

INDEPENDENT CERTIFIED INSTALLER AGREEMENT

THIS AGREEMENT is entered into this ____ day of _____, 20 ____ ("Effective Date"), by and between **WARMLYOURS** with its principal place of business located at Suite B, 590 Telser Rd, Lake Zurich, Illinois, 60047 and the **INSTALLER** with its principal place of business located at:

WHEREAS, WY markets, sells and distributes floor heating, snow melting products and other related heating products (the "heating system");

WHEREAS, INSTALLER engages in the business of providing installation, warranty and out-of-warranty field service and support for heating systems and related products, including billable labor and repair, replacement and spare parts ("Service");

WHEREAS, INSTALLER represents that INSTALLER is not subject to any non-competition, non-disclosure or other agreement with any third-party that may restrict the INSTALLER's ability to perform the required duties for WY under this Agreement or expose WY to a possible legal claim by a third party; and

WHEREAS, WY desires to designate the NSTALLER as a "**CERTIFIED WARMLYOURS INSTALLER**" to provide installation, troubleshooting and repair services for the heating system and the INSTALLER desires to accept such designation, under the terms and conditions set forth below.

NOW, THEREFORE, the parties hereto agree as follows:

Section 1. DESIGNATION OF CERTIFIED WY INSTALLER

1.1 For the term of this Agreement, WY designates the INSTALLER as a Service provider for the installation, troubleshooting and repairs in accordance with the terms and conditions of this Agreement. The INSTALLER hereby accepts such designation as an INSTALLER, subject to the terms and conditions of this Agreement.

1.2 The INSTALLER acknowledges that the INSTALLER is and will be an independent contractor and under no circumstances shall the INSTALLER be considered an agent, employee, partner or joint venture of or with WY. The INSTALLER is responsible for its own tax payments, employee benefits and other liabilities relating to the INSTALLER's business. No authority or right is granted to the INSTALLER to assume or create any obligation or responsibility, express or implied, on behalf of or in the name of WY.

1.3 The INSTALLER is not granted any exclusive rights under this Agreement and the INSTALLER has no exclusive Customers, territory, district or area for installation of heating systems.

1.4 The INSTALLER's designation hereunder as a **CERTIFIED INSTALLER** is non-assignable. WY may assign this Agreement as WY deems necessary with written notice of such assignment to the INSTALLER. If WY assigns this Agreement, this Agreement shall be binding on and inure to the benefit of WY's successors and assigns.

Section 2. SERVICER'S OBLIGATIONS

2.1 Upon WY's request, the INSTALLER shall provide installation, troubleshooting and repairs for the Heating System and then only pursuant to a work order number ("Work Order") issued by WY to the INSTALLER. The INSTALLER shall not provide any WARRANTY related Service without first obtaining a Work Order issued by WY.

2.2 If the INSTALLER should receive a request for warranty related repairs from a Customer and the INSTALLER does not have a previously issued Work Order from WY for such Service, the INSTALLER shall promptly forward such request to WY. Whereby WY in its discretion may issue a Work Order and request to the INSTALLER for such Service.

2.3 The INSTALLER shall perform the work described in the Work Order as required to resolve the repair issue. If the Work Order contains an improperly diagnosed problem or requires parts outside of the INSTALLER's standard part stock, the INSTALLER shall contact WY from the Customer's premises, provide an explanation of the proper Service or parts required and repair the heating system to the best of its operating potential with the parts the INSTALLER has on-hand. If a return trip is required to properly service the Heating System, the INSTALLER shall promptly notify WY and, if deemed necessary by WY, a Work Order will be issued by WY pursuant to Sections 2.1 and 2.2 above.

2.4 Upon WY's request, after the INSTALLER receives a Work Order from WY, the INSTALLER shall support the Heating System in the field in a vigorous and diligent manner by: (a) contacting Customer within one (1) business day after receiving a Work Order from WY to schedule a mutually convenient time for Service; (b) performing Service in no more than two (2) business days of the issuance of the Work Order unless otherwise approved by WY; and (c) providing the Customer with quality Service, satisfactorily completed pursuant to the terms and conditions of this Agreement. If for any reason the INSTALLER cannot perform the required Service in the manner or within this time period required by this Agreement, or this Section in particular, the INSTALLER must immediately notify WY.

