.

"Advertiser Program" means a pay-for-performance program where a Publisher receives a commission for sending an End User to the Advertiser Site which then generates an Event.

"Publisher Site" means the Web Site or interactive property operated by or for Publisher, (as modified to comply with the provisions of this Agreement, and future versions, upgrades, successors and replacements thereof).

"Campaign" means is a descriptive body of Advertiser Links, Events and lead criteria included within a given advertiser's program.

"End User" means an Internet user who clicks to from a Publisher to an Advertiser's Site by means of an Advertiser Link.

"End User Data" means all information and data of an End User collected by Advertiser, including, but not limited to, name, address, telephone number and email address.

"Expired Code" means any code associated with a Advertiser campaign running on TW Networks which has reached a desired level of action or span of time.

"Event" is a defined action by either a Publisher or an Advertiser resulting in an interaction with the end-user

"Inoperable Code" means any TW Networks Advertiser Code provided through TW Networks that is either modified by Advertiser without TW Networks approval or is missing from Advertiser Site resulting in an Event(s) not being tracked or being tracked erroneously.

"Intellectual Property" means all intellectual property rights existing from time to time including any patents, design rights, registered designs, trademarks, service marks, copyrights, moral rights, trade secrets, know-how, and all applications and registrations therefore, and all goodwill associated therewith.

"Invalid Event" is an Event that has been disapproved by Advertiser or TW Networks for payment to Publisher.

"Lead Event" is a Publisher Event that allows TW Networks to credit a Publisher for End User Data obtained when an End User performs a specified action such as filling out a form, registering for a service, or downloading a file from the Advertiser's Site.

"TW Networks Advertiser Code" is any HTML (Hypertext Markup Language, the authoring language used to create documents on the World Wide Web.), JavaScript, or any other program code and tags provided to the Advertiser via TW. This code is intended to interact with Event(s) for any active campaign and is to be placed as provided into the HTML on the Advertiser Site as directed by TW Networks.

"TW Networks Site" means the Internet World Wide Web presence operated by or for TW Networks, located on the Internet through the <http://www.TWNetworks.com> URL (as modified to comply with the provisions of this Agreement, and future versions, upgrades, successors and replacements thereof).

"Marks" means logos, trademarks, trade names, service marks or other identifying emblems, words or designs of TW Networks or Advertiser, as the case may be, to designate and identify itself or the particular products or services its offers.

"Advertiser Program" means all of the Advertiser's past and present Campaigns.

"Advertiser Campaign Terms" are the terms set forth by the Advertiser as conditions for participating in an Advertiser's Campaign.

"Advertiser Event" is any Tracking Event, Value Event, or Revenue Event added by Advertiser on which an End User clicks and for which the action is tracked and

recorded by TW Networks.

"Advertiser Link(s)" means an advertisement in the form of a banner, text link, or object displayed on a Publisher Site or in an email or newsletter.

"Advertiser Service(s)" means the product(s) or service(s) offered by the Advertiser through the Advertiser Site.

"Advertiser Site" means the Internet World Wide Web presence operated by or for Advertiser, (as modified to comply with the provisions of this Agreement, and future versions, upgrades, successors and replacements thereof).

"Advertiser Transaction(s)" means any Event conclusion, caused by the action of an End User which is recorded by TW Networks.

"Monthly Closeout" occurs at midnight Eastern Time ten (10) days after the end of a month.

"Replenishment Value" means the amount, as determined by the Advertiser, which shall be added to the Pre-Pay Account, defined herein, when the Threshold Value is reached.

"Revenue Event" is an Event that allows the Advertiser and Publisher to track an action of an end-user resulting in a financial transaction.

"Sale Event" is a Publisher Event that allows TW Networks to credit Publishers for purchases by an End User of Advertiser Services on the Advertiser Site.

"Self-Managed Account" is an account whereby the Advertiser maintains sole management responsibility. TW Networks is available for technical support. This account type is selectable by Advertiser at its discretion.

"Service Level Guarantee" means the TW Networks Site will be unavailable to the general public for no more than forty-eight (48) aggregate hours during any thirty (30) day period, excluding routine maintenance which shall occur during the hours of 1 a.m. to 6 a.m. Eastern Time no more than twice per month.

