



## **AUTHORIZED RESELLER AGREEMENT**

(United States or Canada only)

**THIS AGREEMENT** is made as of the Effective Date by and between Vitamin Friends, LLC and Reseller.

**1. Definitions.** For purposes of this Agreement the following terms are defined as follows:

- 1.1 **"Agreement"** means this Authorized Reseller Agreement, including the Terms & Conditions Addendum;
- 1.2 **"Affiliate(s)"** means any or all individuals and entities directly or indirectly controlling, controlled by or under common control with the Party identified, with "control" and its variants having the same meaning as under U.S. federal securities laws;
- 1.3 **"Coverage Period"** means the Term and period afterward, if any, until Reseller has sold or otherwise disposed of all of Reseller's Inventories pursuant to this Agreement;
- 1.4 **"Distributor"** means a person or entity specifically authorized by VFR to sell to Reseller;
- 1.5 **"Effective Date"** means the date VFR accepts this Agreement by written notification (including email) to Reseller;
- 1.6 **"End Users"** means actual and prospective end user purchasers (but not resellers) of any Products permitted under this Agreement;
- 1.7 **"Intellectual Property"** means any or all of the patents, designs, trademarks, service marks, trade names, trade dress, commercial symbols, copyrights, data, data bases, marketing information, trade secrets and confidential information in which VFR claims rights;
- 1.8 **"Nonexclusive Reseller"** means that (a) Reseller may hold itself out as a VFR authorized Products reseller during the Term, and (b) any or all of VFR and each Distributor may offer and sell anywhere and everywhere any or all Products and anything else directly or indirectly to one or more individuals and entities other than Reseller;
- 1.9 **"Party"** means VFR or Reseller and the **"Parties"** means VFR and Reseller;
- 1.10 **"Products"** means those VFR products made available to Reseller by VFR and any Distributor;
- 1.11 **"Reseller"** means the Party identified as such in the signature block below. As used in the Terms & Conditions Addendum, the term "Buyer" means the Reseller;
- 1.12 **"Reseller's Inventories"** means all inventories of any or all Products in Reseller's possession or under Reseller's control;
- 1.13 **"Term"** means the period from the Effective Date until this Agreement is terminated as provided under this Agreement;
- 1.14 **"Terms & Conditions Addendum"** means the Terms and Conditions Addendum attached to and made a part of this Agreement;
- 1.15 **"Territory"** means either the U.S. or Canada, but not both and is the country in which Reseller has its principal place of business; and
- 1.16 **"VFR"** means Vitamin Friends, LLC, a California limited liability company.



**2. Appointment; Orders.** Subject to the terms and conditions of this Agreement:

2.1 Appointment. VFR appoints Reseller, and Reseller agrees to perform, as a Nonexclusive Authorized Reseller of the Products during the Term in the Territory.

2.2 Orders. Reseller may submit orders during the Term for any or all of the Products to VFR or a Distributor in the Territory. Each order will be subject to (and Reseller will comply with) the prices, payment terms and other terms and conditions of sale as set forth in the Terms & Conditions Addendum and as agreed by and between Reseller and Distributor who has accepted such order (to the extent that there is no conflict with this Agreement (including the Terms and Conditions Addendum)).

**3. Reseller Responsibilities.** Except as otherwise directed or approved by advance written notice to Reseller from VFR or otherwise expressly permitted by this Agreement, Reseller, at its own expense, will do each of the following:

- 3.1 sell the Products in accordance with this Agreement (including the Terms & Conditions Addendum);
- 3.2 abide by the VFR MAP Policy set forth in the attached MAP Policy Addendum;
- 3.3 refrain from knowingly or negligently directly or indirectly advertising, promoting or selling any of the Products in each of the following ways: (a) outside the Territory, (b) in any manner that violates this Agreement (including the Terms & Conditions Addendum), (c) for resale, and (d) to anyone other than End Users;
- 3.4 use the Intellectual Property only as permitted by this Agreement (including the Terms & Conditions Addendum);
- 3.5 refrain from questioning or challenging the rights claimed by the VFR in or to the Intellectual Property or assisting in any way any other(s) in doing so;
- 3.6 read, understand and comply with all VFR policies;
- 3.7 promptly and in a timely fashion comply with whatever request may be made by VFR or any or all Distributors relating to any law or the modification or recall of any or all Products; and
- 3.8 upon termination of this Agreement, immediately cease all use of anything which may give the impression Reseller is an authorized reseller or representative of or for the Products or has any affiliation whatsoever with VFR or the Products, except to the extent reasonably necessary during the Coverage Period.

**4. Relationship.** This Agreement and any and all duties and obligations hereunder may not be delegated, transferred or assigned by Reseller without the express written consent of VFR. Each delegation, transfer or assignment by Reseller without such consent shall be void *ab initio*. The relationship between VFR and Reseller is and shall be that of independent contractors, and, notwithstanding the use anywhere of the term "partner" or anything similar thereto, nothing regarding the relationship between them expressed or implied in this Agreement, or elsewhere shall constitute or be deemed to constitute a partnership, joint venture or franchise between VFR and Reseller or shall constitute or be deemed to constitute Reseller as agent of VFR for any purpose whatsoever. Reseller shall have no authority or power in any way for any purpose to: (a) bind VFR, (b) contract in VFR's name, or (c) create a liability against VFR.



