

## ADVOCARE COMMERCIAL BUSINESS ACCOUNT

The following states the Terms and Conditions of the AdvoCare® Commercial Business Account Program Agreement (“Agreement”) between the named Applicant (hereinafter “Reseller”) and AdvoCare International, LLC (hereinafter “AdvoCare”):

1. **Purpose.** The purpose of the AdvoCare Commercial Business Account Program (hereinafter “Commercial Program”) is to provide the Reseller a means to purchase AdvoCare products at a discounted rate and to resell the products to retail customers (end-users) at a fixed location, earning a profit.

2. **Guidelines Incorporated by Reference.** This Agreement incorporates by reference the AdvoCare Advertising Guidelines - Commercial Resellers, in their current form and as amended periodically at the sole discretion of AdvoCare. Capitalized terms used but not otherwise defined herein shall have the meanings given such terms in the Guidelines. The parties agree that good and valuable consideration exists for the Agreement and Guidelines in the event either party decides to continue operating under any then-amended Agreement and/or then-amended Guidelines. It is the responsibility of each Reseller to read, understand, adhere to and ensure Reseller is aware of and operating under the most current version of the Agreement and/or Guidelines. Any amendments to either the Agreement or the Guidelines shall apply only prospectively, not retrospectively; shall be communicated directly to Reseller via email; and shall be effective no less than fourteen (14) days after being communicated to Reseller. AdvoCare reserves the right to amend the Agreement and/or the Guidelines at its sole discretion. By executing the AdvoCare Commercial Program Agreement, each Reseller agrees to abide by all amendments of modifications made by AdvoCare. The continuation of a Reseller’s acceptance of discounted products (“Products”) shall constitute acceptance of all amendments to the Agreement and/or to the Guidelines. Any breach of this Agreement shall be considered a material breach, and may result in the immediate termination of the Agreement. This Agreement may be terminated for any reason by either AdvoCare or the Reseller upon thirty (30) days’ written (or electronic) notice, which the parties agree is reasonable notice. Reseller understands and agrees that this Agreement is non-exclusive, and that AdvoCare retains the right to sell its products in any manner it chooses and in accordance with its own business judgment.

3. **Integrated Contract / Severability.** The Agreement and the Guidelines, as they may be amended, together constitute the contractual agreement “Contract” between AdvoCare and each Reseller. The Contract sets forth the entire agreement between AdvoCare and the Reseller and supersedes any and all oral or written (in any form) agreements or understandings between AdvoCare and the Reseller, including any representations by AdvoCare or its Resellers not explicitly made in the Contract or in official AdvoCare publications. The Contract may not be altered or amended except as provided herein. Should any discrepancy exist between the terms of the Contract and verbal representations made to any Reseller by any employee of AdvoCare, the terms and requirements of the Contract shall prevail. Should any discrepancy exist between the terms of the AdvoCare Commercial Program Account Agreement and the AdvoCare Commercial Program Marketing Guidelines, the terms of the Guidelines will prevail unless specified in the Guidelines.

Any provision of the Contract that is judicially invalidated or otherwise invalidated unenforceable in any jurisdiction is ineffective only to the extent of such invalidation or unenforceability in that jurisdiction, and only within that jurisdiction. Any prohibited, judicially invalidated, or unenforceable provision of the Contract is severable and will not invalidate or render unenforceable any other provision of the Contract, nor will such provision be invalidated or rendered unenforceable in any other jurisdiction. In the event any provision of the Contract is deemed invalid or unenforceable in any particular proceeding, such provision shall be reformed to effectuate its original intent and purpose to the fullest extent possible.

4. **Discount.** AdvoCare products as listed on Exhibit A (the “Products”) will be sold to the Reseller by AdvoCare at the 40% discount rate based on the then-current retail price. Exhibit A may be amended/supplemented by AdvoCare during the term of the Agreement at AdvoCare’s discretion.

5. **Resale/Taxes.** Reseller will be permitted to market and resell the purchased Products to customers. Reseller will keep profits earned by the sale of the Products. Reseller will be responsible for handling, reporting and remitting its own taxes to all applicable tax authorities.