2.5 Within 24 hours of performing Service, the INSTALLER shall notify WY that Service is complete by providing WY with all requested information concerning Service of the Heating System and the Customer via telephone (800-875-5285) or Email: certifiedinstaller@warmlyyours.com Additionally, the INSTALLER shall submit an invoice to WY within ten (10) business days from the date WARRANTY related claim is completed. WY will pay approved invoices for Service satisfactorily completed pursuant to Section 4 below.

2.6 The INSTALLER shall only use WY parts for Service of the Heating System. However, WY in its discretion may approve the use of other parts as it may deem necessary and appropriate from time to time. The INSTALLER must obtain WY's prior written approval before using non-WY parts for Service of the Heating System.

2.7 Upon WY's request, the INSTALLER shall return failed or replaced parts to WY within thirty (30) days of Service. In such event, WY shall pay for the reasonable shipping and handling costs for the return of the parts. The INSTALLER shall not rework or sell failed or replaced parts.

2.8 All Service performed by the INSTALLER shall be in accordance with the Service provisions set forth in WY's then current Technical Manuals for the Heating System or any such other materials as WY, in its discretion, may provide the INSTALLER from time to time.

2.9 The INSTALLER hereby agrees, represents and warrants that it shall: (a) perform all Service in a professional and competent manner; (b) perform all Service in the best interest of WY, ensuring, to the best of INSTALLER's ability, total Customer satisfaction; (c) deal fairly and honestly with WY and Customers; (d) use only trained service personnel for rendering Service; and (e) before any of the INSTALLER's service personnel shall have rendered Service, such service personnel shall (i) have attended WY authorized training classes for the Heating Systems; (ii) possess requisite or comparable training as may be deemed acceptable by WY in its sole discretion or (iii) have attended such other training classes as may be reasonably required by WY from time to time to ensure the INSTALLER's proficient knowledge of the system.

2.10 The INSTALLER shall maintain complete and current records of its Installation, Service and Repairs of the Heating System including but not limited to Service reports and such other information pertinent to the INSTALLER's performance hereunder as WY may reasonably request from time to time. The INSTALLER shall permit a authorized WY representatives to have access to such records during regular business hours to obtain such information as WY may from time to time reasonably require.

2.11 The INSTALLER agrees to indemnify, defend and save harmless WARMLYYOURS as well as their respective affiliates, divisions, subsidiaries, agents, officers, directors, employees, shareholders, insurers, successors and assigns, from and against any and all claims, demands, damages, expenses (including reasonable attorneys' fees), legal actions and losses arising out of or resulting from or in connection with any activities on the part of the INSTALLER in performing of the INSTALLER's obligations under this Agreement; provided that WY shall promptly notify the INSTALLER in writing upon learning of any such claim or potential claim, and that the INSTALLER shall have the option of handling the defense of same through counsel of the INSTALLER's choice, in which event WY shall provide reasonable cooperation and assistance at the INSTALLER's sole cost and expense. Within thirty (30) days of the Effective Date of this Agreement, the INSTALLER shall provide WY with a certificate of insurance evidencing comprehensive general liability insurance in the amount of at least \$1,000,000 per occurrence/ \$2,000,000 aggregate; comprehensive automobile liability with a combined single limit of at least \$1,000,000; statutory limits of workers' compensation insurance; and employer's liability insurance in the amount of at least \$1,000,000 per accident, and naming WARMLYYOURS additional insureds. If the INSTALLER is a sole proprietorship or exempt from the Workers' Compensation Act, the INSTALLER must provide WY with appropriate evidence of the same. The INSTALLER may elect to provide primary general liability and automobile liability limits in combination with an umbrella or excess liability policy providing the balance of the limits are recommended.

