



## TRANSPACIFICTELECOM, Inc. AGENT AGREEMENT

This AGENT Agreement ("Agreement") is entered into effective as of \_\_\_\_\_, 200\_\_ Effective Date"), by and between TRANSPACIFICTELECOM, Inc. ("Company"), a Delaware corporation and \_\_\_\_\_ ("AGENT"), with reference to the following facts:

WHEREAS, the Company operates as a telecommunications carrier and offers 1+ service to commercial customers (the "Services"); WHEREAS, the Company desires to recruit persons and companies to assist TPT in securing introductions to customers who can utilize the Services;  
NOW, THEREFORE, for good and valuable consideration, the receipt of which hereby is acknowledged by all parties, it is agreed by and between TPT and AGENT as follows:

### **1. TRANSPACIFICTELECOM, Inc. PROGRAMS COVERED BY THIS ADDENDUM**

The commission rates set forth in this Addendum apply to the following TRANSPACIFICTELECOM, Inc. Commercial Program:

2.1 Description of Representation. TPT hereby appoints AGENT as an independent AGENT to generate sales of Services in accordance with the tariffs of TPT and the terms and conditions set forth herein.

2.2 Term. The term of this Agreement and AGENT's representation will commence on the Effective Date and, except as provided below and in Paragraph 2.6 hereof, will continue thereafter. At any time after the Effective Date, TPT may terminate the referral of future business by AGENT, without cause, by giving sixty (60) days advance notice to AGENT.

2.3 Commissions. As the full and complete compensation for services rendered hereunder, TPT shall pay to AGENT commissions ("Commissions") at the rates and on the terms set forth in the Commission Addendum(s) to this Agreement, or as modified by TPT's current commission rate schedules published in writing from time to time, on all Qualified Revenues. It is a condition precedent to TPT's obligation to pay Commissions to AGENT on any Customer's telecommunications traffic that TPT has actually received payment for the traffic. Additionally, in the event TPT makes a refund to any Customer, AGENT shall not be entitled to any Commission on account of the Services to which such refund applies, and AGENT shall repay to TPT any Commission previously received by AGENT on account of Services to which such refund applies.

2.4 Reports. TPT will supply AGENT with periodic management reports based on usage information and weekly status reports concerning orders transmitted to TPT by AGENT.

2.5 Commission Payments After Termination of This Agreement. Except as provided below and in Paragraph 5.4 hereof, TPT shall be required to pay Commissions to AGENT after termination of this Agreement on Qualified Revenues generated at any time from Customers accepted by TPT prior to the termination of this Agreement. AGENT shall not, however, be entitled to any further Commissions or other compensation from TPT if AGENT violates or fails to fully comply with any of the terms or conditions set forth in Paragraphs 3.1, 3.2 or 3.3 of this Agreement.,

Initial \_\_\_\_ Initial \_\_\_\_

[www.transpacifictelecom.com](http://www.transpacifictelecom.com)

Fax: 858-777-5375

Email: [info@t-p-t.net](mailto:info@t-p-t.net)

Rev. 12-18-02



TRANSPACIFICTELECOM, Inc. AGENT AGREEMENT

2. SALES REPRESENTATION

Initial \_\_\_\_ Initial \_\_\_\_



2.6 Termination For Cause. This Agreement may be terminated by TPT, upon notice to AGENT, in the event AGENT violates or fails to fully comply with any of the conditions or covenants required to be performed by AGENT hereunder.

its Agreement may be terminated by AGENT, upon notice to TPT, only in the event TPT fails to make any Commission payment to AGENT when due and fails to cure such non-payment within thirty (30) days after notice by AGENT to TPT of such default.

### **TRANSPACIFICTELECOM, Inc. AGENT AGREEMENT**

2.7 Acceptance of Orders and Business. TPT shall at all times have absolute discretion to reject any order for Services or to terminate further Services to any Customer without liability to AGENT. TPT shall also have absolute discretion with respect to rates charged to end-users of the Services.

### 3. COMPETITIVE Agreements

3.1 Records to Remain Property of TPT. All records of TPT, all records pertaining or relating to clients of TPT, and all records and documents prepared or generated by AGENT, TPT or any other person or entity in connection with the performance of AGENT under this Agreement, including but not limited to account cards, invoice copies, promotional materials, manuals, business plans, sales aids, customer lists, leads and all documents containing the names or addresses of or information relating to clients who have done business with TPT, or who have been referred to TPT by AGENT and accepted by TPT, are and shall remain the property of TPT at all times during the term of this Agreement, and after termination of this Agreement for any reason. None of such records, nor any part of them may be used by AGENT either in original form or in computerized, duplicated, or copied form except for the purpose of conducting business pursuant to this Agreement and the names, addresses, any other information and data in such records are not to be transmitted verbally, in writing, or in computerized form by AGENT except in the ordinary course of conducting business pursuant to this Agreement. All of said records or any part of them are the sole proprietary information of TPT and shall be treated by AGENT as confidential information of TPT. In the event of the termination of this Agreement for any reason, AGENT shall return to TPT all such records and any copies or summaries thereof in computerized, duplicated, copies or any other form.