6. **Location.** Reseller will market and sell the product only at registered fixed locations of the Reseller.

7. **Term.**

- The term of the Agreement shall be twelve (12) months and shall be subject to renewal annually.
- Notwithstanding the above, either party may terminate this agreement for convenience by providing the other party thirty (30) days’ prior written notice.

8. **Application Requirements.**

- Registered Business Entity (Corp., LLC, LP, etc.) operating within a geographic area where AdvoCare legally conducts business
- Accurate Contact Information
  - o Entity registration information, Address, Email, Phone Numbers, Officers, Registered Agent, Primary Contact
- Type of Retail Establishment (primary offerings)
- Number/Location of Retail Locations
- Proof of liability insurance upon request
- Submit a Signed Commercial Program Agreement Application and Application Fee, and
- Sales Interview

9. **Rights, Duties and Obligations.**

- RESELLER may:
  - a. Purchase certain AdvoCare products for resale at a 40% discount off the suggested retail price
  - b. Advertise they offer AdvoCare products while adhering to AdvoCare’s Advertising Guidelines
  - c. Sell AdvoCare products from multiple registered locations
  - d. Participate in any marketing, promotion or incentive program solely created for Commercial Program

participants

- RESELLER must:
  - a. Have all employees complete a training on AdvoCare Products
  - b. Provide AdvoCare adequate proof of sales to justify purchases of Products upon request
  - c. Provide AdvoCare an accounting of purchases and sales upon application for renewal to the Commercial Program
- RESELLER may not:
  - a. Have more than one account with AdvoCare
  - b. Sell AdvoCare Products through any online platform
  - c. Allow products to be sold to persons under the age of eighteen (18)
  - d. Create/operate a retail facility where AdvoCare is the sole/primary product marketed for sale. It is the expressed intention of the parties that the sale of AdvoCare Products be a complementary part of Reseller's business
  - e. Receive compensation for the recruitment of another AdvoCare Commercial Program participant, Distributor, Preferred Customer, or Registered Retail Customer

10. **Product Training.** AdvoCare shall provide all necessary product training to Reseller representatives, and may be present onsite to assist with customer product instruction. Reseller shall follow AdvoCare's marketing guidance, providing accurate information about the Products to customers and shall not market or sell to customers under 18 years of age. Reseller will also provide consumers any necessary written information requested by AdvoCare to be included with products that may require it (example - caffeine content, additional label claims, serving size, etc.).

11. **Reporting Adverse Events.** If the Reseller is contacted by an end-user/consumer reporting an adverse reaction to an AdvoCare Product or receive a complaint, the Reseller should contact AdvoCare Customer Service without delay at 800.542.4800.

12. **Retail Return Policy.** A Retail Customer purchasing directly through a Reseller is entitled to a refund on any Product purchased in the preceding thirty (30) days. Resellers must refund a Retail Customer's money immediately if asked to do so within the thirty (30) day time period. After issuing a refund to a Retail Customer the Reseller must return the unused portion of the Product along with a Retail Sales Receipt and a completed Retail Customer Product Return form in order to receive a replacement for the Product from AdvoCare. Retail Customer Product Return forms are available from AdvoCare Customer Service. Resellers must request the replacement Product within thirty (30) days of issuing the refund. If a Retail Customer contacts AdvoCare Customer Service to request a refund for a Product sold by a Reseller, AdvoCare will notify the appropriate Reseller. If the Reseller fails to refund the Retail Customer within ten (10) days AdvoCare will charge and invoice Reseller for the cost of the refund. Failure to issue refunds is grounds for termination of the Agreement.

13. **Use of AdvoCare Logos, Trademarks and Copyrighted Material.** CERPUR Pioneer LLC ("CERPUR") owns all AdvoCare logos, trademarks and copyrighted images and content. Reseller must execute an Agreement with CERPUR to obtain a limited license to use AdvoCare approved materials to market and sell the Products.

14. **Independent Contractor Status.** The relationship between the parties hereto is that of independent contractor. No partnership, joint venture or similar enterprise may be inferred.

15. **Reseller Not a Distributor.** Reseller is not considered an AdvoCare Independent Distributor, and as such cannot participate in any commissions, bonuses or incentives available to Distributors through the AdvoCare Policies, Procedures and Compensation Plan.

