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**email:** order@hostdefense.com • www.hostdefense.com

*This agreement is entered into by Fungi Perfecti LLC/Host Defense (“FP”/HD), supplier of nutritional supplements, and the dealer/distributor as indicated by the Company name and signature below. This agreement is intended to identify the terms and conditions for distribution and advertising of FP products.*

## **Unilateral Minimum Advertised Pricing Policy**

Effective January 1, 2012  
(Applies to ALL retail/e-commerce/distributor channels)

Thank you for your interest in purchasing Fungi Perfecti/Host Defense products. Fungi Perfecti/Host Defense, we make a committed effort to support your sales of our products through providing only the highest quality products, along with, advertising, and education. As a condition of being a distributor or dealer of Fungi Perfecti/Host Defense products it is essential that the following terms and conditions are adhered to. The failure to abide by these terms and conditions will ultimately result in you being discontinued as retail dealer/distributor for Fungi Perfecti/Host Defense. These terms of Unilateral Minimum Advertised Pricing Policy (UMAPP) is an agreement between the individual or company/reseller that signs below (“you” or “your”) and Fungi Perfecti LLC/Host Defense (“FP”/“HD”, “we”, “us” or “our”). You must have an active account and be a business in good standing to order Host Defense products.

### **Terms and Conditions**

1. FP/HD will establish a Unilateral Minimum Advertised Pricing Policy (“UMAPP”) for its products (see section 3). **The UMAPP is detailed herein this document.** The UMAPP may be adjusted by FP/HD at its sole discretion upon seven (7) day notice to you by email or fax. Such adjustments shall be uniformly applied to all FP/HD dealers and distributors in the United States.
2. The UMAPP applies to all advertisements for any FP/HD products in any and all media, including, but not limited to: flyers (third party or otherwise), posters, coupons (third party or otherwise), mailers (third party or otherwise), email/fax/store and or house mailing lists (obtained by various ways, i.e. collected, purchased, etc.), inserts, newspapers, magazines, catalogs, mail order catalogs, Internet or similar electronic media, television, radio and other public displays. The maximum allowed advertised discount is twenty-five percent (25%).
3. The UMAPP specifically includes a maximum allowed advertised discount of up to, **but no more than twenty-five percent (25%) off “single item” Manufacturer Suggested Retail Price (“MSRP”)** as indicated by the current pricing supplied by FP/HD and attached hereto, ~~excepting there from any special promotion pre-approved in writing by FP/HD.~~ Online Retailers shall not advertise or sell FP/HD at a discount greater than **twenty-five percent (25%)** off MSRP (excludes paid club memberships). FP/HD retains the right to modify MSRP at any time and will notify all dealers and distributors of such price modifications. All dealers and distributors must implement such modifications within sixty (60) days from the date of receipt of such notice. Retailers with store fronts, may price FP/HD on shelf, in the retail location, at your discretion however, if that price is below UMAPP, that discount cannot be advertised. Please see section 2 and section 4.
4. The UMAPP applies to the price at which FP/HD products are actually sold or offered for sale to an individual consumer within the dealer’s retail location. “Retail location” is defined as the physical place where end-users can physically buy and take immediate possession of FP/HD products. The final sales price, at the retail location, remains totally at dealers’ and distributors’ discretion and they are within the agreed UMAPP. Dealers and Distributors understand that a violation of this policy (**advertising at more than twenty-five percent (25%) of MSRP**) is immediate grounds for terminating the dealer distributor relationship with FP/HD.

5. It is deemed inconsistent with the UMAPP Policy for FP/HD products to be advertised or sold together at a single price that is lower than the sum of the individual MSRP less the permitted twenty-five percent (25%) discount for those products. This includes but not limited to, buy one get one (bogo) promotions, etc. The UMAPP policy does not cover products discontinued by Fungi Perfecti/Host Defense.
6. FP/HD may periodically discontinue products or engage in promotions with respect to certain items. In such events, Fungi Perfecti/Host Defense may, at its discretion, modify or suspend the UMAPP with respect to the affected products by timely notifying all dealers of such change. Such notification shall be made in writing to the Dealer or Distributor by fax or letter.
7. Resellers (including, but not limited to e-commerce/e-retailer, and in-store retailers) are only to sell Fungi Perfecti/Host Defense to retail customers, **exclusively**. Retailers may not sell or otherwise provide any Fungi Perfecti/Host Defense product to another retailer (e-commerce/e-retailer and/or in-store retailer) or third-party-facilitated site (e.g. Amazon.com, Ebay.com, Overstock.com, etc.).
8. Full Disclosure of All Trade Names Held By You Selling Fungi Perfecti/Host Defense Products. Dealer /Distributor acknowledges full disclosure of all of its corporate names and business names under its controls (DBAs – Doing Business As) to FP/HD and has disclosed a list of any such business names to FP/HD. Dealer/ Distributor understands that multiple accounts under different business names, but under the control of a parent corporation or owner with FP/HD are not permitted. All orders with FP/HD shall occur from the parent corporation or business.
9. We do not seek, nor will we accept, any agreement or assent from you respecting our UMAPP Policy, either now or at any future time. This policy is being established by us unilaterally and therefore is not subject to negotiation. Fungi Perfecti/Host Defense will implement its UMAPP unilaterally based upon information deemed sufficient by Fungi Perfecti/Host Defense, and all such determinations are final. We reserve the right at any time to modify this policy, to establish new or different policies or to discontinue any or all such policies. This UMAPP shall remain in effect until modified or terminated by us in a writing sent to you.
10. All notices, requests, demands, consents, and communications necessary or required under this Agreement shall be delivered by hand or sent by registered or certified mail (return receipt requested), overnight courier, or facsimile (receipt confirmed) to:

