



DRINKING POST: INDEPENDENT INSTALLER AGREEMENT

This INDEPENDENT INSTALLER AGREEMENT (“Agreement”) is made and entered into as of (Date) _____, 2020 (the “Effective Date”), by and between Drinking Post Waterer (“Company”) and yourself:

(Legal Name): _____

(Company Name, if applicable): _____

with an address of

(Street Address) _____

(City, State, Zip) _____

hereafter (“Installer”).

WHEREAS, the Company has created and distributes the Drinking Post Automatic Waterer and Drinking Post, herein after referred to as the “Product”; and

WHEREAS, the Company maintains a list of installers who are responsible and qualified to install the Product directly on the property of third parties who purchase the Product in accordance with the Company’s standards and specifications; and

WHEREAS, the Installer desires to be placed on the Company’s Qualified Installer List;

NOW, THEREFORE, the Company agrees to place the Installer’s name on its website list of qualified installers on the following terms and conditions:

1. Term and Termination

- a. This Agreement shall commence on the day and year shown above and shall continue until terminated by either party.
- b. This Agreement may be terminated at any time and without cause upon 60 days written notice of either party to the other.



- c. Either party may terminate this Agreement for cause upon 30 days written notice and opportunity to cure, including, but not limited to, if Installer does not remedy customer complaints or fails to honor its warranty under this Agreement.
- d. If either party suspends its business, becomes bankrupt or insolvent, or if a receiver or similar official is appointed for all or substantially all of its assets, the other party may terminate this Agreement by giving 30 days written notice.
- e. Notice shall conclusively be deemed to have occurred three days after such notice is deposited in the U.S. Mail, postage paid, addresses to the last known address of the party being notified.
- f. Termination of this Agreement shall not excuse the parties from any liability or obligations arising out of conduct or transactions entered into prior to termination.

2. Services

- a. Company will include Installer's name and contact information on its website under the Installer Program.
- b. Installer will engage in the independent installation of Company's products for Company's customers ("Services"). Installer warrants that it is qualified to perform all Services and will not start a job unless it can be completed with the highest quality for the stated price.
- c. Company, in its sole discretion, may determine, from time to time, if Installer will be included in additional Company advertising for Services.
- d. Installer acknowledges that it is not the exclusive Installer offering Services for Company, and Company makes not guaranty of the amount of business or leads, if any, to be generated to Installer.
- e. All Installer policies and procedures covering the Services shall be in conformance with the Company's principles and standards for installation, as set forth in Exhibit A. In addition, Installer shall use its best efforts to ensure that any employee or independent contractor of Installer shall comply with Exhibit A. Installer must maintain a minimum level of service that is reasonably acceptable to Company that meets or exceeds the standards set forth in Exhibit A.

3. Operation of Business by Installer

- a. Installer is solely responsible for procuring and maintaining any and all licenses and permits necessary to operate its business hereunder. Installer shall comply with all applicable laws, ordinances, and regulations.
- b. Installer will not divert elsewhere any sales of business which could be transacted by Company. Installer shall not accumulate or use the names of Company's customers for any purpose whatsoever, except in its performance of Services.
- c. All forms, advertising materials, promotional materials, coupons, methods of soliciting business, and other materials used by Installer in connection with its operation hereunder must be approved by Company in writing prior to their use.



Installer shall not use the Company's name, trademark, or copyrights without the express prior written consent of Company.

- d. Installer warrants and guarantees that all Services performed shall be free from defects in workmanship for a period of one (1) year from completion of said Services by Installer. If any claim is made that a defect developed during this warranty period in workmanship or in materials furnished by Installer, Installer agrees to promptly remedy said defect immediately, without cost to Company or to the customer. If Installer fails to so remedy said defect, Company shall, in its sole discretion, and unless otherwise prohibited by applicable law, have the right to have the defect corrected at Installer's expense.
- e. Any subcontractor retained by Installer to perform any Services shall agree to comply with all of the terms and conditions set forth herein.

4. Insurance Requirement

- a. Installer, during the term of this Agreement, shall at its sole cost and expense maintain Commercial General Liability Insurance (including coverage for personal injury, property damage, and completed operations) and Automobile Liability Insurance with the minimum limit of \$1,000,000. All such policies shall be written in the form known to the insurance industry as an occurrence policy, which policy shall contain an endorsement whereby the insurer extends the coverage thereunder to the extent necessary to include the contractual liability of Installer arising by reason of the indemnity provision of this Agreement, and shall be issued with Drinking Post as an additional insured.
- b. All such policies shall have a limited self-insured retainer, not to exceed \$10,000.
- c. Installer shall comply with all applicable Worker's Compensation laws and provide Worker's Compensation Insurance for all persons employed by it in connection with the business conducted pursuant to this Agreement and shall pay any and all contributions, taxes, and costs of such insurance and benefits payable thereunder which are required to be withheld and/or paid by any employer under the provisions of any applicable present or future law, or regulation.
- d. All policies of insurance with Installer must be in accordance with the provisions of this Agreement, except Worker's Compensation Insurance, shall be issued by insurance carriers approved by Company and shall be in form satisfactory to Company. All policies shall contain an endorsement whereby the carrier agrees that its insurance is primary and not contributory with or in excess of any coverage of the Company may carry. Installer shall deliver to Company certificates of all policies of insurance upon the commencement date of this Agreement and thereafter, not less than ten (10) days prior to the expiration dates of said policies. Each policy shall state that it cannot be canceled or materially changed by the Installer, except with thirty (30) days' notice from the insurance carrier to Company, to ensure no material changes have been made to Installer's policy.