16. **Arbitration, Governing Law, Jurisdiction and Venue.** EXCEPT AS MAY BE EXPRESSLY PROVIDED OTHERWISE BY THESE POLICIES, ANY CLAIM OR CONTROVERSY ARISING OUT OF OR RELATING TO THE CONTRACT, WHETHER SUCH CLAIM ARISES IN TORT, CONTRACT, EQUITY, OR OTHERWISE, SHALL BE RESOLVED BY BINDING AND CONFIDENTIAL ARBITRATION ADMINISTERED BY THE AMERICAN ARBITRATION ASSOCIATION IN ACCORDANCE WITH ITS THEN EXISTING COMMERCIAL ARBITRATION RULES BEFORE A SINGLE ARBITRATOR. THE ARBITRATOR SHALL HAVE EXCLUSIVE AUTHORITY TO DETERMINE WHETHER ANY PARTICULAR CLAIM OR CONTROVERSY IS ARBITRABLE AND COVERED BY THIS PROVISION. DISTRIBUTORS HEREBY WAIVE THEIR RIGHTS TO TRIAL BY JURY OR BY ANY COURT EXCEPT AS EXPRESSLY PROVIDED HEREIN. THE HEARING SHALL OCCUR NOT LATER THAN ONE HUNDRED AND EIGHTY (180) DAYS FROM THE DATE THE DEMAND IS MADE, ABSENT AGREEMENT BY THE PARTIES OR EXTRAORDINARY CIRCUMSTANCES, WITH A JUDGMENT ON THE AWARD ENTERED WITHIN THIRTY (30) DAYS AFTER THE CONCLUSION OF THE HEARING. THE ARBITRATION SHALL BE CONDUCTED IN COLLIN COUNTY, TEXAS, WHICH SHALL BE THE EXCLUSIVE LOCATION OF THE ARBITRATION ABSENT AGREEMENT BY THE PARTIES OR EXTRAORDINARY CIRCUMSTANCES. HOWEVER, THE JUDGMENT ON THE AWARD MAY BE ENTERED IN ANY COURT HAVING JURISDICTION THEREOF.

EACH PARTY TO THE ARBITRATION PROCEEDING SHALL BE ENTITLED TO NO MORE THAN TWENTY (20) REQUESTS FOR PRODUCTION, TEN (10) INTERROGATORIES AND FIVE (5) DEPOSITIONS. ALL RESPONSES TO REQUESTS FOR PRODUCTION AND INTERROGATORIES ARE DUE WITHIN TEN (10) DAYS FROM THE DATE THEY ARE SERVED. ALL DOCUMENTS MUST BE PROVIDED WITHIN THREE (3) DAYS AFTER THE RESPONSES TO REQUESTS FOR PRODUCTION ARE DUE. THE FOREGOING DISCOVERY LIMITATIONS AND DEADLINES MAY BE MODIFIED OR EXPANDED AT THE DISCRETION OF THE ARBITRATOR FOR GOOD CAUSE SHOWN. THE ARBITRATOR HAS THE DISCRETIONARY AUTHORITY TO AWARD THE COSTS OF THE ARBITRATION, THE ARBITRATOR'S FEES, AND ANY REASONABLE AND NECESSARY LEGAL FEES INCURRED IN CONNECTION WITH A DISPUTE RESOLVED IN FAVOR OF THE PREVAILING PARTY. THE COSTS OF INITIATING THE ARBITRATION SHALL BE BORNE BY THE PARTY INITIATING ARBITRATION. THE COSTS OF BRINGING ANY COUNTERCLAIMS SHALL BE BORNE BY THE PARTY ALLEGING THE COUNTERCLAIMS. ALL REMAINING COSTS AND FEES SHALL BE SPLIT EQUALLY BETWEEN THE PARTIES UP THROUGH ISSUANCE OF A FINAL AWARD. WITHOUT GIVING EFFECT TO ANY CHOICE OF LAW ANALYSIS, THE PARTIES AGREE THE CONTRACT, AND ANY MATTER ARISING OUT OF, RELATING TO, OR INVOLVING THE CONTRACT, INCLUDING TORT CLAIMS, WILL BE GOVERNED BY THE LAWS OF THE STATE OF TEXAS AND IN ACCORDANCE WITH U.S.C.A., TITLE 9, UNITED STATES ARBITRATION ACT (THE "FAA"), AND/ UNLESS OTHERWISE CONFLICTING, WITH THE TAA, THE TEXAS ARBITRATION ACT, TEX. CIV. PRAC. & REM. CODE §171.001 ET SEQ. THE ARBITRATOR SHALL HAVE EXCLUSIVE AUTHORITY TO RESOLVE ANY DISPUTE