WY, MAY IMMEDIATELY TERMINATE THIS AGREEMENT UPON WRITTEN NOTICE IF THE INSTALLER FAILS TO PROVIDE A VALID CERTIFICATE OF INSURANCE IN COMPLIANCE WITH THIS PARAGRAPH.

2.12 The INSTALLER shall exercise due care to protect WY's trademarks, tradenames, logos, other commercial symbols, serial numbers of the Equipment and general goodwill of WY, and refrain from any activities detrimental thereto. The INSTALLER shall not use, remove, alter or change in any way WY's trademarks, tradenames, logos, other commercial symbols or serial numbers of the Products, which are found on the Products or otherwise.

2.13 The INSTALLER shall notify WY of any complaints or claims concerning WY or the Heating System of any apparent violations of WY's trademarks, serial numbers or other proprietary rights, and any competitive conditions or customer behavior in the field which may adversely affect the premium quality image of the Product.

2.14 The INSTALLER shall maintain adequate staffing to fulfill the required obligations under this Agreement. The INSTALLER shall conduct all of the INSTALLER's business in the INSTALLER's own name and, consistent with its obligations under this Agreement, in such a manner as the INSTALLER may reasonably see fit. The INSTALLER shall be responsible for all expenses incurred in connection with the operation of the INSTALLER's office, employees and activities hereunder.

2.15 All permitted parts purchased hereunder shall be in accordance with WARMLYOURS then current terms and conditions of sale. All invoices due and payable by INSTALLER hereunder shall be paid by the INSTALLER thirty (30) days net from the date of the invoice.

2.16 NON-COMPETITION. The INSTALLER SHALL NOT PROVIDE EMPLOYMENT TO ANY OF WY's TECHNICAL/ SERVICE PERSONNEL WHILE THEY ARE A WY's EMPLOYEE AND FOR ONE (1) YEAR AFTER THE EMPLOYMENT OF SUCH PERSONNEL IS VOLUNTARILY OR INVOLUNTARILY TERMINATED. WHILE THIS AGREEMENT IS IN EFFECT, THE INSTALLER SHALL NOT SOLICIT WORK FROM CUSTOMERS IN WHICH STHE INSTALLER IS REPRESENTING WY WITHOUT EXPLICIT AUTHORIZATION FROM WY.

2.17 CONFIDENTIALITY. DURING THE TERM OF THIS AGREEMENT, WY MAY FURNISH THE INSTALLER WITH PROPRIETARY TRADE SECRETS AND OTHER INFORMATION THAT WY CONSIDERS CONFIDENTIAL AND PROPRIETARY IN CONNETION WITH WY'S BUSINESS. AS A CONDITION TO BEING FURNISHED WITH SUCH INFORMATION, SERVICER AGREES TO HOLD ALL SUCH INFORMATION IN CONFIDENCE, NOT USE, DISCLOSE, REPRODUCE OR DISTRIBUTE IT TO ANY THIRD PARTY WITHOUT THE PRIOR DISCRETIONARY WRITTEN PERMISSION OF WY. ADDITIONALLY, WY MAY REQUIRE THE INSTALLER TO SIGN A SEPARATE CONFIDENTIALITY AGREEMENT.

2.18 FOR A PERIOD OF THIRTY (30) DAYS FROM THE DATE THAT THE INSTALLER ATTEMPT WAS COMPLETED, THE INSTALLER HEREBY WARRANTS TO WARMLYOURS THAT SERVICES PERFORMED BY THE INSTALLER HEREUNDER SHALL BE PERFORMED IN A WORKMANLIKE MANNER AND SHALL BE FREE FROM DEFECTS IN MATERIALS (SUPPLIED BY THE INSTALLER)

AND WORKMANSHIP IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT. THE INSTALLER ALSO WARRANTS THE RESOLUTION OF THE SYMPTOM OR FUNCTION OF THE ORIGINAL MALFUNCTION FOR

THE PERIOD DESCRIBED ABOVE. IF THE INSTALLER IS NOTIFIED OF A BREACH OF THIS WARRANTY, THEN THE INSTALLER WILL PROMPTLY ARRANGE FOR THE NECESSARY REPAIRS OF SERVICE TO BE MADE WITHOUT ADDITIONAL CHARGES TO EITHER CUSTOMER OR WARMLYOURS.

