

**UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION**

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<b>In the Matter of</b>	)	
	)	
<b>HERBS NUTRITION CORPORATION</b>	)	<b>DOCKET NO. 9325</b>
<b>a corporation, and</b>	)	
	)	<b>AGREEMENT CONTAINING</b>
<b>SYED M. JAFRY,</b>	)	<b>CONSENT ORDER</b>
<b>individually and as an officer of</b>	)	
<b>Herbs Nutrition Corporation,</b>	)	
	)	
<b>Respondents.</b>	)	
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THIS AGREEMENT, by and between Herbs Nutrition Corporation, by its duly authorized officers, and Syed M. Jafry, individually and as an officer of Herbs Nutrition Corporation, and counsel for the Federal Trade Commission, is entered into in accordance with the Commission’s Rule governing consent order procedures. The parties hereby agree that:

1. Respondent Herbs Nutrition Corporation is a California corporation with its principal office or place of business at 21712 Hawthorne Blvd #276, Torrance, California 90503.
2. Respondent Syed M. Jafry is an officer of Herbs Nutrition Corporation. Individually, or in concert with others, he formulates, directs, controls, or participates in the policies, acts, or practices of Herbs Nutrition Corporation. His principal office or place of business is the same as Herbs Nutrition Corporation.
3. Respondents admit all the jurisdictional facts set forth in the complaint.
4. Respondents waive:
  - (a) Any further procedural steps;
  - (b) The requirement that the Commission’s decision contain a statement of findings of fact and conclusions of law; and
  - (c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.
5. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it will be placed on the public record for a period of thirty (30) days and information about it publicly released. The Commission thereafter may either withdraw its

acceptance of this agreement and so notify respondents, in which event it will take such action as it may consider appropriate, or issue and serve its decision in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in the complaint, or that the facts as alleged in the complaint, other than the jurisdictional facts, are true.

7. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 3.25(f) of the Commission's Rules, the Commission may, without further notice to respondents, (1) issue its decision containing the following order in disposition of the proceeding, and (2) make information about it public. When so entered, the order shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery of the decision and order to respondents' addresses as stated in this agreement by any

(whether produced by the human body or produced outside the human body but having the same chemical structure as the progesterone produced by the human body) or any progestin, including but not limited to Eternal Woman Progesterone Cream and Pro-Gest Body Cream.

4. “Food,” shall mean (a) articles used for food or drink for man or other animals, (b) chewing gum, and (c) articles used for components of any such article.

5. “Drug” shall mean (a) articles recognized in the official United States Pharmacopoeia, official Homoeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; (b) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; (c) articles (other than food) intended to affect the structure or any function of the body of man or other animals; and (d) articles intended for use as a component of any article specified in clause (a), (b), or (c); but does not include devices or their components, parts, or accessories.

6. “Device” shall mean an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component, part, or

product or any other covered product or service, in or affecting commerce, shall not represent, in any manner, expressly or by implication, including through the use of a product name or endorsement:

- A. That such product or service is effective in preventing, treating, or curing osteoporosis;
- B. That such product or service is effective in preventing or reducing the risk of estrogen-induced endometrial (uterine) cancer;
- C. That such product or service does not increase the user's risk of developing breast

B. Nothing in this order shall prohibit Respondents from making any representation for any product that is specifically permitted in labeling for such product by regulations promulgated by the Food and Drug Administration pursuant to the Nutrition Labeling and Education Act of 1990; and

C. Nothing in this order shall prohibit Respondents from making any representation for any device that is permitted in labeling for such device under any new medical device application approved by the Food and Drug Administration.

#### IV.

**IT IS FURTHER ORDERED** that Respondents shall, for five (5) years after the last date of dissemination of any representation covered by this order, maintain and upon reasonable notice make available to the Federal Trade Commission for inspection and copying:

- A. All advertisements and promotional materials containing the representation;
- B. All materials that were relied upon in disseminating the representation; and
- C. All tests, reports, studies, surveys, demonstrations, or other evidence in their possession or control that contradict, qualify, or call into question the representation or the basis relied upon for the representation, including complaints and other communications with consumers or with governmental or consumer protection organizations.

#### V.

**IT IS FURTHER ORDERED** that Respondents shall deliver a copy of this order to all current and future principals, officers, directors, and managers, and to all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of this order, and shall secure from each such person a signed and dated statement acknowledging receipt of the order. Respondents shall deliver this order to current personnel within thirty (30) days after the date of service of the order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities.

#### VI.

**IT IS FURTHER ORDERED**

thirty (30) days prior to the date such action is to take place, Respondents shall notify the Commission as soon as is practicable after obtaining such knowledge. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580.

## **VII.**

**IT IS FURTHER ORDERED** that Respondents, for a period of seven (7) years after the date of issuance of this order, shall notify the Commission of the discontinuance of their current business or employment; or of their affiliation with any new business or employment. The notice shall include Respondents' new business address and telephone number, a description of the nature of the business or employment, and his duties and responsibilities. All notices required by this Part shall be sent by certified mail to the Associate Director, Division of

Signed this \_\_\_\_\_ day of December, 2007.

**RESPONDENTS**

\_\_\_\_\_  
HERBS NUTRITION CORPORATION, a corporation

\_\_\_\_\_  
SYED M. JAFRY, individually and as an officer of Herbs  
Nutrition Corporation

**FEDERAL TRADE COMMISSION**

\_\_\_\_\_  
GREGORY A. ASHE  
JANICE P. FRANKLE  
Counsel for the Federal Trade Commission

**APPROVED:**

\_\_\_\_\_  
LAURA DEMARTINO  
Assistant Director  
Division of Enforcement

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JAMES A. KOHM  
Associate Director  
Division of Enforcement

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LYDIA B. PARNES  
Director  
Bureau of Consumer Protection