"Service Level Minimums" means industry standard service levels for like services, including, without limitation, standards for supporting online transactions, providing accurate and secure transmission of personal, credit card and other information, prevention of unauthorized access to End User Data, and availability of the Advertiser Site to End Users.

"Standard Link Campaign" is a type of Campaign where Publishers send traffic through a TW Networks Redirect Server to an Advertisers Web Site.

"Threshold Value" means the amount, as determined by the Advertiser, in the Pre-Pay Account, defined herein, at which the account requires replenishment.

"Tracking Event" is an Advertiser Event that allows the Advertiser to track the arrival of an end user to a specific registration or event page on the Advertiser Site.

"Valid Event" is an Event that has been approved by Advertiser or TW Networks for payment to a Publisher.

"Value Event" is an Advertiser Event that allows the Advertiser to track return on investment for a Lead or Sale by an End User without setting a commission for an Affiliate.

All other initially capitalized terms shall have the meanings assigned to them in this Agreement.

2. LICENSES/OWNERSHIP OF TW NETWORKS SITE.

2.1 Rights Granted by Advertiser.

(a) *License; License Restrictions.* Advertiser grants to TW Networks a nonexclusive, nontransferable, royalty-free (without right to sublicense) license to use and display, during the Term of this Agreement, the Advertiser Marks, solely for the purpose of promoting the Affiliate Program and to link to the Advertiser Site. TW Networks agrees that the Advertiser Marks are and will remain the sole property of Advertiser and agrees not to contest the ownership of such Advertiser Marks, nor misappropriate the Advertiser Marks for TW Networks' own use. Advertiser reserves all rights to control the use of the Advertiser Marks, and TW Networks shall not change or modify the Advertiser Marks in any manner without prior written authorization from Advertiser.

(b) *Reservation of Rights.* Except as expressly granted in this Agreement, TW Networks shall have no other rights of any kind in the Advertiser Marks or the Advertiser Site. Under no circumstances will anything in this Agreement be construed as granting, by implication, estoppel or otherwise, a license to any of Advertiser's Intellectual Property or proprietary technology other than the use of the Advertiser Marks in accordance with the terms of this Agreement. TW Networks acknowledges that the Advertiser Services are the sole property of Advertiser, and this Agreement only grants TW Networks a limited right to promote the Advertiser Program and to link to the Advertiser Site under the terms and conditions of this Agreement. The Advertiser Marks may not be used as a feature or design element of any other logo without prior written authorization from Advertiser.

2.2 TW Networks Ownership Rights. All content, writings, graphics, tables, sounds and other materials on the TW Networks Site, the design, layout and general look and feel of the TW Networks Site, and all Intellectual Property

embodied therein or pertaining thereto, (other than Advertiser supplied materials or Advertiser Marks on the TW Networks Site) shall remain the sole and exclusive property of TW Networks or its licensors. TW Networks will retain sole control and ownership over the look and feel, content, layout and design of the TW Networks Site. Nothing under this Agreement shall be construed as granting to Advertiser any license or right in or to any Intellectual Property of TW Networks.

3. RIGHTS AND OBLIGATIONS OF THE PARTIES.

3.1 TW Networks' Rights and Obligations.

- (a) TW Networks shall meet the Service Level Guarantee.
- (b) TW Networks shall be solely and exclusively responsible for all operation, hosting, and maintenance on the TW Networks Site.
- (c) TW Networks shall provide access to automated, real-time tracking; reporting; and analysis of Advertiser Links, Events, and Advertiser Events on every Advertiser Transaction recorded for a Publisher.
- (d) TW Networks shall provide access to monthly commission processing and payment for all Publishers on behalf of the Advertiser.
- (e) TW Networks has the right to not accept individuals, or any multi-level marketing, franchised, reseller, or third party websites, and reserves the right to not accept Advertisers in certain vertical markets or Advertisers it deems, in its sole discretion, harmful to TW Networks. Additionally, TW Networks does not accept Advertiser Sites that are under construction or that are personal homepages.
- (f) Advertiser grants TW Networks the right and license to distribute or transmit Advertiser Links to a Publisher for use on the Publisher Site and in an Publisher's opt-in emails, if applicable.

