

## **Directions**

Please print and sign this wholesale distributor agreement and fax or email to our contact information below. We will send you a copy signed by us for your records. You may also contact us with any questions or comments about this agreement or our wholesale program in general at:

<http://contact.freshandalive.com>  
[wholesale@freshandalive.com](mailto:wholesale@freshandalive.com)  
866-607-0039 US toll-free telephone  
386-478-0068 main telephone  
386-957-7000 fax

# **Fresh And Alive Wholesale Distributor Agreement**

This wholesale agreement is entered into on the date of application by and between the “supplier”

**Rohla Enterprises, Inc.**

**DBA Fresh And Alive**

having its principal offices at

**3121 Opportunity Ct, Ste C**  
**South Daytona, Florida 32119-3465**

and the applicant, herein described as the “distributor” whose name and address are included at the end of this application.

## **1. Active Resale Certificate Required**

Fresh And Alive products are offered at wholesale cost to retailers with a valid sales permit ID for the purpose of resale only. Wholesale applicant must possess an active resale license (in the US, aka “sales tax ID certificate,” “sales and use tax certificate,” “sales tax permit,” “resale certificate for sales tax,” “transaction privilege tax license,” “sales tax certificate of authority,” “seller’s permit,” etc.) and supply Fresh And Alive with a copy of the license in either electronic or hardcopy form each year. This is not to be confused with a US IRS Employer Identification Number (EIN), or similar for vendors outside of the United States.

## **2. Distributor and Affiliate Status**

Distributor may not concurrently participate in the Fresh And Alive affiliate program and simultaneously operate as a Fresh And Alive wholesale distributor. Distributor may not operate as a wholesale distributor of Fresh And Alive products or offer them through affiliate programs.

## **3. Distributor Code of Business Conduct**

Fresh and alive expects everyone it associates with to comply with the law and act ethically in all matters. We reserve the right to cancel an account if our goods are not being well maintained, stocked in suitable temperatures, displayed well, kept in good hygiene, or if the account changes ownership. Duplication or adulteration of products or packaging or falsely representing products as manufactured or otherwise produced by the distributor is strictly prohibited. We reserve the right to limit or discontinue the selling of our products to parties with sales and distribution strategies not compatible to those of Fresh And Alive.

#### **4. Selling on Auction and Marketplace Web Sites**

Fresh And Alive does not allow our products to be sold on any type of auction, reverse auction, marketplace, or social media marketplace web site, including, but not limited to eBay.com, Etsy.com, Amazon.com, Facebook Marketplace, Instagram Marketplace, Pinterest Marketplace, Rakuten.com, Bonanza.com, Quibids.com, Alibaba.com, Aliexpress.com, JD.com, Taobao.com, Tmall.com, etc. or their subsidiaries worldwide. Customers found doing so will have their account(s) terminated. Distributors can place advertisements for our products on social media web sites if desired, but are not allowed to sell directly through those sites marketplaces.

#### **5. Minimum Orders/Sales Quotas**

Wholesale terms are available only to legitimate businesses seeking to resell our products long term. It is not available to individuals, companies, or other parties simply seeking short-term discounted prices. The initial wholesale minimum order is \$1,500 worth of merchandise at wholesale pricing, with a \$1,000 minimum in sales per 6 months. If the distributor has not met the sales quota, Fresh And Alive will contact the distributor to meet the sales quota within 30 days. If the distributor cannot purchase \$1,000 worth of merchandise within the 30-day period, the distributor's account will be terminated.

#### **6. Product Performance Claims**

Distributor must not make any health or other performance claims about Fresh And Alive products other than that found in information provided by Fresh And Alive. If the distributor discovers and can document or otherwise provide evidence of new uses, benefits, or features of our products, the distributor may contact us for the possible addition of that information to our approved product information.

