



Distributor Agreement

COMMERCIAL DISTRIBUTOR <input checked="" type="radio"/> \$299 ANNUAL Training materials and 1-day Commercial Training Renewal	COMMERCIAL ACCOUNT MANAGER <input type="radio"/> \$2,845 2 YEAR (Cash) Training materials, Personalized Website, Business Plan Software, 3-Day Commercial Training	COMMERCIAL ACCOUNT MANAGER <input type="radio"/> \$2,995 2 YEAR (4 payment plan) Training materials, Personalized Website, Business Plan Software, 3-Day Commercial Training	AUTHORIZED COMMERCIAL DISTRIBUTOR <input type="checkbox"/> Licensed contractors only. Application must be pre-approved by activTek Environmental. Waiver form must accompany application. For waiver form, please contact activTek Environmental at 866.736.0503.
---	--	--	---

LAST NAME		MIDDLE	SOCIAL SECURITY NUMBER	
FIRST NAME	SPOUSE'S NAME		STATE TAX ID #	
COMPANY OR DBA		FEDERAL ID NUMBER		
MAILING ADDRESS		FAX NUMBER		
CITY	STATE	ZIP CODE	BUSINESS NUMBER	
SHIPPING ADDRESS		HOME NUMBER		
CITY	STATE	ZIP CODE	MARITAL STATUS	
EMAIL ADDRESS		Male	DATE OF BIRTH	
GENDER		DATE OF BIRTH		
BUSINESS SPONSOR'S NAME		BUSINESS SPONSOR'S ID #		EDUCATION
REFERRING BUSINESS OWNER'S NAME		REFERRING BUSINESS OWNER ID #		

Read and sign application before submitting

- VISA
 MASTERCARD
 AMEX
 DISCOVER

CARDHOLDER'S NAME

CREDIT CARD NUMBER

xx/xxxx
EXPIRATION DATE

- MONEY ORDER/CASHIER'S CHECK
 CHECK
 CASH

4 PAYMENT PLAN \$748.75

I authorize the charge of 3 equal payments of \$748.75 for a total of \$2995 to be charged to my credit card listed on this agreement. The first payment will be made on the date of this agreement with the remaining 3 to be made 30, 60, and 90 days from the date of the first payment. By signing below, the cardholder acknowledges these terms and agrees to fulfill their obligations set forth.

SIGNATURE (REQUIRED IF USING 4 PAYMENT PLAN) _____ DATE _____

By signing below, Distributor acknowledges that he/she has read and agrees to comply with the activTek Distributor Policies which are incorporated into and made a part of this Distributor Agreement. Distributor agrees that the Terms and Conditions of the Distributor Agreement and the activTek Environmental Policies be amended at the sole discretion of activTek Environmental, and agrees to abide by all such amendments. Notification of amendments shall be given as provided in the Policies.

X
SIGNATURE (REQUIRED TO PROCESS APPLICATION) _____

EQ DISTRIBUTOR # (IF APPLICABLE) _____ DATE _____

Mail to or FAX to: 1.423.798.6474
activTek Environmental
 310 T. Elmer Cox Drive
 Greeneville, TN 37743

TO ORDER CALL
1.866.736.0503



Distributor Policy activTek Environmental Last Updated 5/29/2008

The Distributor Policies herein are designed to provide you – the Commercial Distributor (hereafter referred to as Distributor) with information necessary to represent the activTek Environmental (hereafter referred to as the Company) name and to sell and service commercial products to commercial customers as an Independent Contractor. The Distributor Policy is incorporated into, and form an integral part of, the Distributor Agreement. The Company reserves the right to amend the Distributor Agreement (including these Distributor Policies) and its prices in its sole and absolute discretion. By entering into the Distributor Agreement, you agree to abide by all amendments that the Company elects to make. Amendments shall be effective upon notice to all Distributors that the Distributor Agreement has been modified. Notification of amendments shall be given to all Distributors by one or more of the following methods: (1) posting on the Business Owner Login section of the Company's official web site; (2) electronic mail (e-mail); (3) inclusion in Company periodicals; or (4) special mailings. Your continuation as a Distributor and failure to cancel your Distributor Agreement following such notification constitutes your acceptance of any and all amendments.

1) Terms and Conditions:

- a) Distributor agrees to conduct business in a professional, businesslike manner at all times while marketing and selling the Company equipment or conducting installations and service for the Company customers.
- b) The Company shall not be responsible for any claims arising out of any advertising, verbal statements or representations by Distributor that are not officially approved by the Company in writing. The Distributor shall hold harmless and indemnify the Company for any damages or expenses caused as a result of any such unapproved communications.
- c) No Distributor has the power or authority to bind the Company or make promises or representations on behalf of the Company to third parties without the prior written consent of the Company.
- d) The Company reserves the right to deny any prospective Distributor's application herein and to suspend immediately and terminate permanently any Distributor upon 30 days prior written notice should the Distributor violate any of the terms, conditions, or any policies stated herein.
- e) The Distributor Agreement between the Company and Distributor does not create an employer/employee relationship, agency, partnership, or joint venture between the Company and Distributor. Distributor shall not be treated as an employee for Distributor's services or for Federal or State tax purposes.
- f) Distributor will obey all laws pertaining to the operation of its business including any applicable licensing fees or taxes required by local, state, or federal agencies. Distributor is responsible for paying local, state and federal taxes on any income generated as a Distributor. Every year, the Company will provide an IRS Form 1099 MISC (Non-employee Compensation) earnings statement to each Distributor who: 1) Had earnings of over \$600 in the previous calendar year; or 2) Made purchases during the previous calendar year in excess of \$5,000.