3.2 Limitations on AGENT's Use of Proprietary Information. AGENT shall not at anytime, or in any manner, Directly or indirectly divulge, disclose or communicate to any other person, firm or corporation, nor shall AGENT use for its own benefit other than in connection with the performance of AGENT's duties under this Agreement; (i) any of the names, addresses, telephone numbers of or other data relating to clients of TPT, prospective customers of TPT, customers referred to TPT by AGENT or persons, firms or corporations to whom AGENT may have provided services in his capacity as a AGENT for TPT; (ii) any of the records or documents referred to in Paragraph 3.1 of this Agreement; or (iii) any other information acquired by AGENT as a consequence of its relationship with TPT.

3.3 AGENT Not to Solicit Certain Customers of TPT. For a period of three (3) years after a person or entity referred to TPT by AGENT becomes a TPT Customer, AGENT shall not, directly or indirectly, either as principal, agent, employer, stockholder, co-partner, through others or in any other individual or representative capacity whatsoever solicit, induce, counsel, recommend, procure, or in any way assist such Customer, in terminating, discontinuing or curtailing utilization of TPT Services.

3.4 Reasonableness of Restrictions. AGENT acknowledges and agrees that sales and services are of the essence of this Agreement, along with the relationships created thereby; and therefore, the restrictions placed upon AGENT herein have been determined by the careful thought and final agreement between and among the parties who confirm the reasonableness of said restrictions and subsequent requirements.

3.5 AGENT Participants Also Bound. The owners, directors, principals, shareholders, agents, servants, employees, Agents, subagents, advisors, and/or consultants of AGENT (hereinafter the "AGENT Participants") shall be personally bound by and required to fully comply with each of the provisions contained in paragraphs 3.1, 3.2 and 3.3 hereof (the "competitive provisions").

Initial \_\_\_\_ Initial \_\_\_\_

[www.transpacifictelecom.com](http://www.transpacifictelecom.com)

Fax: 858-777-5375

Email: [Info@t-p-t.net](mailto:Info@t-p-t.net)

Rev. 12-18-02



**TRANSPACIFICTELECOM, Inc. AGENT AGREEMENT**

Initial \_\_\_\_ Initial \_\_\_\_

[www.transpacifictelcom.com](http://www.transpacifictelcom.com)  
Fax: 858-777-5375  
Email: [Info@t-p-t.net](mailto:Info@t-p-t.net)  
Rev. 12-18-02



4 NATURE OF RELATIONSHIP AND CONFIDENTIALITY

4.1 Independent AGENT Relationship. It is agreed that by virtue of this Agreement, a relationship has been created which is one of independent parties furnishing services to one another for mutual benefit. The parties hereto are not partners, participants in a joint venture, or employer-employee; rather the parties are independent Agents doing business under the terms and conditions of this Agreement. AGENT shall not have authority to enter into any contract or incur any liability on behalf of TPT. Additionally, AGENT shall not be entitled to any benefits provided to employees of TPT, and shall be solely responsible for all costs incurred in connection with its performance under this Agreement.

4.2 Non-Disclosure of Agreement. The parties agree that this Agreement, and its terms and conditions, shall remain confidential and shall not be disclosed by either party to any person or entity except by order of a court of competent jurisdiction or with the written consent of the other party.

5. REPRESENTATIONS, WARRANTIES AND RELATED PROVISIONS

5.1 Representation and Warranties of TPT. TPT represents and warrants that, except as otherwise specifically provided herein, TPT has the power and authority to enter into this Agreement and to grant to AGENT the rights conveyed herein.

5.2 Representations, Warranties and obligations:

(a) AGENT shall solicit, market and sell the Services to prospective customers in accordance with the terms of this Agreement and all applicable laws and regulations. AGENT shall at all times conduct its efforts in a commercially reasonable manner.

(b) AGENT shall solicit and obtain from prospective Customers service orders on forms supplied or approved by TPT for acceptance or rejection at TPT's sole discretion.