#### **7. Minimum Advertised Price (MAP) Policy**

This MAP policy applies to all Fresh And Alive products. This MAP policy applies only to advertised prices and does not apply to the price at which the products are actually sold or offered for sale to an individual customer within the reseller's retail location or over the phone. Fresh And Alive resellers are free to sell MAP products at any price they choose, **but advertising below the MAP price is prohibited**. Advertising includes the display or mention of prices on web pages, literature, signage, television, radio, online or other publicly available media.

Our minimum advertised price for Fresh And Alive products is 90% of the Suggested Retail Price (SRP), or a 10% discount off of SRP. MAP and SRP prices will be listed on the Fresh And Alive wholesale account web site or available to the distributor by request. Resellers may offer products on promotion at a lower advertised discount only with written permission from Fresh And Alive. The MAP policy may be adjusted by Fresh And Alive at its sole discretion. This MAP policy does not in any way limit the ability of any distributor to advertise generic phrases such as that they "have the lowest prices" or "will meet or beat any competitor's prices," or similar phrases so long as the price advertised or listed is not below the MAP. To protect our resellers from unfair competition and to maintain the brand's image, Fresh And Alive will regularly review all reseller commerce sites and conduct automated web searches to ensure consistent adherence to this policy. In cases of violation of this MAP policy, resellers will be notified and allowed 24 hours to bring all advertising into compliance. Failure to comply immediately will result in discontinued shipments and possible account termination. Fresh And Alive reserves the right to cancel or limit the sale of its products to parties whose sales and distribution strategies are incompatible with those of Fresh And Alive.

## **8. Payment**

Fresh And Alive accepts Visa, Mastercard, American Express, Discover card, debit cards, and PayPal. Payment for purchases are due prior to shipment in US dollars; no financing or net terms are available. However, Fresh And Alive does accept payment via PayPal Credit's Bill Me Later service, which at the time of this application has a six-month zero percent financing rate (see [www.billmelater.freshandalive.com](http://www.billmelater.freshandalive.com) for details). We do not accept checks, money orders, wire transfers, etc. since our payment systems and fraud detection cannot process these payments. However, a simple workaround is to use a prepaid credit card that you can buy with cash or check at department stores like Walmart or Target, drug stores like Walgreens or CVS, or use a PayPal prepaid Mastercard widely available at convenience and grocery stores. If you do not want to give us your credit card number, you have three options:

1. pay with PayPal (we cannot see your credit card or bank account number)
2. call your credit card company and they can issue a temporary credit card number that will expire after a few hours or days.
3. use a prepaid credit card that you can buy with cash or check at banks, department stores like Walmart or Target, drug stores like Walgreens or CVS, or use a PayPal prepaid Mastercard widely available at convenience stores and grocery stores.

## **9. Order Fulfillment**

We at Fresh And Alive strive to have products in stock for immediate delivery, but on some occasions we may be out of stock, in which case we will notify you of the expected ship date and not charge you until your order ships. You may also contact us anytime to receive an expected ship date. If you would like to ensure no delays in shipping your order, particularly for large orders, please place the order ten days in advance of your desired ship date.

## **10. Shipping and Handling**

The shipping charges quoted in your order are based on the total weight and dimensions of the products chosen. Shipments valued in excess of \$100 will require mandatory insurance up to the wholesale value of the order. Insurance is required on all international orders (when available). Fresh And Alive reserves the right to refuse any order we consider to be potentially fraudulent.

## **11. Canceling/Changing Your Order**

Due to our size and speed of automated fulfillment, Fresh And Alive cannot guarantee that your order can be canceled or altered after it has been placed. You may contact us as soon as possible to see if your order has shipped. In the event that it has not, we will be happy to make changes to it. Keep in mind our hours of operation are 9 am to 5 pm, Monday through Friday, eastern US time, so we will not be able to respond to requests outside of those times.

## **12. International Orders/Shipping/Returns/Customs Holdups**

Our web site uses fraud detection methods and address verification by IP address. Due to the higher risk of fraud and loss with international orders, all orders placed from outside the United States or shipping to addresses outside the US must be placed through our web site; international phone or email orders will not be accepted. All orders placed outside of the US must be placed from and ship to the credit card billing address. Orders placed within the United States shipping to countries outside of the US must be ordered from the credit

card billing address, and/or ship to the credit card billing address. Due to the high fraud potential, we do not ship to freight forwarders. These are only guidelines; your order may be denied based on specific fraud detection for your order.