Section 3. WY'S OBLIGATIONS

3.1 For parts the INSTALLER is permitted to purchase from WY, whereby WY shall make such parts available to the INSTALLER at a sliding discount rate based on the INSTALLER's purchase volume, WY in its discretion, may change prices and discounts as it deems necessary from time to time without notice to the INSTALLER.

3.2 For Service satisfactorily completed pursuant to the terms and conditions of this Agreement, WY shall pay the INSTALLER according to the payment schedules and compensation rates established by WY as detailed in Section 4 below. WY in its discretion may change the payment schedule as it deems necessary from time to time without notice to the INSTALLER.

3.3 Upon request, WY shall provide the INSTALLER with a training schedule including the dates, times and locations of training classes for the INSTALLER and personnel. WY in its discretion shall determine the frequency training classes may be offered as well as the dates, times and locations of the training classes. WY shall make these training classes and materials, available to the INSTALLER and personnel free-of-charge. The INSTALLER and the personnel shall be solely responsible for their respective costs and expenses associated with attending the training classes, including, but not limited to, travel expenses, lodging and meals.

3.4 WY shall provide the INSTALLER, at no charge the then current Technical Manuals for the Heating System or any other materials WY, in its discretion, may deem necessary to Install or Service the Heating System.

3.5 WY shall be responsible for the design, development, supply, production and performance of the Heating System development and shall be obligated to Customer for the manufacturer's warranties on the Heating System as set forth in the written warranty terms and conditions as approved and issued by WY. The INSTALLER shall not change or modify, or purport to change or modify, such warranty terms and conditions.

3.6 WY agrees to indemnify, defend the INSTALLER, its officers, agents, employees and representatives, from and against any and all claims, demands, damages, expenses (including reasonable attorneys' fees), legal actions and losses arising directly out of or resulting from or in connection with the manufacture and performance of the Heating System, including without limitation claims for product liability and claims under any warranties given by WY but excluding any claim arising from or in connection with any act, omission or negligence by the INSTALLER or any officer, agent, employee or representative of the INSTALLER; provided that the INSTALLER shall promptly notify WY in writing upon learning of any such claim or potential claim, and that WY shall have the option of handling the defense of same through counsel of WY's choice, in which event the INSTALLER shall provide reasonable cooperation and assistance at WY's sole cost and expense.

Section 4. COMPENSATION

4.1 In consideration for Service satisfactorily completed pursuant to the terms and conditions of this Agreement, WY shall compensate the INSTALLER as follows: (a) The INSTALLER shall be reimbursed for on-site WARRANTY RELATED service as set forth in the relevant Work Order(s) at the rate of \$ _____ per authorized service hour as set forth in WY's then current *Flat Rate for Service Guide*; (b) The INSTALLER 's only reimbursement from WY for travel shall be, \$ _____ per site visit, and such amount includes all payment for time (up to 1.5 hours) and mileage unless otherwise agreed to and authorized by WY; (c) within ten (10) business days after Service is completed, the INSTALLER shall Email a numbered invoice for Service / Travel reimbursement, along with a completed WY Field Service Report form, to ap@warmlyyours.com and certifiedinstaller@warmlyyours.com (d) WY shall pay approved invoices net thirty (30) days from acknowledged receipt of the invoice. (Extended travel will be paid at a rate of \$ _____ per half hour and must be pre-approved.)