(c) AGENT shall not use any promotional, marketing, or other form of solicitation or advertising material, in any fashion whatsoever, concerning the Services without the prior written approval of TPT.

(d) AGENT shall not use the name, trade name, service mark, printed materials, or art work of TPT in any promotional or advertising material, statement, document, press release or broadcast, without the written consent of TPT.

5.3 Indemnity. TPT and AGENT hereby agree to indemnify and hold each other harmless from and against any claims, lawsuits, damages or other injuries, (including the payment of reasonable attorneys' fees incurred in defending against such claims or lawsuits) resulting from any conduct or alleged conduct of the other party.

5.4 Letters of Agency. AGENT shall provide to TPT, with each order, a written letter of agency or similar authorization ("LOA") which complies with all applicable local, state and federal regulations and which directly authorizes TPT to provide services to the Customer. As to each LOA submitted to TPT, AGENT represents and warrants that such LOA is valid, authentic and effective and AGENT agrees to and shall indemnify and hold harmless TPT from and against all claims, fines, penalties and expenses (including reasonable attorneys' fees) asserted or levied against TPT by any person, firm, corporation or regulatory agency arising from or related to the invalidity or alleged invalidity of such LOA or the contention that such LOA was superseded by a more recent LOA. In the event TPT determines that a LOA in favor of someone else other than AGENT is to be given effect and honored, AGENT shall have no further claim against TPT for Commissions or other compensation in connection with Services to the Customer covered by such LOA.

Initial \_\_\_\_\_ Initial \_\_\_\_\_

[www.transpacifictelecom.com](http://www.transpacifictelecom.com)

Fax: 858-777-5375

Email: [Info@t-p-t.net](mailto:Info@t-p-t.net)

Rev. 12-18-02



6. MISCELLANEOUS PROVISIONS

6.1 Assignment. Neither this Agreement nor any other benefits to accrue hereunder shall be assigned or transferred by AGENT, either in whole or in part, without the written consent of TPT, and any purported assignment in violation hereof shall be void.

6.2 Partial Invalidity. If any term, provision, covenant, or condition of this Agreement is held by a court or agency of competent jurisdiction to be indefinite, invalid, void or otherwise unenforceable, the rest of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated. In the event any provision contained in Paragraphs 3.1, 3.2 or 3.3 of this Agreement should ever be deemed to exceed the law in any respect, then the parties hereto agree that such provision shall be amended automatically to provide the party seeking to enforce such provisions with the maximum protection permitted by law.

6.3 Entire Agreement. This Agreement (together with the Commission Addendum and any rider hereto) contains the entire agreement between the parties and is intended as a complete and exclusive statement of the terms of their agreement. It supersedes all negotiations, statements, promises, or understandings, if any, made prior to the execution of this Agreement. Any such negotiations, promises, or understandings shall not be used to interpret or constitute this Agreement.

6.4 Gender and Number. As used in this Agreement, the masculine feminine or neuter gender, and the singular or plural number, shall each be deemed to include the others whenever the context so indicates.

6.5 Notices. Any notice required or given under this Agreement shall be in writing and be deemed effectively given when presented personally or on the third (3rd) day after mailing by certified or registered mail, return receipt requested, with proper postage prepaid to a party at the addresses specified below or at such other address as either party may hereafter designate by notice in the same manner.

ADDRESSES FOR NOTICES

TPT: TRANSPACIFICTELECOM website mailing address

AGENT: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

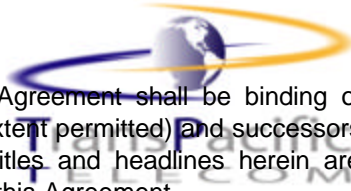
ATT: \_\_\_\_\_

Email: \_\_\_\_\_

6.6 Attorney's Fees. Should any civil action or legal proceeding be commenced between the parties to this Agreement, the party prevailing in such action or proceeding shall be entitled to, in addition to such other relief as may be granted, reasonable sum as and for attorneys' fees and costs.

6.7 Amendment and Waiver. The terms of this Agreement may be amended, modified or eliminated, or the observance or performance of any terra, covenant or provision herein may be omitted or waived (either generally or in a particular instance, and either prospectively or retroactively) only by a writing signed by TPT and AGENT. The waiver by either party of any breach by the other party of any term or provision of this Agreement shall not be construed as a waiver of any subsequent breach.

Initial \_\_\_\_ Initial \_\_\_\_



6.8 Inurnment. This Agreement shall be binding on and inure to the benefit of all heirs, assigns (to the extent permitted) and successors in interest of the parties thereto.

6.9 Headlines. The titles and headlines herein are for convenience only and shall not be used to interpret this Agreement.