Package recipient is responsible for any and all duties or taxes incurred by customs agencies. **We will not accept returns from distributors for unexpected customs/import fees.** All items entering a foreign country are subject to customs inspection and the assessment of duties and taxes in accordance with that country's national laws. If duties and taxes are assessed on an item shipped, they are collected from the recipient, not the shipper. In addition, for most countries, there is an administrative fee that is collected from the recipient to cover the costs of clearing the item through customs and collecting duties and taxes. Fresh And Alive is not responsible for customs duties or importation fees incurred by the distributor, nor can we provide an estimate of the cost of potential duties that may be assessed to a particular package.

**There is significant increased risk associated with international shipments relative to domestic US shipments.** International orders/shipments may be subject to possible opening of and inspection of goods by customs officials in the country of delivery. Fresh And Alive is not responsible for orders that are held up, damaged by, or refused entrance by customs. Fresh And Alive uses a third party fulfillment service which adheres to customs laws and will not create false packing slips to reduce customs charges.

Fresh And Alive is not responsible for reshipping orders that are refused at customs. If customs refuses a package and it is returned to us, or is otherwise returned to us, we can issue you a refund for the order minus shipping charges, damage compensation, if any, and any fees incurred by us. In the event the package is not returned to us by customs or is lost in transit from them to us, we cannot issue you a refund, but if insured, losses *may* be recovered, but cannot be guaranteed. We are not responsible for paying for the package to be returned to us or for reimbursing the distributor for that cost.

### **13. Lost, Incorrect, or Damaged Goods**

If the merchandise you ordered is damaged or incorrect upon arrival, please save all contents and packing materials and contact Fresh And Alive via our contact information at [www.freshandalive.com](http://www.freshandalive.com) or [wholesale@freshandalive.com](mailto:wholesale@freshandalive.com) within 3 business days after its arrival for instructions to receive replacement merchandise. Damaged or incorrect shipments will be replaced once Fresh And Alive receives tracking information from distributor indicating that the merchandise is en route back to us via an insured service with tracking.

Shipments that have been determined to be lost, after thoroughly researching the package through the shipper's delivery tracking service, will be replaced at no charge for shipping to distributor. For lost, incorrect, or damaged merchandise, a monetary refund will not be given. Fresh And Alive will not accept returned merchandise damaged from abuse, neglect, improper use or care, etc.

### **14. Wholesale Merchandise Returns, Refunds, and Warranties**

All Fresh And Alive products have a 60-day satisfaction guarantee for wholesale sales. Distributor may return any undamaged, unsold merchandise items in original salable condition within 60 days of the invoice date to Fresh And Alive for a refund of the invoice price, or for credit to any outstanding balance due, minus a 15% restocking fee. Merchandise in opened packaging or not in original packaging will be accepted for return as long as the merchandise is undamaged and in salable condition. Distributor shall bear the cost of shipping, handling, and insurance for returned merchandise.

## **15. Retail Merchandise Returns, Refunds, and Warranty**

All Fresh And Alive products have a 60-day satisfaction guarantee for retail sales. Warranties on materials and workmanship are for a minimum of one year but may be longer for certain products. See individual product warranties at [www.freshandalive.com](http://www.freshandalive.com). **Distributor must honor and advertise this retail satisfaction guarantee and warranty wherever each product is sold.**

If a retail customer of distributor wishes to return product within 60 days of the purchase date, distributor should inspect merchandise to ensure it is free of any obvious damage, neglect, or abuse before issuing a refund. Distributor may then return merchandise to Fresh And Alive for a refund or replacement of the same item(s). If distributor would like to exchange for other item(s) of equal value, contact Fresh And Alive to see if current stock and circumstances will allow to do so.