3.2 Advertiser's Rights and Obligations.

- (a) Advertiser shall be solely and exclusively responsible for all operation, hosting, and maintenance on the Advertiser Site(s).
- (b) Except as provided herein, Advertiser may not modify TW Networks Advertiser Code without prior written consent from TW Networks. Advertiser agrees to use the TW Networks Advertiser Code required to call the Event(s) as provided by TW Networks for any active Campaign. Advertiser may not alter, copy, modify, take, sell, reuse, or divulge any TW Networks Advertiser Code, except as is necessary to partake in the TW Networks Program. Requests for

changes to TW Networks Advertiser Code should be sent to in accordance with section 12.7.

(c) Advertiser agrees to pay TW Networks all monies owed to Publisher for promoting Advertiser Services and agrees to pay TW Networks all TW Networks Fees, defined herein, related to the account type selected by Advertiser.

(d) Advertiser agrees to review all Advertiser Transactions in TW Networks' Affiliate Manager by each Monthly Closeout and mark, as appropriate, Advertiser Transactions as Valid Event(s) or Invalid Event(s).

(e) Advertiser may change the Event State for Events to Invalid Event in the Affiliate Account in circumstances of (i) product returns; (ii) duplicate entry or other clear error; (iii) non-bona fide Event; and (iv) non-receipt of payment from, or refund of payment to, the User by the Advertiser. Advertiser shall not have the right to invalidate Advertiser Transactions because of an Advertiser determination that fees were paid out through other promotional efforts.

(f) Advertiser may submit Advertiser material for each Event and Advertiser Link through the TW Networks Affiliate Manager accessible on TW Networks' Login page at <http://www.twnetworks.com>. TW Networks reserves the right, in its sole discretion and without liability, to reject, omit or exclude any Advertiser material or Advertiser Site for any reason at any time, with or without notice to the Advertiser and regardless of whether such Advertiser Site was previously accepted.

(g) Advertiser may change their account type. Requests for a change of an account type shall be submitted to TW Networks in accordance with section 12.7 and, if acceptable to TW Networks at its sole discretion, such requested change of account type shall become effective on the first day of the month following the change request.

(h) Advertiser agrees to remove all Expired Code.

(i) Advertiser agrees that all communications with Publishers using TW Networks' internal system provided as part of the TW Networks Services will be solely related to the promotion or execution of the Affiliate Program, as defined herein.

4. EXCLUSIVITY.

4.1 The Advertiser is not barred by this Agreement from participating in any other Affiliate Program offered by a TW Networks competitor.

5. PAYMENTS.

5.1 Start-Up Fee. Advertiser will pay a basic start-up fee of \$500 hundred U.S. dollars (\$500.00) for a TW Networks Account. Upon TW Networks processing the application and signed agreement, the start-up fee will be due via check, bank wire, or credit card (if available). Advertiser Account will be available to Advertiser only after TW Networks has received the payment. The start-up fee is non-refundable.

5.2 Pre-Pay Account. Advertiser agrees, on a monthly basis, to fund a pre-pay account ("Pre-Pay Account") in the determined amount based upon the budget parameters of the campaign. Anytime the Pre-Pay Account balance is below the Threshold Value after the account is established, Advertiser shall add money to the Pre-Pay Account in the amount of the Replenishment Value by making a payment via check or bank wire, or credit card (if available). Advertiser understands and agrees that Advertiser will be charged and the Advertiser's Pre-Pay Account will be deducted for all Events and TW Networks Fees, defined herein, generated through the Advertiser account. If Advertiser deactivates their account, TW Networks will refund any remaining Pre-Pay Account balance not part of the Initial Deposit in accordance with Section 11.4.

5.3 Fees The TW Networks Start-up Fee and Network Fee shall be collectively known as the "TW Networks Fee".

(a) *TW Networks Start-up Fee.* TW Networks cost for setting up and initializing an Advertisers account and campaign on TW Networks.com. For any campaigns above and beyond the initial start-up campaign, Advertisers will be charged an additional set-up fee of \$250 hundred U.S. dollars (\$250.00) per campaign.

(b) *Network Fee.* The Network Fee is an infrastructure usage fee for using TW Networks.com. The network fee is a 20% fee, paid by the advertiser to TW Networks and calculated on a monthly basis, based upon and in addition to the monies earned on commissions by the Publisher.