5. Indemnification

- a. In addition to Installers other obligations concerning liability under this Agreement, Installer shall be fully liable for any loss, theft, destruction of, or damage to, the merchandise or property of Company, any of Company's customers resulting from Installer's acts or omissions, or the acts or omissions of Installers independent contractors, or the acts or omissions of Installer's independent contractor's employees, agents, or subcontractors.
- b. Installer assumes all liability for, and shall defend, indemnify, and hold harmless Company and its parents, subsidiaries, affiliates, officers, directors, employees, agents, successors, and assigns (each, and "Indemnified Party) from and against any and all liabilities, obligations, losses, damages, penalties, claims, demands, actions, suits, costs, and expenses (including, without limitation, legal fees and expenses), arising from any claims made by others of whatsoever kind or nature, imposed on, incurred by, or asserted against any Indemnified Party, resulting from, arising out of, or incurred with respect to:
 - a. The breach by, or act, or omission of, Installer (or any of its employees, agents, or subcontractors) under this Agreement; and
 - b. Any other matter as to which Installer in other provisions of this Agreement has agreed to indemnify Company.
- c. Company shall not be liable for any claims of death, damage, or injury of any type to persons or their animals, resulting from an act or omission of Installer. Company shall not be liable for any claim for damage or injury to any materials or property owned, stored, held, or otherwise controlled by Installer. Company shall not be liable for loss of, damage to, or interference with, Installer's business. Company shall not be liable to Installer for any special, indirect, incidental, exemplary, consequential, or punitive damages, or loss of goodwill in any way relating to this Agreement, even if Company has been notified of the possibility or likelihood of such damages occurring, and regardless of whether such liability is based in contract, tort, negligence, strict liability, or otherwise. Company shall not be liable to Installer or Installer's employees, agents, or subcontractors for any loss or damage resulting from termination of this Agreement.

6. Due Diligence

Installer agrees that it will conduct its own due diligence prior to accepting any installation jobs with a potential customer of Company. Installer agrees that Company's role is limited to placing Installer's name and contact information on its website, and Company's customers may contact Installer for its professional installation services. Company does not endorse or encourage Installer to accept any installation jobs with any of Company's customers.

7. Installer As An Independent Third-Party

It is expressly understood that Installer, in its operations hereunder, is not affiliated with Company in any way whatsoever. Installer is separate and distinct from Company. This



Agreement shall not be construed to create a partnership or joint venture, between Company and Installer, nor to create between the parties the relation of employer and employee, independent contractor and contractor, or principal and agent.

8. Assignment:

Installer may not assign this Agreement without the prior written consent of Company.

9. Right to Use Marks:

Installer is hereby granted the limited right to use trade names and logos approved by Company in Installer's advertising and marketing of installation for Company's Products during the term of this Agreement only. Company reserves the right to inspect such advertising and marketing materials upon written notice Installer. Installer agrees that if Company, in its sole discretion, determines that any of the materials are unaligned with Company's mission or harmful to its reputation, Installer will immediately cease use of such materials. Installer does not have any rights in or to Company's trademarks, service marks, tradenames, copyrights, trade secrets, methods of operation, or other intellectual property.

10. Applicable Law:

This Agreement shall be governed by and construed solely and exclusively in accordance with the laws of state of Colorado, USA, without regard to any statutory or common-law provision pertaining to conflicts of laws.

11. Attorney's Fees:

If Company refers this Agreement to any attorney to collect any money owed by Installer or enforce any provision of this Agreement against Installer, then Installer will pay Company's collection fees, collection costs, attorney's fees, and court costs, including but not limited to any fees which accrue upon referral to a collection agency.

12. Waiver:

One or more waivers of any covenant, term, or condition of this Agreement by either party cannot be construed as a waiver of subsequent breach of the same covenant, term, or condition. The consent or approval by either party to or of any act by the other party requiring such consent or approval cannot be deemed to waive or render unnecessary consent to or approval of any subsequent similar act.

13. Modification:

No covenant, term, or condition in this Agreement may be modified or cancelled by either party unless that modification is made in writing and signed by both parties.

14. Remedies:



All of Company's rights under this Agreement are separate and cumulative, and none of them, whether or not exercised, shall exclude Company's right to use any other right granted under this Agreement or any other legal or equitable right Company may have.

15. Notices:

Any Notice that is required to be given under this Agreement or pursuant to any law or statute, shall be given to Company at its principal place of business at 4321 Broadway, Unit 4, Denver, CO 80216. Any such Notice given to Installer shall be at its principal place of business at the address provided on page one of this document.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the day and year first above written.

Drinking Post

Installer

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Email: _____

Cell: _____

ONCE SIGNED AND COMPLETED: Scan and email to info@drinkingpost.com or mail to:

Drinking Post
4321 Broadway, Unit 4
Denver, CO 80216