If a customer is dissatisfied with one of our products due to a manufacturing defect in materials or workmanship within the warranty period, distributor should have the retail customer contact Fresh And Alive directly for repair or replacement of the product via the contact information on our web site at [www.freshandalive.com](http://www.freshandalive.com). Retail customer will need to provide a receipt or proof of purchase from the distributor to Fresh And Alive for any warranty repairs or replacements.

## **16. Return Process**

Since different products may ship from different locations, distributor or retail customer must contact Fresh And Alive for a return authorization before returning merchandise in order to send it back to the correct address. Returns received by us without prior authorization will be charged a 15% restocking fee plus any shipping, if needed, to the correct warehouse.

## **17. Merchandise Repairs**

Retail customers needing repair or replacement of merchandise out of warranty should contact Fresh And Alive via the contact information on our web site at [www.freshandalive.com](http://www.freshandalive.com) for a price quote on repair or replacement.

## **18. Promotional Discount Codes**

If Fresh And Alive offers discount codes for wholesale purchases, all discounts must be applied when you place your order. Due to automation and speed of our ordering process, once your order is placed, we cannot offer a refund or discount on future purchases.

## **19. Privacy Policy**

We do not sell, trade, or otherwise transfer to outside parties the distributor's personally identifiable information. This does not include trusted third parties who assist us in operating our website, conducting our business, or servicing the distributor, as long as those parties agree to keep this information confidential. We may also release your information when we believe release is appropriate to comply with the law, enforce our site policies, or protect ours or others' rights, property, or safety. However, non-individually identifiable visitor information may be provided to other parties for marketing, advertising, or other uses. For our European customers, we are GDPR compliant. Please see our web site at <http://policies.freshandalive.com> for our complete privacy and other policies.

## 20. Data Security

You can shop at **Freshandalive.com** with confidence. We are serious about data security. All personal information you submit during checkout is encrypted and secure using industry standard 256-bit SSL encryption through the PayPal merchant payment system, using Ultracart secure shopping cart with our own dedicated SSL security certificate utilizing 256-bit/2048 signature SSL encryption through Comodo Security Services. This means the security authorization provided to our web site by Ultracart is not shared with other Ultracart customers and it keeps you on our web site rather than transporting you to their servers, making your checkout transaction more secure than with a shared SSL certificate. This costs us more money, but the investment is worth it to us, and to you.

These payment systems manage the complex routing of sensitive customer information through the electronic credit card processing networks. These companies adhere to strict industry standards for payment processing, including:

- Secure Sockets Layer (SSL) technology for secure Internet Protocol (IP) transactions.
- Industry leading encryption hardware and software methods and security protocols to protect customer information.
- Compliance with the Payment Card Industry Data Security Standard (PCI DSS)

### IN-HOUSE DATA PROTECTION

Any personal information we must keep on file in our offices is locked up, password protected, and encrypted, accessible only to authorized personnel. We reconcile our accounting system weekly. We shred and burn all trash with customer data so your information will not be stolen from our trash. We also install software security updates immediately as they become available to avoid software security weaknesses.

## 21. Disclosure of Confidential Information and Intellectual Property

Fresh And Alive and distributor mutually acknowledge that by reason of their relationship with one another, each party (“Receiver”) be granted access to the other party’s (“Discloser”) certain confidential information and materials of the disclosing party’s business, plans, pricing, customers, formulas, technologies, and products/programs. The parties hereby agree that each will not use in any way, for its own account or for any third party, nor disclose to any third party, any such confidential information revealed to it by the other during and after the life of this wholesale distributor agreement.

For the purposes of this agreement, discloser is defined to be the individual, corporation, or other entity that possesses any information, materials, resources, or processes created, owned, or possessed by them. Receiver is defined to be the individual, corporation, or other entity that the information is disclosed to.

The confidential information can be described as and includes:

Technical and business information relating to discloser’s proprietary ideas, processes, patentable ideas, copyrights and/or trade secrets, existing and/or contemplated products and services, software, schematics, research and development, production, costs, profit and margin information, finances and financial projections, customers, clients, marketing, and current or future business plans and models, regardless of whether such information is designated as “confidential information” at the time of its disclosure.