5.4 Payment Terms.

(a) For payments due under Sections 5.3, the Advertiser's Pre-Pay Account shall be debited. When the Pre-Pay Account is equal to or below the Threshold Value, the Advertiser shall replenish the account in the amount of the Replenishment Value as set forth in section 5.2. The Advertiser shall choose, from then available options, both the Threshold Value and the Replenishment Value.

(b) All payments are based on Events and Advertiser Events as defined, accounted, and audited by TW Networks. TW Networks reserves the right to set and negotiate specific payment terms on an individual basis.

(c) Affiliates will typically be paid within twenty (20) business days after the end of an applicable month. All accounts will be settled in U.S. dollars . No checks will

be issued for any amounts less than \$25. Any amounts less than \$25 will carry over to the next month. Every U.S. based Advertiser and Publisher account (where applicable) must have a unique taxpayer identification number (TIN) or Social Security Number. Payments TW Networks makes on behalf of Advertiser for any monies owed to Affiliates for promoting Advertiser Services will be made to U.S. based Publisher accounts only if they provide proper tax identification information.

(d) An Advertiser's right to access Advertiser account with TW Networks is subject to any limits established by TW Networks, its contractors, or by credit card issuer. Should Advertiser's account drop below zero balance, TW Networks has the right to suspend Advertiser's account at TW Network's sole discretion.

(e) Returned or cancelled payment bank/service fees due to any error or omission in Advertiser's account are the Advertiser's responsibility, and will be deducted from the Advertiser Pre-Pay Account.

6. REPRESENTATIONS, WARRANTIES AND COVENANTS.

6.1 By TW Network. TW Network represents, warrants and covenants that: (i) it has sufficient rights to grant Advertiser the rights and licenses set forth herein; (ii) to the best of its knowledge, the TW Network Services and the TW Network Site does not and will not violate any applicable law or regulation; (iii) the execution, delivery and performance of this Agreement by it does not conflict with any agreement to which it is a party or by which it may be bound; (iv) it has full legal authority to enter into this Agreement and to carry out the provisions hereof; (v) to the best of its knowledge, the TW Network Services and the TW Network Site do not infringe in any manner any copyright, patent, trademark, trade secret or other Intellectual Property right of any third party; (vi) to the best of its knowledge, the TW Network Services and the TW Network Site do not breach any duty toward or rights of any person or entity including, without limitation, rights of publicity or privacy, or has not otherwise resulted in any consumer fraud, product liability, tort, breach of contract, injury, damage or harm of any kind to any person or entity; (vii) the TW Network Services and the TW Network Site are not false or misleading; (viii) the TW Network Services and the TW Network Site do not produce, provide or are in any manner related to pornographic products or services (which TW Network shall have complete discretion to define); and (ix) the TW Network Services and the TW Network Site are neither defamatory, libelous, militant, hateful, slanderous or threatening.

6.2 By Advertiser. Advertiser represents, warrants and covenants that: (i) it has sufficient rights to grant TW Networks the rights and licenses set forth herein; (ii) to the best of its knowledge, the Advertiser Services and the Advertiser Site does not and will not violate any applicable law or regulation; (iii) the execution, delivery and performance of this Agreement by it does not conflict with any

agreement to which it is a party or by which it may be bound; (iv) it has full legal authority to enter into this Agreement and to carry out the provisions hereof; (v) to the best of its knowledge, the Advertiser Services and the Advertiser Site do not infringe in any manner any copyright, patent, trademark, trade secret or other Intellectual Property right of any third party; (vi) to the best of its knowledge, the Advertiser Services and the Advertiser Site do not breach any duty toward or rights of any person or entity including, without limitation, rights of publicity or privacy, or has not otherwise resulted in any consumer fraud, product liability, tort, breach of contract, injury, damage or harm of any kind to any person or entity; (vii) the Advertiser Services and the Advertiser Site are not false or misleading; (viii) the Advertiser Services and the Advertiser Site do not produce, provide or are in any manner related to pornographic products or services (which TW Networks shall have complete discretion to define), or their subsidiaries or foundations funded by such companies whose function is to improve acceptance of such products by the public; and (ix) the Advertiser Services and the Advertiser Site are neither defamatory, libelous, militant, hateful, slanderous or threatening (which TW Networks shall have complete discretion to define).