**5. Termination.** This Agreement will terminate when either Party provides the other with written notice of termination, and such termination shall be effective as elected in such notice: (a) no sooner than the date of receipt of such notice in the event of a material breach of this Agreement by the other Party; or (b) no less than 30 days after such receipt for termination with or without cause. A breach by Reseller of any or all VFR policies or any of the terms set forth in the Terms & Conditions Addendum will be deemed a material breach. After termination of this Agreement, acceptance of one or more orders from Reseller or fulfillment of one or more accepted orders (regardless whether accepted before or after termination) will: (a) be subject to all of the terms and conditions of this Agreement (including the Terms & Conditions Addendum) as if such acceptance or fulfillment had occurred during the Term, and (b) in no event, be construed as a renewal or extension of this Agreement or as a waiver of termination or of notice of termination.

**6. Modification.** At any time and without prior notice: (a) VFR may modify any or all VFR policies; and (b) any or all Products may change, in which case, Reseller acknowledges and agrees that VFR and Distributors may without liability or penalty cancel all pending orders (even if accepted) from Reseller for such changed item(s) and refuse to accept any new orders for such Product(s).

**7. Dispute Resolution.** Any and all controversies, disputes, or claims arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, shall be determined in accordance with the Mediation and Arbitration provisions set forth in the Terms & Conditions Addendum.

**8. Governing Law.** This Agreement shall be governed by the laws of the state of California without regard to its conflicts of laws provisions.

**9. Interpretation.** This Agreement (including the Terms & Conditions Addendum) shall be deemed to reflect the mutual intent of the Parties, and no rule of strict construction shall be applied against either Party. Time is of the essence. VFR's interpretation of this Agreement (including the Terms & Conditions Addendum) will control.

**10. Reformation.** If applicable law contains any requirement that is contrary to, conflicts with, or is missing from any provision(s) or part(s) of this Agreement, VFR, at any time, may elect by written notice to Reseller (effective upon receipt thereof or as VFR otherwise designates) that: (a) such requirement be substituted for or added to the affected provisions to the minimum extent necessary to validate the affected provisions, or (b) this Agreement be terminated. If any or all parts of this Agreement are held invalid, the remainder of this Agreement shall continue in full force and effect, and each such invalid part shall be deemed not to be part of this Agreement.

**11. Integration.** This Agreement (including the Terms & Conditions Addendum), as may be modified periodically: (a) constitute the Parties' entire binding agreement with respect to the subject matter thereof; (b) are intended to govern the Parties' relationship; (c) supersede all oral or written agreements, representations or statements of the Parties; and (d) except as provided herein, may only be modified in a writing duly executed by both Parties. Each Party acknowledges and agrees that if there is any conflict between the VFR policies and this Agreement, the VFR policies will control (silence is not a conflict).

**12. Execution; Counterparts.** This Agreement is entered into: by submission of Reseller's authorized representative of a completed version of (i) this Agreement (including addendums) as signed by such authorized representative, and (b) VFR's written countersignature of the Agreement. This Agreement shall not be considered binding or enforceable against VFR unless and until VFR notifies Reseller in writing of its acceptance. This Agreement may be executed in separate counterparts (and any or all such counterparts may be transmitted or exchanged by fax, as portable document format (pdf) files, or by other electronic means), each of which is deemed an original (and originally executed), and all of which taken together constitute one and the same binding agreement.



**13. Indemnity.** Reseller agrees to indemnify, defend, pay, and hold VFR and its officers, members, managers, directors, employees, agents and representatives (collectively, "Indemnitees") harmless from any and all liabilities, penalties, demands, or claims (including the costs, expenses, and reasonable attorneys' fees) made by any third party for all losses, fines, damages and liabilities resulting from any or all Reseller breach of this Agreement, negligence, willful acts or omissions, or any other theory, cause of action, or basis of liability. The Indemnitee(s) agree to notify Reseller promptly of any written claims or demands for which such Reseller are responsible; *provided, however*, the Indemnitees failure to promptly so notify shall not relieve Reseller from its indemnification obligations unless and to the extent such failure materially prejudices Reseller's right to defend against such claims or demands. The foregoing indemnity shall be in addition to any other indemnity obligations of Reseller set forth in this Agreement (including the Terms & Conditions Addendum). If Reseller fails to assume the defense of any actual or threatened action within the earlier of (a) any deadline established by written demand of a third party or by a court, and (b) 30 days after receipt of notice from VFR of such claim or demand, the Indemnitees may follow such course of action as they reasonably deem necessary to protect their interests and shall be indemnified for all costs reasonably incurred in such course of action.

**14. Waiver.** Except as otherwise expressly provided in this Agreement or as the Parties otherwise may expressly agree in writing signed by both Parties, no failure, refusal, neglect, delay, waiver, forbearance or omission by VFR to exercise any right(s) under this Agreement or to insist upon full compliance by Reseller with Reseller's duties, obligations or restrictions thereunder shall constitute a waiver or otherwise thereafter limit the right of VFR to fully enforce any or all of the provisions of this Agreement (including the Terms & Conditions Addendum).

**15. Survivability.** §§1, 3.8, 7, and 13 shall survive termination of this Agreement.

**16. Notices.** Notices must be in writing and shall be sent to the intended recipient (with all fees paid) by express courier service, fax or e-mail to such recipient's principal address and shall be considered effective or received when actually received or refused by such recipient, provided that the sending Party has written confirmation thereof and such refusal was not due to electronic or mechanical malfunction or failure.

Each Party, intending this Agreement to be effective as of the Effective Date, has caused this Agreement to be executed by its duly authorized representative.

**THE RESELLER**

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

Date: \_\_\_\_\_

Agreed and accepted in Gardena, CA:

**Vitamin Friends, LLC, a California limited liability company**

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

*The Effective Date:* \_\_\_\_\_