In addition to the above, confidential information shall also include, and the receiver shall have a duty to protect, other confidential and/or sensitive information which is:

1. disclosed by discloser in writing and marked as confidential (or with other similar designation) at the time of disclosure; and/or
2. disclosed by discloser in any other manner and identified as confidential at the time of disclosure and is also summarized and designated as confidential in a written memorandum delivered to receiver within thirty (30) days of the disclosure.

Receiver shall use any confidential information only for the purpose of selling and marketing Fresh And Alive products, or for performing processes related to those duties.

Receiver shall limit disclosure of confidential information within its own organization to its directors, officers, partners, members and/or employees having a need to know and shall not disclose confidential information to any third party (whether an individual, corporation, or other entity) without the prior written consent of discloser. Receiver shall have satisfied its obligations under this section if it takes affirmative measures to ensure compliance with these confidentiality obligations by its employees, agents, consultants and others who are permitted access to or use of the confidential information.

Furthermore, and specifically, no license or conveyance of any intellectual property rights is granted or implied by this agreement.

## **22. Ownership of Confidential Information**

All confidential information, including derivatives thereof, remains the property of the discloser and, except as expressly provided herein, no license or other rights to confidential information is hereby granted or implied. For purposes of this agreement, "derivatives" means

1. for copyrightable or copyrighted material, any translation, abridgment, revision or other form in which an existing work may be recast, transformed or adapted;
2. for patentable or patented material, any improvement thereon; and
3. for material that is protected by trade secret, any new material derived from such existing trade secret material, including new material which may be protected by copyright, patent, and/or trade secret. At disclosing party's expense, receiving party will take such action and execute such documents as disclosing party may reasonably request to warrant and confirm disclosing party's title to and ownership of all such derivatives and their proceeds and to transfer and assign to disclosing party any rights which receiving party may have therein.

## **23. Return of Documents**

Within ten (10) business days of receipt of disclosing party's written request, receiving party will return to disclosing party all documents, records, and copies thereof containing confidential information. For purposes of this section, the term "documents" includes all information fixed in any tangible medium of expression, in whatever form or format.

## **24. Equitable Relief**

Fresh and Alive and distributor hereby acknowledges that unauthorized disclosure or use of confidential information could cause irreparable harm and significant injury to disclosing party that may be difficult to ascertain. Accordingly, receiving party agrees that disclosing party will have the right to seek and obtain immediate injunctive relief to enforce obligations under this agreement in addition to any other rights and remedies it may have. The rights and remedies of disclosing party are cumulative and the exercise or enforcement of any one or more of them will not preclude disclosing party from exercising or enforcing any other right or remedy. The delay or failure by disclosing party to exercise any of its rights in any one instance will not preclude disclosing party from exercising its rights at a later time in that instance or at any other time in any other instance.

If there is a breach or threatened breach of any provision of this agreement, it is agreed and understood that discloser shall have adequate remedy in money or other damages and accordingly shall be entitled to injunctive relief; provided however, no specification in this agreement of any particular remedy shall be construed as a waiver or prohibition of any other remedies in the event of a breach or threatened breach of this agreement.

## **25. Force Majeure**

Neither party will be liable to the other party for any loss, delay or failure to perform resulting directly or indirectly from acts of God (including but not limited to fires, floods, hurricanes, tornadoes, earthquake, volcanic eruption), riots, strikes, war or other circumstances beyond either party's reasonable control. In the event of a force majeure occurrence, the disabled party will make all reasonable efforts to remove such disability within 30 days of giving notice of such disability. During such period, the non-disabled party may seek to have its needs, which would otherwise be met hereunder, met by others without liability to the disabled party hereunder. If the disability continues for more than 10 days after the cessation of the reason for such disability, the non-disabled party will have the right to terminate this agreement immediately.

