



THE SCIENTISTS OF LIGHTING

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## **Baja Designs®/sPOD® UNILATERAL MINIMUM ADVERTISED PRICING PROGRAM (UMAP®)**

### **Revision Effective December 15, 2023**

Whether your next adventure is Glamis, the UTV Championships or the local hardware store, Baja Designs®/sPOD® is committed to deliver innovation, quality-engineered designs keeping our customers returning for our premium brand, U.S.-Made & patented LED, Laser and Hybrid lighting. As part of the Bestop® family of aftermarket automotive products, Baja Designs®/sPOD® is pleased to announce additional support for our authorized independent distributors and resellers through the Unilateral Minimum Advertised Price Program (“UMAP®”) described below.

Baja Designs’ UMAP® Program is intended to promote customer choice as well as inter-brand competition by maintaining responsible advertised pricing across distribution channels, protecting the premium brand image of Baja Designs®/sPOD® products and reducing unauthorized “ghost storefronts” on Internet auction sites. Our commitment to advertised price stability encourages authorized resellers to: meaningfully inventory Baja Designs®/sPOD® products, actively promote our brand, and provide the levels of technical expertise, warranty and customer service support required to keep Baja Designs®/sPOD® as the customers’ first choice for off road and auxiliary lighting. Independent active monitoring and enforcement of our UMAP® program will be handled by Colvos Law, PLLC.<sup>1</sup>

The information below will acquaint you with our UMAP® program terms, provide examples of advertising methods contrary to our competitive goals and outline the range of unilateral action(s) Baja Designs®/sPOD® may use to ensure consistent, fair advertising and sales opportunities across all channels of distribution. Please take a moment to review this program outline and **upload** the attached UMAP® Price Sheet to ensure use of updated advertised prices. *As of November 1, 2020 Baja Designs®/sPOD® intends to unilaterally distribute its products only through qualified distributors and resellers who are committed to the success of our UMAP® Program.*

*Further, Baja Designs will actively monitor and devote resources to assure fair competition on products advertised on Amazon and other third party ecommerce platforms. These efforts include reduce limited warranty term and other restrictions on products purchased through unauthorized resellers and/or non-stocking ghost websites.*

### **Summary of Baja Designs®/sPOD® UMAP® Program**

As of November 1, 2020, Baja Designs®/sPOD® products included in the UMAP® Price Sheet will only be available to qualified distributors and resellers who actively promote, provide customer support, and responsibly advertise Baja Designs®/sPOD® as a premium brand. The UMAP® Program and grid are launched *unilaterally* and *exclusively* by Baja Designs®/sPOD® with the SKUs, UPC's, and coordinated minimum advertised prices set forth in the Grid which may be updated from time to time to include without limitation new products, shifts in SKUs covered by UMAP®, market conditions, and special promotions/rebates.

Baja Designs®/sPOD® intends to unilaterally select and supply the channels and means by which its premium lighting products are distributed. ***Thus, Baja Designs®/sPOD® neither solicits nor requires express or implied agreement to its UMAP® Program.*** The Program encourages interbrand competition and customer choice by focusing on stabilized *advertised* prices. Authorized Baja Designs®/sPOD® independent distributors/resellers remain free to negotiate the ultimate transaction/sales price (as opposed to *advertised* price) they see fit for their market.

Baja Designs®/sPOD® UMAP® Program applies to all storefronts and to all forms of advertisements, in any and all media, including without limitation: letters, flyers, posters, coupons, mailers, inserts, newspapers, magazines and other periodicals, catalogs, mail order catalogs, the Internet, enthusiasts' special forums or similar digital social media, podcasts, electronic mail (e-mail), solicitations, websites, online auction sites such as Amazon, eBay and Walmart, host sites (including but not limited to those hosted by private proxy servers), and other online storefronts, television, radio broadcasts, print advertising, and public signage. Baja Designs®/sPOD® UMAP® is *not* applicable to Point of Purchase or in-store advertising.