Advertiser further represents that all information provided to TW Networks for the purpose of enrolling as an advertiser will be accurate, complete and current. Advertiser is responsible for keeping contact information up to date, including but not limited to financial information and contact emails.

7. DISCLAIMERS; LIMITATION OF LIABILITY.

7.1 Disclaimer of Warranties. EXCEPT AS SET FORTH IN SECTIONS 3 AND 6, NEITHER PARTY MAKES ANY WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, AS TO THE ADVERTISER SERVICE OR THE LINKCONNECTOR SERVICE INCLUDING, BUT NOT LIMITED TO, A WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE OR WARRANTY OF ADVERTISERABILITY.

7.2 Limitation of Liability. EXCEPT FOR A BREACH OF THE CONFIDENTIALITY AND PRIVACY PROVISIONS OF SECTION 9 AND INDEMNIFICATION OBLIGATIONS ARISING UNDER SECTION 10, IN NO EVENT SHALL EITHER PARTY, OR ITS RESPECTIVE AFFILIATES, SUBSIDIARIES, PARENT COMPANIES OR THEIR RESPECTIVE OFFICERS, DIRECTORS, AGENTS OR EMPLOYEES, BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, POTENTIAL OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF OPPORTUNITY, LOSS OF GOODWILL, LOST PROFITS OR LOST REVENUES) EVEN IF A PARTY HAS BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

8. FORCE MAJEURE.

8.1 A party shall not be considered to be in default in the performance of any obligations under this Agreement when a failure of performance is due to an uncontrollable force. The term "uncontrollable force," as used in this Agreement, shall mean an unanticipated event which is not reasonably within the control of the affected party and which by exercise of reasonable due diligence, such affected party could not reasonably have been expected to avoid, overcome or obtain or cause to be obtained a commercially reasonable substitute therefore. Such causes may include, without limitation, the following: flood, earthquake, tornado, storm, fire, terrorist attack, explosion, public emergency, civil disobedience, labor dispute, labor or material shortage, sabotage, restraint by court order or public authority (whether valid or invalid), and action or non-action by or inability to obtain or keep the necessary authorizations or approvals from any governmental agency or authority; however, no party shall be relieved of its obligations hereunder, if its failure of performance is due to removable or remediable causes which such party fails to remove or remedy using commercially reasonable efforts within a reasonable time period. Either party rendered unable to fulfill any of its obligations under this Agreement by reason of an uncontrollable force shall give prompt notice of such fact to the other, followed by written confirmation of that notice, and shall exercise due diligence to remove such inability with all reasonable dispatch.

9. INDEMNIFICATION.

9.1 By Advertiser. Advertiser agrees to indemnify, defend and hold harmless TW Networks and its officers, directors, employees, agents, successors and assigns from and against any and all losses, liabilities, damages, penalties and claims and all related costs and expenses (including reasonable attorneys' fees) related to claims made by third parties against TW Networks: (i) alleging that Advertiser's Marks or other Intellectual Property infringe the patents, copyrights, trademarks or service marks or other Intellectual Property rights of such third parties; (ii) arising out of or relating to the Advertiser Service or the Advertiser Marks; or (iii) due to a breach by Advertiser of its warranties, representations, obligations or covenants or otherwise breaches this Agreement.

9.2 By TW Networks. TW Networks agrees to indemnify, defend and hold harmless Advertiser and its officers, directors, employees, agents, successors and assigns from and against any and all losses, liabilities, damages, penalties and claims and all related costs and expenses (including reasonable attorneys' fees) related claims made by third parties against Advertiser: (i) alleging that TW Networks Marks or other Intellectual Property infringe the patents, copyrights, trademarks or service marks or other Intellectual Property rights of such third parties; or (ii) due to a breach by TW Networks of its warranties, representations, obligations or covenants or otherwise breaches this Agreement.

9.3 Procedures. The Indemnified Party shall (i) promptly notify the Indemnifying Party in writing of such suit, claim, or proceeding; (ii) give the Indemnifying Party, at its expense, reasonable information, assistance and cooperation required to defend such suit, claim, or proceeding; and (iii) allow the Indemnifying Party to control the defense of any such action and all negotiations for its settlement or compromise. The Indemnified Party may be represented in the defense of any such claim, at the Indemnified Party's expense, by counsel of the Indemnified Party's selection. The Indemnifying Party shall have no liability for settlements or costs incurred without its consent. The Indemnifying Party shall not enter into any settlement that imposes liability or restrictions on the Indemnified Party without the Indemnified Party's prior written consent, such consent not to be unreasonably withheld or delayed.