## **26. Legal Jurisdiction, Breach of Agreement**

This agreement will be governed by the laws of the State of Florida, without regard to its rules regarding conflict of laws. The parties agree that service of process by certified mail, return receipt requested, will be deemed adequate service of process. In the event of a breach of the terms of this agreement, the breaching party hereby agrees to reimburse the non-breaching party for all costs and expenses, including reasonable attorney's fees, incurred by it in enforcing the obligations hereunder.

## **27. General Provisions**

This agreement, including the attachments hereto, constitutes the entire agreement of the parties hereto with respect to the subject matter hereof, and supersedes all prior oral or written agreements and all other negotiations, agreements, covenants and representations. This agreement may not be amended or modified, except by a further written agreement signed by the parties hereto.

No failure or delay on the part of any party in exercising any right or remedy hereunder will operate as a waiver thereof; nor will any single or partial exercise of any such right or remedy preclude any other or further exercise thereof or of any other right or remedy. No provision of this agreement may be waived except in a writing signed by the party granting such waiver. Neither party may assign its rights hereunder to any third party without the prior written consent of the other party, except that either party may assign its rights under this agreement without the consent of the other party in the event of a sale of substantially all the assigning party's assets. In the event that any one or more of the provisions, or parts of any provisions, contained in this



agreement are for any reason held to be invalid, illegal, or unenforceable in any respect by a court of competent jurisdiction, the same will not invalidate or otherwise affect any other provision hereof, and this agreement will be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

All notices, requests, demands, payments, consents and other communications hereunder will be transmitted in writing and will be deemed to have been duly given when hand delivered, upon delivery when sent by express mail, courier, overnight mail or other overnight or next-day delivery service, or on the date mailed when sent by registered or certified United States mail, postage prepaid, return receipt requested, to the addresses set forth in this agreement. Each party may change its address by giving notice of such change of address to the other party in the manner described above.

## **28. Termination**

This contract may be canceled by either party for any reason, at any time. Communication and confirmation of the cancellation must be in writing, either by hardcopy or email. Notice is to be sent to:

**Postal mail:**

**Rohla Enterprises, Inc.  
3121 Opportunity Ct, Ste C  
South Daytona, Florida, 32119-3465 USA**

**Email:**

**wholesale@freshandalive.com**

If this agreement is terminated by either party, the distributor agrees to:

1. Immediately stop representing itself as a distributor of Fresh And Alive products,
2. Immediately pay to Fresh And Alive all payments due or accrued for any purchases made under this agreement.

This agreement may be terminated by either party upon the occurrence of any one or more of the following events of default:

- (a) failure by either party to pay or perform any obligation under this agreement and the continuation of such failure for 10 days after receipt of notice thereof;
- (b) the entering into or filing by or against a party of a petition, arrangement, or proceeding seeking an order for relief under the bankruptcy laws of the United States, of any of the states of the United States or any other country, a receivership for any of the assets of a party, a composition with or assignment for the benefit of its creditors, a readjustment of debt, or the dissolution or liquidation of a party; or
- (c) the insolvency of a party. Upon termination, the terminating party will have all rights available to it at law and equity.

**Acknowledged and agreed by:**

**For Distributor**

_____	_____
Printed Name of Authorized Individual	Printed Title of Authorized Individual
_____	_____
Signature of Authorized Individual	Date

**Company Name:** \_\_\_\_\_

**Address 1:** \_\_\_\_\_

**Address 2:** \_\_\_\_\_

**City, State, Postal Code:** \_\_\_\_\_

**Province, Country:** \_\_\_\_\_

**For Rohla Enterprises, Inc., DBA Fresh And Alive**

Kenneth Rohla	President
_____	_____
Printed Name of Authorized Individual	Printed Title of Authorized Individual
_____	_____
Signature of Authorized Individual	Date

**Company Name:** Rohla Enterprises, Inc. DBA Fresh And Alive

**Address:** 3121 Opportunity Court, Suite C

**City, State, Postal Code:** South Daytona, Florida 32119-3465

**Province, Country:** United States