4.2 THE INSTALLER AGREES THAT ANY SERVICE PERFORMED CONTRARY TO THE TERMS AND CONDITIONS OF THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO SERVICE PERFORMED (A) WITHOUT WY'S PRIOR APPROVAL; (B) WITHOUT WY'S PRIOR ISSUANCE OF A WORK ORDER BEFORE COMMENCING SERVICE; AND/ OR (C) THAT IS BEYOND THE SCOPE OF THE SERVICE AUTHORIZED IN THE WORK ORDER, SHALL NOT BE REIMBURSED BY WY TO THE INSTALLER. ADDITIONALLY, THE INSTALLER ACKNOWLEDGES THAT WARMLYYOURS RESERVES THE RIGHT NOT TO PAY ANY INVOICE THAT IS SUBMITTED MORE THAN THIRTY (30) DAYS AFTER THE DATE THE WORK ORDER WAS DISPATCHED.

Section 5. TERM AND TERMINATION

5.1 This Agreement shall commence as of the Effective Date and shall remain in effect until this Agreement is terminated in accordance with the provisions provided below.

5.2 At any time after this Agreement has remained in effect for ninety (90) days, either party may terminate this Agreement without cause upon thirty (30) days' written notice to the other party.

5.3 During the notice period pending termination, if any, the INSTALLER shall continue to operate in the best interests of WY and cooperate with WY to facilitate a smooth transition in accordance with WY's directions.

5.4 WY may immediately terminate this Agreement upon notice to the INSTALLER in the event (a) the INSTALLER materially breaches any term of this Agreement; or (b) The INSTALLER engages in conduct that puts WY's goodwill at risk or might otherwise expose WY to injury, damages, costs or potential liability.

5.5 Upon the termination of this Agreement: (a) WY shall only be obligated to pay the INSTALLER for Service satisfactorily completed pursuant to the terms and conditions of this Agreement up to and including the date of

termination and for other non-Service related amounts, if any, owed to the INSTALLER hereunder as of the date of termination; (b) The INSTALLER shall promptly pay WY all amounts owed to WY hereunder; and (c) The INSTALLER shall provide WY with detailed records regarding the Customers to whom the INSTALLER provided Service under this Agreement during its term.

Section 6. MISCELLANEOUS

6.1 No modification of this Agreement shall be binding unless it is in writing and signed by an authorized representative of the party against whom enforcement of the modification is sought. The term "this Agreement" shall be deemed to include any future modifications hereof.

6.2 All notices required or permitted under this Agreement shall be in writing and shall be deemed delivered when (a) delivered in person; or (b) faxed with a confirmation copy sent by United States Mail, postage prepaid, and addressed as follows:

WarmlyYours

Suite B - 590 Telser Rd
Lake Zurich, Illinois 60047

Attn: Julia Billen.

Telephone: (800) 875-5285

Facsimile: (800) 408 – 1100

Email: certifiedinstaller@warmlyyours.com

INSTALLER:

Address:

Telephone:

Facsimile:

Email:

Such addresses may be changed from time to time by either party providing written notice to the other in the manner set forth above.

6.3 This Agreement shall be governed by the laws of the State of Illinois and any dispute arising hereunder shall be adjudicated in the Circuit Court of Cook County, Illinois or the District Court for the Northern District of Illinois.

6.4 If any term, provision, covenant, or condition of this Agreement is held by a court or regulatory body of competent jurisdiction to be invalid, void, or unenforceable, the rest of the Agreement shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.

6.5 The section and paragraph headings in this Agreement are inserted for convenience and identification only and are in no way intended to define or limit the scope, extent or intent of this Agreement or any of the provisions hereof.

6.6 Except for written modifications made after the execution of this Agreement, this Agreement represents the entire agreement between the parties hereto with respect to the subject matter of this Agreement and supersedes all prior negotiations, representations and agreements, either written or oral.

6.7 The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.

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

ACCEPTED:

ACCEPTED:

WARMLYYOURS:

INSTALLER:

Authorized Signature:

Authorized Signature:

Printed Name:

Printed Name:

Title:

Title:

Date:

Date:

Company Name:	Federal EIN Number or Social Security Number:
Owner's Name:	Phone Number: Fax Number:
Mailing Address:	Shipping Address:
Account No.	