



## PREFERRED CUSTOMER TERMS & CONDITIONS

### United States

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#### 1. Overview of the Preferred Customer Program

An AdvoCare Preferred Customer (“Preferred Customer”) is an individual who has joined the AdvoCare Preferred Customer Program and is able to purchase AdvoCare Products (“Products”) at a discount by entering the AdvoCare Preferred Customer Agreement (the “APCA”). The Preferred Customer’s discount level ranges from twenty to thirty percent (20-30%) depending on the Qualifying Volume of purchases made. The Preferred Customer is *not* an AdvoCare Independent Distributor (“Distributor”), and thus is *not* permitted to sell or resell Product(s).

#### 2. Amendments and Severability

AdvoCare may amend the Preferred Customer Program Terms & Conditions periodically (“Terms & Conditions”) at its sole discretion. The APCA and Terms & Conditions are hereinafter the “Agreement.” The most updated Terms & Conditions are available on the AdvoCare website and are applicable to all Preferred Customers. **Any amendments to the Terms & Conditions shall apply prospectively (not retroactively), shall be communicated directly to the Preferred Customer via email, and shall be effective fourteen (14) days after online posting by AdvoCare.** By executing the APCA, you agree to abide by all amendments or modifications thereto. The continuation of purchases by you from AdvoCare following the effective date of the amended Terms & Conditions and/or APCA shall constitute acceptance of all amendments or modifications thereto.

Any provision, or part thereof, of the Agreement that is judicially invalidated or otherwise rendered 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, or part thereof, of the Agreement is severable and will not invalidate or render unenforceable any other provision of the

Agreement, nor will such provision, or part thereof, of the Agreement be invalidated or rendered unenforceable in any other jurisdiction. In the event any provision, or part thereof, of the Agreement is deemed invalid or unenforceable in any particular proceeding, such provision, or part thereof shall be reformed to effectuate its original intent and purpose to the fullest extent possible.

#### 3. Assignment

A Preferred Customer may not assign this Agreement. AdvoCare may assign this Agreement at any time, without advanced notice.

#### 4. Becoming a Preferred Customer

To become a Preferred Customer, you must complete the online enrollment process, read and accept these Terms & Conditions, be at least 18 years of age, reside in a geographic area where AdvoCare conducts its business and pay the \$19.95 membership fee plus sales tax, if applicable. You may enroll as a Preferred Customer through a Distributor’s AdvoCare website, the AdvoCare website or over the phone by contacting AdvoCare Customer Service at 1-800-542-4800. You must provide the required information, including a valid credit card for the membership fee.

#### 5. Sponsor Changes

When you enroll in the Preferred Customer Program through a Distributor, that Distributor will be deemed your Preferred Customer Sponsor as long as they remain a Distributor. If you wish to change your Sponsor contact Customer Service.

#### 6. Preferred Customer Discount

As a Preferred Customer, you receive a discount on Products and may, periodically, receive additional loyalty-related benefits. Once your Preferred Customer account is established, you will gain access to a 20% discount on Products. Your discount can increase based on your Product purchases over the course of approximately two (2) consecutive



months, or four (4) Purchase Periods (there are approximately two Purchase Periods every month), based on the Qualifying Volume (“QV”) of your purchases. QV is a point value assigned to each product. As you purchase products, your QV accumulates and your discount increases, up to a thirty percent (30%) discount as reflected in the chart below. The highest discount level a Preferred Customer earns remains intact annually upon renewal.

**Preferred Customer Discount Level Schedule**

<b>Total Product purchases within 4 consecutive Purchase Periods (approximately 2 months)</b>	<b>Discount</b>
0 - \$499.99 QV	20%
500 - \$999.99 QV	25%
1,000+ QV	30%

An exception to the discount schedule may occur when a former Distributor with a 40% discount converts to a Preferred Customer. It is within the discretion of AdvoCare to allow the Preferred Customer to keep his or her 40% discount.

Sales tax as well as standard shipping & handling charges will apply to all Preferred Customer orders, unless there is a promotional shipping rate available at the time of purchase, the order is picked up at Will Call, or the Preferred Customer elects an expedited shipping rate.

**7. Purchasing Products Using Your Preferred Customer Account**

As a Preferred Customer, you will select a username and password at the time of enrollment, which you will use as your login.