10. OWNERSHIP OF END USER DATA; CONFIDENTIALITY, PUBLISHER RELATIONSHIP.

10.1 Confidentiality. TW Networks and Advertiser agree that any and all information identified by the other as "Confidential" and/or "Proprietary", or which, under all of the circumstances, ought reasonably to be treated as Confidential and/or Proprietary, will not be directly or indirectly disclosed to any third person without the express consent of the other party for a period of three (3) years following termination of this Agreement and that neither party will make use of Confidential Information except under the terms of this Agreement. These confidentiality obligations shall not apply to any information which: (i) is or subsequently becomes available to the general public other than through a breach by the receiving party; (ii) is already known to the receiving party before disclosure by the disclosing party; (iii) is developed through the independent efforts of the receiving party; (iv) the receiving party rightfully receives from a third party without restriction as to confidentiality or use; or (v) is requested pursuant to a subpoena; provided, that the party responding to such subpoena gives the other party reasonable notice and opportunity to intervene to quash such subpoena.

10.2 Privacy of Consumer Information. Notwithstanding anything in this Agreement to the contrary, if it is necessary for Advertiser to disclose any End User Data to TW Networks for any reason, TW Networks agrees that at no time shall TW Networks use or disclose any such End User Data that TW Networks may obtain in connection with this Agreement, except as required by law; provided that nothing herein shall require Advertiser to disclose End User Data to TW Networks.

10.3 Publisher Relationship. During the Term of this Agreement and for 6 months thereafter, Advertiser shall not knowingly solicit any Publisher that is obtained through the TW Networks Services, nor shall Advertiser transfer any Publisher obtained through the TW Networks Services to any third party provider or to any

in-house program substantially similar to the TW Networks Services. Additionally, Advertiser shall not encourage any such Publisher to so transfer. In the event Advertiser does violate this provision, Advertiser shall pay TW Networks r what TW Networks would have otherwise earned had such a violation not occurred. Except as expressly set forth in this paragraph, nothing herein shall be deemed to restrict Advertiser from entering into independent strategic partnerships or other agreements with Affiliates, or to prohibit Advertiser from advertising, merchandising or promoting its products or services.

11. TERM OF AGREEMENT AND TERMINATION.

If Advertiser is dissatisfied with Advertiser Account in the TW Networks Program or with any of the terms and conditions contained herein, Advertiser's sole and exclusive remedy is to terminate Advertiser account. Advertiser may cancel participation in the TW Networks Publisher Program at any time after meeting Termination Requirements, in accordance with section 11.3.2, by sending notice in accordance with section 12.7.

11.1 Term. The term of this Agreement shall begin on the date the Advertiser applies for an account and shall continue until terminated by any of the actions enumerated in section 11.2.

11.2 Termination. This Agreement will terminate in the event of any of the following:

(a) immediately after a material breach, provided that the non-breaching party gives the other written notice of a material breach by the other of this Agreement and requests a cure, unless the breach is cured that day;

(b) immediately by either party after meeting applicable Termination Requirements, in accordance with section 11.3.

11.3 Termination Requirements.

11.3.1 TW Networks may terminate this Agreement once notice of termination has been sent to Advertiser in accordance with section 12.7.

11.3.2 Advertiser may terminate this Agreement only after satisfying all of the following requirements:

(a) Once Advertiser has expired all active Campaigns with seven (7) days notice to Affiliates approved for such Campaigns; and

(b) Once Advertiser has removed all TW Networks Advertiser Code required to call the Event(s) as provided by TW Networks for any Campaign; and

(c) Once notice of termination is received by TW Networks in accordance with section 12.7.

11.4 Effect of Termination. Upon termination of this Agreement, all licenses granted by Advertiser hereunder shall automatically terminate. Advertiser shall review all Advertiser Transactions in TW Networks' Advertiser Manager by the Monthly Closeout following Termination and mark, as appropriate, Advertiser Transactions as valid or invalid. Any remaining amount in the Advertiser's Pre-Pay account that is not part of the Initial Deposit shall be returned to Advertiser after the Monthly Closeout following such termination within 30 days after the applicable Monthly Closeout.