2) Product Pricing will be mandated per the Company's latest published pricing guide.

- a) The Company reserves the right to amend this pricing structure at any time without prior notification to Distributors.
- b) It must be clearly understood that large National Accounts may require more favorable pricing and/or require that the Company be involved in the order negotiations. For purposes of these Policies, a National Account shall be defined as an account that is so designated by both the Distributor who established the relationship with the potential customer and activTek, based on an assessment of that customer's needs and the ability of the Distributor to meet those needs without the assistance of activTek. Upon contacting such a business or Customer, the Distributor agrees that Distributor shall immediately contact the Company to determine whether or not the business or customer is considered a National Account. If the business or customer is a National Account, as determined by the Company at its sole and

absolute discretion, the Distributor agrees that the Company shall take over the account.

- c) It should be understood that the pricing and any applicable commissions may be negotiable on these National Account orders, and any and all discount modifications must be agreed to in writing.
- d) The Company publishes the Mandatory Retail Price (MRP) of all its products and no Distributor may undersell that price without prior written approval of the Company in its sole discretion.
- e) Net 30 Terms Requirements
 - i) Distributor will use the standard order forms – which list minimum MRP - provided by the Company for placing orders.
 - ii) Distributor's customers may be eligible for Net 30 Terms if they submit a Company Credit Application Form and are confirmed credit worthy. A finance charge shall be imposed on any balance not received within thirty (30) days. The finance charge is a periodic monthly rate of 1.5%, corresponding to an 18% annual rate. Payments made against past due balances using a credit card will be assessed a 2.5% surcharge.

3) Commercial Sales Training

- a) Distributor agrees to register for and complete the Self-Study Course and pass an exam with a minimum acceptable score –of at least 70% – registering for the required commercial training.
- b) The Distributor agrees to attend, as soon as is practical, the Company's commercial training program – currently one day in duration.
- c) Commercial Account Managers are required to complete an additional two days of advanced training.

4) Shipping and Freight

- a) All freight will be shipped prepaid or UPS Ground unless otherwise agreed to in writing by the contracting parties. The price quoted and charged for freight is based on estimated weight and current carrier listing and may be subject to changes.
- b) Notwithstanding any other terms herein, the risk of loss to the systems shall be upon the carrier until said product is received and inspected by the purchaser/deliverer.
- c) If shipment is received with damaged or missing parts, the purchaser/deliverer should contact the Company for further instructions in order to rectify the problem.

5) Service and Installation

- a) Distributor is required to provide installation and ongoing service, if required to customers. Distributor should have a trained service technician to conduct periodic service calls or installations when required for the commercial products.
- b) Distributor agrees to train in accordance with the Company's instructions and procedures the personnel designated by the Distributor concerning the proper installation and service of the products when necessary.

6) Warranty, Performance Guarantee, and Returns

- a) The Company offers a Limited Warranty on all commercial products. Warranty periods vary based on products and therefore current published literature specific to that product should be consulted.
- b) It is the customer's responsibility to return warranty items to the Company and the Company will pay for the shipping back to the customer for warranty returns.
- c) Requests to return unused products after 90 days for whatever reason must be preceded by a written request submitted to the Company. The return may be implemented upon an acknowledgment and consent of return signed by the Company.
- d) These returns will be at the sole discretion of the Company and are subject to a minimum 10% restocking fee:
 - i) All items returned must be currently offered in the latest published catalog and;
 - ii) Products must be returned in unopened boxes in new, salable condition.
 - iii) A 10% restocking fee is incurred for all returns.
 - iv) The customer is responsible for all shipping fees.
 - v) All PV/QV are deducted for returned items to recover bonuses paid to uplines.
 - vi) If products are received and deemed to have been used, the products may be depreciated

between 50%-75% based on activTek's evaluation.

- c) If a Distributor resigns from the Company or whose relationship to the Company is terminated for any reason, the Distributor may return all products and marketing materials purchased within the past 12 months for a full refund less a 10% restocking fee and less any Bonuses paid to the Distributor.

- i) Only unopened, complete packages in resalable condition may be returned.
- ii) An RMA (Return Material Authorization) must be obtained before shipping items back to the Company. You may obtain an RMA by calling Commercial Support service at 866-736-0503.