In order to place a Product order using your Preferred Customer product discount, you may: (1) log into your Preferred Customer account from the AdvoCare website or through your Sponsor’s AdvoCare Website; (2) contact AdvoCare Customer Service at 1-800-542-4800; or (3) visit Will Call at the AdvoCare Corporate Office. Once an order is entered, it cannot be changed. It is immediately transmitted to the Distribution Center to be filled and shipped. Please see AdvoCare.com or contact Customer Service for current shipping rates and information.

Failure to notify AdvoCare of any shipping discrepancy or damage within thirty (30) days of shipment will cancel the Preferred Customer’s right to request a correction. If an order must be rerouted, it will be at the Preferred Customer’s expense. Please contact AdvoCare Customer Service at 1-800-542-4800 to correct a shipping discrepancy.

AdvoCare charges sales tax on the purchase price of the Preferred Customer’s Product order based on the shipping destination. Sales tax charges will vary by Product and by state. AdvoCare remits the sales tax to each state in which Products are shipped.

**8. Renewing Your Preferred Customer Membership**

To remain a Preferred Customer, you must renew your membership in the Preferred Customer Program on an annual basis by paying the current renewal fee of \$19.95, subject to change, and agreeing to the current Terms & Conditions. AdvoCare reserves the right to accept or reject any renewal of any Preferred Customer membership. The due date for the renewal fee will be the anniversary date of the Preferred Customer’s enrollment into the Preferred Customer Program, unless they were an AdvoCare Distributor before converting to a Preferred Customer, in which case their anniversary date will remain the date they executed their Distributor Agreement. There are no required purchases in order to maintain your Preferred Customer membership.

An “Auto Renewal” option is available that allows a Preferred Customer to enroll and have their renewal fees automatically charged to a valid credit card on file on the first day of their anniversary month, automatically renewing the membership for another year.

If a Preferred Customer’s account has not been renewed by the renewal date, AdvoCare may, in its sole discretion, either: (1) cancel the membership; or (2) waive the renewal fee (without waiver of AdvoCare’s right to collect or insist on payment of future renewal fees). If at any time the individual wishes to again become a Preferred Customer after his or her membership has been cancelled for non-renewal, the individual must sign up as a new Preferred Customer and complete the enrollment process, agree to the current Terms & Conditions, and pay the current membership fee. Note that the discount level from a previous Preferred Customer



membership will not be reinstated for a new membership and will restart in accordance with the discount level schedule.

#### **9. Preferred Customer Return or Exchange Policy (Satisfaction Guarantee)**

If a Preferred Customer is not completely satisfied with Products they purchased, they may contact Customer Service and request an exchange or refund within thirty (30) days from the date of purchase by returning the unused portion of the Product back to AdvoCare. The refund amount is based upon the price the Preferred Customer paid at the time of sale, sales tax (if applicable) and shipping costs.\* Product refunds are made in the same form of payment as the Product purchase. Product exchanges will be for a Product(s) of equal or lesser value of the price the Preferred Customer paid at the time of sale.

*\*Refunded shipping costs are calculated as the lesser of 5% retail value of the items returned or \$75, but no less than the current standard flat shipping rate.*

To be entitled to a refund or exchange, the following requirements must be met:

- (1) The returned Product(s) must be accompanied by a Returned Merchandise Authorization (“RMA”) number provided by AdvoCare Customer Service, an inventory list of the Product(s) returned;
- (2) The returned Products must appear in the Preferred Customer’s order history; and
- (3) The returned Products must have been purchased within thirty (30) days preceding the date of the return.

Returned Product that does not meet the criteria listed above shall not be eligible for a refund or exchange. In addition, all Product returned to AdvoCare shall be retained by AdvoCare, regardless of whether the return meets the criteria for receiving a refund or exchange.

#### **10. Exclusions from Return or Exchange Policy**

Only Products purchased directly from AdvoCare are eligible for a refund or exchange. Products purchased on any non-AdvoCare website are not eligible for a refund.

#### **11. Adjustments for Refunds**

The returning of Product can reduce your discount level earned previously from the initial purchase of

that Product. AdvoCare will adjust your discount level as a result of any returned Product.

#### **12. Restrictions as a Preferred Customer**

Preferred Customers may purchase Products for their own personal use and that of their family. However, Preferred Customers may not resell Products to others in any way.