**If to Fungi Perfecti:**

**Fungi Perfecti, Attention: Steve Cividanis**

**PO Box 7634  
Olympia WA, 98507**

**If to you/reseller : \_\_\_\_\_:**

**Attention: \_\_\_\_\_**

\_\_\_\_\_

All such notices, requests, demands, consents, and other communications shall be deemed to have been duly given or sent five (5) days following the date on which mailed via certified mail, or two (2) days following the date mailed if sent by overnight courier, as the case may be, and addressed as aforesaid.

11. All covenants and agreements set forth in this Agreement and made by or on behalf of either of the parties hereto shall bind and inure to the benefit of the successors, heirs, and assigns of such party, whether or not so expressed. No party may assign or transfer any of its respective rights or obligations under this Agreement without the consent in writing of the other party hereto; such consent not to be unreasonably withheld.
12. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.
13. In the event that any one or more of the provisions contained herein is held invalid, illegal, or unenforceable in any respect for any reason in any jurisdiction, the validity, legality, and enforceability of any such provision in every other respect and of the remaining provisions hereof shall not be in any way impaired or affected, it being intended that each of parties' rights and privileges shall be enforceable to the fullest extent permitted by law, and any such invalidity, illegality, and unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.
14. Except as specifically set forth or referred to herein, nothing herein expressed or implied is intended or shall be construed to confer upon or give to any person or entity other than the parties hereto and their permitted successors or assigns, any rights or remedies under or by reason of this Agreement or any other certificate, document, instrument, or agreement executed in connection herewith.

15. **Governing Law.** This Agreement, including the validity hereof and the rights and obligations of the parties hereunder, shall be construed in accordance with and governed by the laws of the State of Washington applicable to contracts made and to be performed entirely in the State of Washington (without giving effect to the conflicts of laws provisions thereof). Each of the parties hereto agrees that any action or proceeding brought to enforce the rights or obligations of any party hereto under this Agreement will be commenced and maintained in the State of Washington. Each of the parties hereto further agrees that process may be served upon it by certified mail (return receipt requested), addressed as more generally provided in Section 10.
16. **Entire Agreement.** This Agreement, including the Schedules and Exhibits, is complete, and all promises, representations, understandings, warranties, and agreements with reference to the subject matter hereof, and all inducements to the making of this Agreement relied upon by all the parties hereto, have been expressed herein or in such Schedules or Exhibits. This Agreement may not be amended, except by an instrument in writing signed by FP/HD and you/retailer/reseller.
17. Any dispute arising out of or in connection with this Agreement shall be resolved by arbitration under the Rules of the American Arbitration Association (AAA). The arbitration proceedings shall be conducted in Seattle, Washington. The parties will negotiate in good faith for a period of thirty (30) days after the filing of the demand for arbitration, in an attempt to agree on a single arbitrator to hear the dispute. If the parties are unable to agree on a single arbitrator within such thirty (30) day period, an arbitrator will be appointed by the AAA. The arbitration hearing will commence within one hundred eighty (180) days after the selection of the arbitrator, and will conclude within thirty (30) days of the first hearing date. The parties may conduct reasonable pre-hearing discovery, including requests for production of documents and depositions. The arbitrator shall have the power to resolve any discovery disputes which arise between the parties. Nothing in this clause shall be construed to preclude any party from seeking injunctive relief in order to protect its rights pending arbitration, and any such request for injunctive relief shall not be deemed a waiver of the obligation to arbitrate. Judgment upon the award of the arbitrator may be entered and enforced by any court or tribunal having jurisdiction.
18. If any legal action, arbitration, or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the successful or prevailing party or parties will be entitled to recover reasonable attorney fees and other costs incurred in that action or proceeding in addition to any other relief to which they may be entitled.
19. This UMAPP contract is confidentially provided by FP to the Dealer and/or Distributor.
20. If you wish to continue doing business with Fungi Perfecti/Host Defense, please be sure that your company's e-commerce listings are consistent with our policy by January 1<sup>st</sup>, 2012.

*IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date first set forth above.*

Fungi Perfecti LLC  
 Authorized Rep.: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Signature: \_\_\_\_\_  
 Date: \_\_\_\_\_

Company \_\_\_\_\_  
 Authorized Rep.: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Signature: \_\_\_\_\_  
 Date: \_\_\_\_\_

**DEALER AND DISTRIBUTOR PRICE ADVERTISING AGREEMENT** dated \_\_\_\_\_ (the: Agreement) by and among Fungi Perfecti, LLC., (individually and collectively, FP/HD) and \_\_\_\_\_, a (Corporation, partnership, sole proprietorship, LLC). This Agreement sets forth the terms and conditions of advertising for sale of any FP products. Therefore, in consideration of their mutual promises set forth herein and intending to be legally bound hereby, the parties here to agree to the above.