*Baja Designs®/sPOD® may treat an authorized distributor's supplying product to unauthorized distributors/resellers as the authorized distributor's violation of this UMAP® Program.* Baja Designs®/sPOD® employees, agents, or other representatives are not authorized to make or discuss, negotiate with, or accept modified UMAP® terms from any distributors or resellers. Please direct any questions regarding the Program or current UMAP® Price Sheet to Baja Designs®/sPOD® UMAP® coordinator Rufus Keller: [Rufus@BajaDesigns.com](mailto:Rufus@BajaDesigns.com).

### **UMAP® Program Advertising Guidance**

Examples of advertisements Baja Designs®/sPOD® currently considers contrary to the competitive goals of our UMAP® Program, the premium image of our brand and desired distribution limited to qualified Baja Designs®/sPOD® distributors and resellers include:

- (1) **Bundling for Lower Than UMAP® Price Sheet.** Bundling or combining product(s) covered on the UMAP® Price Sheet with any other product (whether or not a Baja Designs®/sPOD® SKU or a product from another manufacturer) for an advertised price lower than the combined price of what the two or more products should be advertised independent of each other. Example: 15% off Baja Designs® lighting when you buy new roll cage. Example: A bundle of LP6 lights and a harness cannot be less than the combined MAP prices of those three items.
- (2) **Click-Through Innuendos.** Advertising that does not provide a recognizable advertised price on the customer landing page or requires customer to take further actions to determine advertised price *including* requesting customer to "Click Through" to "See Price

In Cart," "Add To Cart For Best Price," "Call/E-mail for Best Price", requires Customer to log onto or link to separate page or site to search or obtain best price, promises or infers or any comparable command, language or graphic representation that implies, or from which the customer can infer, that the customer is being led to click through to the cart to see a price lower than that set forth in our UMAP© Sheet.

- (3) **Alterations to Minimum Advertised Price.** Applying a blacked-out price (eg \$ ), struck-through price (eg. ~~\$1,000.00~~), leaving out the price altogether, or any other alteration to the price advertised.
- (4) **SKU Modifications.** Altering, phishing, omitting SKUS or SKU hyphens or other punctuation, or any other modifications to Baja Designs© intended SKUS, product names, images or descriptions.
- (5) **Lowest-Price Guarantees.** Advertising claiming or suggesting "the lowest prices," having any form of low-price guarantee, or offering to match the lowest advertised price on Baja Designs®/sPOD® products listed in the UMAP© Price Sheet.
- (6) **Across-the-Board Discounts.** Catalog or inventory-wide discounts (e.g. "10% off everything in catalog"), *unless "Baja Designs®/sPOD® products excluded" is clearly stated in direct connection with such advertisements.*
- (7) **Rebates or Other Incentives Prior to Payment.** Issuing rebates or providing incentives (other than those pre-authorized by Baja Designs®/sPOD®) in any form prior to customer payment where the net effect is to reduce the advertised price to less than the price suggested in the current UMAP© Price Sheet in effect at the time of the adposting.
- (8) **Tie-Ins.** Offering a gift card or other form of product or service redeemable for value on a future purchase with the purchase of any product listed on Baja Designs®/sPOD® UMAP© Price Sheet or any other product tie-in (including those made by other manufacturers) or promotion where the net effect is to reduce the advertised price to less than the price suggested in the Price Sheet in effect at the time of the ad posting.
- (9) **Deceptive Listing: New Products as "Used" or "Like New".** Advertising in any manner which infers a new product purchased from a qualified Baja Designs®/sPOD® distributor/reseller is, absent resale or actual use by an end user, in any condition other than new, never-been- opened, undamaged condition with original packaging intact. *Note: Baja Designs®/sPOD® may not provide technical support or warranty coverage for products advertised as other than new.*
- (10) **Deceptive Listing: Unauthorized Distributors/Resellers offering Products with Reduced Warranties as "New".** As of the effective date of this program, Baja Designs®' full Limited Warranty does not apply to products purchased from unauthorized resellers or suppliers on Amazon, eBay, Walmart, Alibaba, Rakuten and other outlets (see Limited Warranty). Advertising such products as "New", "Like New", "Out of Box" or similar without reference to reduced warranties is considered a deceptive practice and a violation of this UMAP© Program.
- (11) **Misleading Reseller Claims of "Authorized Distributor/Reseller or Dealer Status.** Advertising or otherwise holding reseller or storefront out to be an "authorized distributor," "reseller" or "Dealer" of Baja Designs®/sPOD® products contrary to fact or when indicated to the contrary on DNS list(s).
- (12) **Storefront Concealment.** Advertising or storefront image intended to conceal or mask the true identity of the distributor or reseller (e.g. generic storefront name like "Auto Parts Store" or "Discount Bandit" without transparency as to contact information and/or reseller refusal to provide meaningful contact information).