RELATING TO THE ENFORCEABILITY OF THIS ARBITRATION PROVISION, INCLUDING, BUT NOT LIMITED TO, ANY CLAIM THAT ALL OR PART OF THIS PROVISION IS VOID OR VOIDABLE.

UNLESS OTHERWISE STIPULATED BY ALL PARTIES THERETO, THE PARTIES AND THE ARBITRATOR SHALL MAINTAIN THE CONFIDENTIALITY OF THE ARBITRATION PROCEEDINGS AND SHALL NOT DISCLOSE TO ANY THIRD PARTY: THE SUBSTANCE OF, OR BASIS FOR, THE CONTROVERSY, DISPUTE OR CLAIM; THE SUBSTANCE OR CONTENT OF ANY SETTLEMENT OFFER, SETTLEMENT DISCUSSIONS OR OFFERS ASSOCIATED WITH THE DISPUTE; THE PLEADINGS, OR THE CONTENT OF ANY PLEADINGS, OR EXHIBITS THERETO, FILED IN ANY ARBITRATION PROCEEDING; THE CONTENT OF ANY TESTIMONY OR OTHER EVIDENCE PRESENTED AT AN ARBITRATION HEARING OR OBTAINED THROUGH DISCOVERY IN AN ARBITRATION; THE TERMS OR AMOUNT OF ANY ARBITRATION AWARD; AND THE RULINGS OF THE ARBITRATOR ON ANY PROCEDURAL AND/OR SUBSTANTIVE ISSUES INVOLVED IN THE CASE. IN THE EVENT A PARTY FAILS TO PAY THE FULL AMOUNT OF ANY AWARD, INFORMATION RELATING TO THE AWARD MAY BE USED IN CONFIRMATION OF THE AWARD, WITH EACH PARTY AGREEING TO UTILIZE THE APPROPRIATE STATE OR FEDERAL PROCEDURAL SAFEGUARDS TO PROTECT THE CONFIDENTIALITY OF THE ARBITRATION.

THE PARTIES FURTHER AGREE THAT NO ARBITRATOR HAS THE AUTHORITY TO: (1) AWARD RELIEF IN EXCESS OF WHAT THIS AGREEMENT PROVIDES; (2) AWARD CONSEQUENTIAL OR PUNITIVE DAMAGES OR ANY OTHER DAMAGES NOT MEASURED BY THE PREVAILING PARTY'S ACTUAL, DIRECT DAMAGES; OR (3) ORDER CONSOLIDATION OR CLASS ARBITRATION, CONSOLIDATE MORE THAN ONE PERSON'S CLAIMS, AND MAY NOT OTHERWISE PRESIDE OVER ANY FORM OF A REPRESENTATIVE OR CLASS PROCEEDING. IN THIS REGARD THE PARTIES SPECIFICALLY AGREE THAT THEY MAY BRING DISPUTES AGAINST THE OTHER PARTY, ITS PARENTS, SUBSIDIARIES, AFFILIATES, OFFICERS, DIRECTORS, MEMBERS, MANAGERS, AGENTS, DISTRIBUTORS, EMPLOYEES, ATTORNEYS, SUCCESSORS, AND ASSIGNS ONLY IN AN INDIVIDUAL CAPACITY AND NOT AS A CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING INCLUDING WITHOUT LIMITATION ANY CLASS ACTION OR CLASS ARBITRATION. AN ARBITRATOR SHALL NOT COMBINE OR CONSOLIDATE MORE THAN ONE PARTY'S CLAIM WITHOUT THE WRITTEN CONSENT OF ALL AFFECTED PARTIES TO AN ARBITRATION PROCEEDING.