6.10 Interpretation. In matters regarding the construction of this Agreement, any interpretation of this Agreement shall not be construed against either party.

6.11 Governing Law. This Agreement is entered into in accordance with and shall be governed by California law; provided that if any California law shall dictate that the laws of another jurisdiction be applied in any proceeding, such California law shall be superseded by this paragraph and the remaining laws of California shall nevertheless be applied in such proceeding.

6.12 Non-Exclusivity of Appointment. AGENT acknowledges that TPT shall at all times have the right to appoint other AGENTs to perform similar services. Additionally, AGENT shall have the right to perform similar services for other carriers, provided that AGENT provides advance written notice to TPT.

6.13 Authority to Bind. Each person executing this Agreement on behalf of TPT and AGENT hereby warrants that he or she has full and legal authority to execute this Agreement for and on behalf of that entity so as to bind it.

6.14 Survival of Provisions. The provisions contained in Paragraphs 3.1, 3.2, 3.3, 5.3 and 5.4 of this Agreement, and the other provisions hereof to the extent applicable, shall survive any termination of this Agreement.

6.15 Counterparts. This Agreement may be signed in any number of counterparts with the same effect as if the signatures were upon the same instrument.

6.16 Taxpayer I.D. Number. AGENT certifies under penalties of perjury that the taxpayer I.D. number shown above is AGENT's correct taxpayer identification number and AGENT is not subject to backup withholding because: (a) AGENT is exempt from backup withholding, or (b) AGENT has not been notified by the Internal Revenue Service ("IRS") that AGENT is subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified AGENT that AGENT is no longer subject to backup withholding.

6.17 Location of Legal Proceedings. Any civil action or other legal proceeding arising out of or relating to this Agreement or any dealings between AGENT, on one hand, and TPT and/or: TPT's officers, directors, employees, or agents, on the other hand, whether brought before or after any termination of this Agreement, shall be brought and heard only in a state or federal court located in San Diego County, California and the parties hereto expressly waive any rights under any law or rule to cause any such proceeding to be bought or heard in any other location. AGENT consents to jurisdiction in any state or federal court located in San Diego County, California in any civil action or other legal proceeding arising out of or relating to this Agreement.

6.18 Warranties and Liability of TPT. TPT warrants that it will use reasonable effort to perform its obligations under this Agreement. THE FOREGOING WARRANTY IS EXCLUSIVE AND IS IN LIEU OF ALL OTHER EXPRESS, IMPLIED OR STATUTORY WARRANTIES. TPT DISCLAIMS AND AGENT HEREBY WAIVES ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE OR PURPOSE. TPT SHALL NOT BE LIABLE TO AGENT, ANY CUSTOMER OF TPT OR ANY PERSON OR ENTITY UTILIZING ANY SERVICE PROVIDED BY TPT, FOR LOSS OF TIME, INCONVENIENCE, LOSS OR INTERRUPTION OF SERVICE, LOST REVENUES OR PROFITS, OR FOR ANY OTHER SPECIAL, INCIDENTAL OR CONSEQUENTIAL LOSS OR DAMAGE ARISING OUT OF THIS AGREEMENT, ANY OBLIGATION RESULTING THEREFROM, OR ANY OTHER ACT OR OMISSION OF TPT, WHETHER ARISING OUT OF AN ALLEGED BREACH OF WARRANTY, ALLEGED BREACH OF CONTRACT, DELAY, NEGLIGENCE, STRICT TORT LIABILITY OR OTHERWISE.

Initial \_\_\_\_\_ Initial \_\_\_\_\_



**TRANSPACIFICTELECOM, Inc. AGENT AGREEMENT**

Initial \_\_\_\_ Initial \_\_\_\_

[www.transpacifictelecom.com](http://www.transpacifictelecom.com)  
Fax: 858-777-5375  
Email: [Info@t-p-t.net](mailto:Info@t-p-t.net)  
Rev. 12-18-02



**TRANSPACIFICTELECOM, Inc. AGENT AGREEMENT**

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the date and year first written above.

**TPT:**  
**TRANS PACIFIC TELECOM INC.**  
**A Delaware corporation**

By: \_\_\_\_\_  
Name:  
Title:

**AGENT:**

\_\_\_\_\_  
**Legal Name of AGENT**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Initial \_\_\_\_ Initial \_\_\_\_

[www.transpacifictelecom.com](http://www.transpacifictelecom.com)  
Fax: 858-777-5375  
Email: [Info@t-p-t.net](mailto:Info@t-p-t.net)  
Rev. 12-18-02