***Examples of actions which Baja Designs®/sPOD® generally considers not violations of this UMAP® Program are:***

- (1) Offering free or discounted shipping or installation on products listed in the Baja Designs®/sPOD® UMAP© Price Sheet.
- (2) Authorized distributors/resellers providing customer loyalty rebates, advertising promotional prices, or bundling of products covered under the UMAP© Price Sheet that are part of an approved promotion by Baja Designs®/sPOD®.

**All Baja Designs®/sPOD® Rights Reserved For Non-Compliance with UMAP© Program**

At all times, distributors and resellers have the choice to voluntarily comply with and receive the benefits of Baja Designs®/sPOD® UMAP© Program. Advertisements of Baja Designs®/sPOD® product in all forms of media are routinely monitored. Distributors/resellers are considered compliant with this Program when 100% of all UMAP-covered SKUs (as set forth on the current Baja Designs®/sPOD® Grid) are advertised *at or above UMAP*. This Program, independent monitoring and enforcement applies 24/7 & 365 days a year.

Baja Designs®/sPOD® reserves all rights to unilaterally interpret and enforce its UMAP© Program through various actions. If we determine an advertisement is a UMAP violation, Baja Designs®/sPOD® may, without assuming any liability, take such unilateral action as it deems appropriate. Such unilateral actions may include without limitation: adding or terminating distributors/resellers; cancelling, refusing or limiting purchase orders and indefinitely refusing to accept new orders from that violator as well as from any Baja Designs®/sPOD® wholesale distributor/reseller who is supplying the violator, reallocating product inventories, auditing distributor, reseller and WD sales, revoking discounts, advertising or other distributor/reseller program allowances; revoking all rights to use Baja Designs®/sPOD® trademarks (registered and common law), service marks, product images, descriptions or other copyrighted or promotional materials; publishing non-compliant distributors and resellers on “Do Not Sell/Resell Lists”; and pursuing all other contractual, legal and equitable remedies available, including without limitation, obtaining permanent or temporary injunction, termination, notification of intellectual property rights violations to Internet hosts or proxy servers or other methods of taking down advertisements and/or Internet offerings.

*A WD supplying an unauthorized reseller or UMAP violator identified by do not sell list may be treated as a violator itself.*

Baja Designs®/sPOD® may provide courtesy notice of UMAP© violations, where the violation reflects an isolated violation, there is a lack of deceptive intent, the storefront or supplying WD demonstrates transparency, and the overall competitive goals of the Program are retained. However, unilateral action may be taken with or without prior notice, written or verbal. Such unilateral actions are cumulative and shall not be waived by any action or inaction of Baja Designs®/sPOD®.

Through this UMAP© program and your support, Baja Designs®/sPOD® lighting will remain “A-moving” premium products, fostering greater inter-brand competition and affording authorized distributors and resellers a pathway to higher sales, greater product availability and customer satisfaction.

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<sup>1</sup> UMAP© and the terms of this UMAP© Program are original works subject to U.S. copyright protection and licensed to Baja Designs®/sPOD® by Colvos Law, PLLC.