NOTWITHSTANDING THE FOREGOING, NOTHING IN THESE POLICIES OR THE CONTRACT SHALL PREVENT ADVOCARE FROM APPLYING TO AND OBTAINING FROM ANY COURT HAVING JURISDICTION A WRIT OF ATTACHMENT, TEMPORARY RESTRAINING ORDER, PRELIMINARY OR PERMANENT INJUNCTION, RELIEF PURSUANT TO TEXAS RULE OF CIVIL PROCEDURE 202, OR OTHER RELIEF TO SAFEGUARD AND PROTECT ADVOCARE'S INTERESTS AND RIGHTS, INCLUDING WITHOUT LIMITATION, RIGHTS WITH RESPECT TO CONFIDENTIAL INFORMATION, LOGOS, TRADEMARKS, AND COPYRIGHTED MATERIALS AT ANY TIME PRIOR TO, DURING, OR FOLLOWING THE FILING OF ANY ARBITRATION PROCEEDING.

THE INSTITUTION OF ANY ACTION FOR EQUITABLE RELIEF UNDER THIS PROVISION OR TO ENFORCE AN AWARD OR ORDER, SHALL NOT CONSTITUTE A WAIVER OF THE RIGHT OR OBLIGATION OF ANY PARTY TO SUBMIT ALL CLAIMS TO ARBITRATION.

IF ANY DISTRIBUTOR INITIATES LITIGATION OUTSIDE OF ARBITRATION IN VIOLATION OF THE PROVISIONS OF THIS SECTION, AND UPON DEMAND BY ADVOCARE FAILS TO SUBMIT THE MATTER TO ARBITRATION, THE DISTRIBUTOR SHALL BE LIABLE TO ADVOCARE FOR ALL COSTS, EXPENSES AND LEGAL FEES INCURRED IN COMPELLING ARBITRATION OF THE MATTER.

ANY AMENDMENTS TO THIS ARBITRATION PROVISION SHALL APPLY ONLY PROSPECTIVELY, NOT



RETROSPECTIVELY, AND SHALL BE EFFECTIVE FOURTEEN (14) DAYS AFTER POSTING ONLINE BY ADVOCARE, OR OTHER MECHANISM DESIGNED TO PROVIDE NOTICE TO RESELLERS. ANY AMENDMENTS TO THIS ARBITRATION PROVISION SHALL NOT APPLY TO ANY CLAIM OR CONTROVERSY FOR WHICH A RESELLER HAS PROVIDED ADVOCARE ACTUAL, EXPRESS, WRITTEN NOTICE PRIOR TO THE EFFECTIVE DATE OF THE AMENDMENTS.

THIS SECTION SHALL INURE TO THE BENEFIT OF ADVOCARE AND ALL OF ITS PARENTS, SUBSIDIARIES, AFFILIATES, OFFICERS, DIRECTORS, MEMBERS, MANAGERS, AGENTS, EMPLOYEES, ATTORNEYS, SUCCESSORS AND ASSIGNS, ANY OF WHOM SHALL BE ENTITLED TO INVOKE OR SEEK ENFORCEMENT OF THESE PROVISIONS, AND SHALL COVER ALL CLAIMS ASSERTED AGAINST ANY OF THEM THAT ARISE OUT OF OR RELATE TO THE CONTRACT.

TO THE EXTENT THIS ARBITRATION PROVISION OR ANY PORTION THEREOF IS DETERMINED TO BE IN VIOLATION OF, OR UNENFORCEABLE TO ANY EXTENT UNDER, ANY STATE OR FEDERAL LAW, THE PARTIES AGREE THAT SUCH PROVISION OR PORTION IS SEVERABLE AND MAY BE REVISED TO BE CONSISTENT WITH APPLICABLE LAW, AND TO EFFECTUATE TO THE MAXIMUM EXTENT POSSIBLE THE ORIGINAL TERMS AND INTENT OF THIS PROVISION.

SIGNED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 202\_\_.

**ADVOCARE INTERNATIONAL, LLC**

**APPLICANT RESELLER**

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

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