7) Trade Shows, Marketing Materials, Distributor Websites

- a) Distributor is permitted to display Company products at regional trade shows for industry sectors in which they are primarily focused. However, the Company permits only one Distributor to participate in any such trade show. Before submitting a deposit to the event promoter, Distributor must contact the Company in writing for conditional approval. Approval will be granted to the first Distributor who submits an official advertisement of the event, a copy of the contract signed by both the Distributor and the event official, and a receipt indicating that a deposit for the booth has been paid. Approval is given only for the event specified.
- b) The Company cannot guarantee referrals back to Distributor when a lead is generated from a trade show. The Company will use best efforts to send leads and inquiries back to the appropriate Distributor.
- c) The Distributor is granted the right to use the Company's trademarks, trade names and logos unless the Company notifies the distributor otherwise.

8) Notices, Arbitration, Governing Law Tennessee, Jurisdiction and Venue

- a) Any notices to the activTek Environmental Company shall be sent to the Company's corporate offices in Greeneville, TN. Notices to Distributor shall be sent to the Distributor's address on file with the Company.
- b) Any controversy or claim arising out of or relating to the Distributor Agreement, or the breach thereof, shall be settled by arbitration administered by the American Arbitration Association under its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Distributor waives all rights to trial by jury or by any court. All arbitration proceedings shall be held in the City of Greeneville, Tennessee. There shall be one arbitrator, an attorney at law, who shall have expertise in business law transactions with a strong preference being an attorney knowledgeable in the direct selling industry, selected from the panel which the American Arbitration Association provides. The prevailing party shall be entitled to receive from the losing party *OR* Each party to the arbitration shall be responsible for its own costs and expenses of arbitration, including legal and filing fees. The decision of the arbitrator shall be final and binding on the parties and may, if necessary, be reduced to a judgment in any court of competent jurisdiction. This agreement to arbitration shall survive any termination or expiration of the Agreement.
- c) Nothing in the Distributor Agreement or these Policies shall prevent the Company from applying to and obtaining from any court having jurisdiction a writ of attachment, a temporary injunction, preliminary injunction, permanent injunction or other relief available to safeguard and protect the Company's interest prior to, during or following the filing of any arbitration or other proceeding or pending the rendition of a decision or award in connection with any arbitration or other proceeding.
- d) Jurisdiction and venue of any matter not subject to arbitration shall reside exclusively in Greene County, State of Tennessee. The Federal Arbitration Act shall govern all matters relating to arbitration. The law of the State of Tennessee shall govern all other matters relating to or arising from the Distributor Agreement.

9) Product Volume Rebates

- a) The Company lists only one price for each product regardless of quantity purchased.
- b) Each Distributor will receive a rebate based on

their personal volume during the month following payment for the products the previous month. c) As each volume level is achieved, the Distributor will continue to receive that percentage rebate as long as they remain in good standing with the Company.

10) Certified for Healthy Living

- a) Any commercial establishment that installs all of the air, food, and water purification equipment available and appropriate for their type venue may be awarded a Certified for Healthy Living Certificate.
- b) Distributor is responsible to initiate and complete all necessary procedures to accomplish this endeavor.

11) Exclusive Territories and Customers

- a) There are no exclusive territories granted to any Distributor. No franchise fees are required.
- b) The Company, in its sole discretion, may grant exclusive rights to a Distributor to conduct all business with a particular customer, and each Distributor will not attempt to transact business with any third party so designated.

12) Delays

The Company shall not be responsible for delays or failures in performance of its obligations when performance is made commercially impracticable due to circumstances beyond its reasonable control. This includes, without limitation, strikes, labor difficulties, riot, war, fire, death, curtailment of a party's source of supply, or government decrees or orders.

13) Waiver

The Company never gives up its right to insist on compliance with the Agreement and with the applicable laws governing the conduct of a business. No failure of the Company to exercise any right or power under the Agreement or to insist upon strict compliance by Distributor with any obligation or provision of the Agreement, and no custom or practice of the parties at variance with the terms of the Agreement, shall constitute a waiver of the Company's right to demand exact compliance with the Agreement. Waiver by the Company can be effectuated only in writing by an authorized officer of the Company. The Company's waiver of any particular breach by Distributor shall not affect or impair the Company's rights with respect to any subsequent breach, nor shall it affect in any way the rights or obligations of any other Distributor. Nor shall any delay or omission by the Company to exercise any right arising from a breach affect or impair the Company's rights as to that or any subsequent breach. The existence of any claim or cause of action of Distributor against the Company shall not constitute a defense to the Company's enforcement of any term or provision of the Agreement.

14) Severability

If any provision of the Agreement, in its current form or as may be amended, is found to be invalid or unenforceable for any reason, only the invalid portion(s) of the provision shall be severed and the remaining terms and provisions shall remain in full force and effect. The severed provision, or portion thereof, shall be reformed to reflect the purpose of the provision as closely as possible.

15) Errors or Questions

If Distributor has questions about or believes any errors have been made regarding commissions, bonuses, orders, or charges, Distributor must notify the Company in writing within 60 days of the date of the purported error or incident in question. The Company will not be responsible for any errors, omissions or problems not reported to the Company within 60 days.