11.5 Survival. Sections 5 (to the extent the payment obligations accrue prior to termination), 7, 9, 10, 11.4 and 12 shall survive any expiration or termination of this Agreement.

11.6 Suspension. TW Networks reserves the right, at its sole discretion to suspend the Advertiser if it suspects a material breach of section 3.2. If TW Networks takes action to suspend, TW Networks may do so immediately, but TW Networks is not relieved of its obligation to notify the Advertiser per section 11.2(a).

12. General

12.1 Choice of Law. The Parties agree that this Agreement shall be governed by and interpreted in accordance with the laws of the State of North Carolina (including by not limited to the Uniform Electronic Transactions Act as enacted in North Carolina), without regard to conflict of laws provisions thereof. Furthermore, the parties agree that any dispute (including litigation) that arises between the parties shall have its venue in the state or federal courts of Wake County, North Carolina.

12.2 Assignment. Advertiser may not assign all or any portion of this Agreement without the prior written consent of TW Networks, which consent may be withheld at TW Networks sole discretion.

12.3 Relationship of the Parties. No partnership, joint venture, employment, agency, franchise, or other form of agreement or relationship is intended by this Agreement. The parties shall be independent contractors for all purposes in connection with this Agreement.

12.4 Entire Agreement. The parties agree that this Agreement constitutes the entire agreement between the parties as of the date hereof with respect to the subject matter hereof and supersedes all prior and contemporaneous communications, whether oral or written. The parties agree that this Agreement

may be modified or amended from time to time hereafter by TW Networks as it deems necessary and Advertiser agrees (in consideration for TW Networks agreeing to continue doing business with Advertiser) to be bound by such amendments, however, no such modification or amendment shall act to increase any financial obligation which Advertiser may otherwise have to TW Networks pursuant to this Agreement.

12.5 Press Releases. Neither party shall issue any press release or announcement relating to the relationship contemplated by this Agreement without the prior written consent of the other party.

12.6 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

12.7 Notices. All notices, requests, consents, and other communications under this Agreement from Advertiser shall be in writing and shall be deemed delivered (i) two business days after being sent by registered or certified mail, return receipt requested, postage prepaid; (ii) one business day after being sent via a reputable nationwide overnight courier service guaranteeing next business day delivery; or (iii) immediately if via electronic mail if the form available in TW Networks' Advertiser Manager is used. If from TW Networks to Advertiser, immediately upon electronic mail to the primary contact email address is deemed an acceptable means of notification. In each case to the intended recipient as set forth below:

If to Advertiser by electronic mail to the primary contact email address,

If to TW Networks, a division of Tiziani Whitmyre, Inc., 2 Commercial Ave., Sharon, MA 02067 or via electronic mail using the information available at <http://www.twnetworks.com/contact> or at such other address or addresses as may have been furnished in writing by TW Networks to the other Party in the manner set forth in this section, as deemed appropriate;

12.8 Section Headings. Section headings are for descriptive purposes only and shall not be used to interpret the meaning of this Agreement.

12.9 Attorneys' Fees. If either party fails to pay any amounts due under this Agreement or otherwise breaches this Agreement and the non-breaching party retains an attorney to collect such amounts or remedy such breach, then the breaching party shall be obligated to pay any amounts due herein including said non-breaching party's reasonable attorneys' fees incurred in collecting such amounts and court costs.

12.10 Non-Waiver. No delay or omission of either party in exercising any right accruing upon any default of the other party shall impair any such right or be

construed to be a waiver thereof, and every such right may be exercised at any time during the continuance of such default. A waiver by either of the parties of a breach or a default under any of the terms and conditions of this Agreement by the other party shall not be construed to be a waiver thereof. A waiver by either of the parties of a breach or a default under any of the terms and conditions of this Agreement by the other party shall not be construed to be a waiver of any subsequent breach or default of any other term or condition of this Agreement.

12.11 Refund Policy. After completion of the Term, Advertiser may request via written notice that TW Networks refund any remaining Pre-Pay Account balance not part of the Initial Deposit. This refund will be issued in accordance with Section 11.4.