#### **13. Notification Process**

Any notice provided by AdvoCare will be mailed and/or emailed to the Preferred Customer’s physical address and/or email of record with AdvoCare. Account holds are the exception to this notification process and will be effective immediately with or without notification in the event conduct of the Preferred Customer account is deemed to be suspicious or deleterious activity to AdvoCare’s business or reputation in the sole discretion of AdvoCare.

#### **14. Cancellation of Your Preferred Customer Membership**

You may cancel your Preferred Customer account at any time by contacting Customer Service at 1-800-542-4800.

If, at the sole discretion of AdvoCare, it is determined that a Preferred Customer has violated any term of the APCA or these Terms & Conditions, AdvoCare reserves the right to cancel any Preferred Customer membership at any time for any reason, or no reason at all, with or without notice.

#### **15. Becoming a Distributor After Joining the Preferred Customer Program**

If a Preferred Customer decides to become a Distributor, they must submit a signed Distributor Agreement, agree to the terms and conditions of the current AdvoCare Distributor Policies, Procedures & Compensation Plan, and purchase a Distributor Kit. Qualifying Volume purchased by a Preferred Customer may not count toward eligibility for Distributor qualifications, incentives, or any other compensation available to Distributors. Sponsoring Distributors will be removed as soon as the account is converted to Distributor account.

#### **16. Use of Preferred Customer’s Name, Likeness or Image**

Preferred Customers consent to AdvoCare’s use of his or her name, testimonial, and image or likeness in connection with advertising, promoting and publicizing the AdvoCare opportunity, Products or any AdvoCare-related event.



Preferred Customers also consent to AdvoCare providing their contact information to their designated Preferred Customer Sponsor.

**17. Reporting Adverse Reactions or Consumer Complaints**

If a Preferred Customer experiences, or becomes aware of, any adverse reaction to an AdvoCare Product or has a consumer complaint, they should contact Customer Service as soon as possible at 1-800-542-4800.

**18. Integrated Agreement**

This Agreement sets forth the entire agreement between AdvoCare and the Preferred Customer and supersedes any and all prior oral or written agreements or understandings between AdvoCare and the Preferred Customer, including any representations by AdvoCare or its Distributors not explicitly made in the Agreement or in official AdvoCare publications. The Agreement may not be altered or amended, except as provided in the Terms & Conditions, as amended from time to time, or by other written notice by AdvoCare.

Should any discrepancy exist between the terms of the Agreement and verbal representations made to any Preferred Customer by any AdvoCare employee, the terms and requirements of the Agreement will prevail. Should any discrepancy exist between the terms contained in the Preferred Customer online enrollment process and the Preferred Customer Terms & Conditions, the Terms & Conditions will prevail.

**19. Choice of Law and Forum for Disputes**

The Agreement, its interpretation and enforcement, and all claims arising out of or relating to the Agreement, whether asserted in law or equity, contract-based, tort-based, or otherwise, and including substantive claims or defenses, shall be governed by the laws of the State of Texas without regard to choice of law or conflicts of law principles, and shall be resolved, exclusively, by arbitration proceeding before a single arbitrator administered by, and in accordance with, the American Arbitration Association (“AAA”) and the then existing Commercial Arbitration Rules. The arbitration shall occur in Collin County, Texas, to the exclusion of all other venues and forums, and Preferred Customers hereby waive any and all objections to such venue, including personal jurisdiction and forum non conveniens.

The institution of an action or proceeding by a Preferred Customer against AdvoCare in another venue or forum in violation of this provision shall be a material breach of the Agreement causing AdvoCare irreparable harm, and Preferred Customer agrees and stipulates that AdvoCare shall be entitled to temporary, preliminary, and permanent anti-suit injunctive relief to enforce this provision.

**20. Arbitration Procedures**

THE ARBITRATION SHALL BE CONDUCTED IN ACCORDANCE WITH U.S.C.A., TITLE 9, UNITED STATES ARBITRATION ACT (THE “FAA”), AND/UNLESS OTHERWISE CONFLICTING, WITH THE TEXAS ARBITRATION ACT (“TAA”), 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, OR WHETHER ANY PARTICULAR CLAIM OR CONTROVERSY IS ARBITRABLE.

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.

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.

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.

