



AMERICAN NUTRITION INC.

1550 W EVANS AVE UNIT F
DENVER, CO. 80223-4052

Phone: 1-800-454-3724 ~ **Local:** 303-688-7755 ~ **Fax:** 303-688-7742

Email: sales1@americannutrition.com

American Nutrition Wholesale Partner Program

Terms of Service Agreement:

This Agreement contains the complete terms and conditions that apply to your participation as a Wholesale Customer in the Wholesale Program of American Nutrition Inc., and the establishment of links from your Wholesale website to our Web site "AmericanNutrition.com" as well as any participation in reselling American Nutrition products regardless of the venue. As used in this Agreement, "we", "us", "our" or American Nutrition means American Nutrition Inc., "you" or "your" means the applicant, and "Product" means any and all items offered for sale by us on the AmericanNutrition.com, TerraCeutics, LLC., TerraCeutics.com, NutraceuticalsRX.com, ColoradoNutrition.com, NaturalProductsCentral.com, MegeMune.com, BrainVigor.com & Brain-Supplements.comweb site.

THIS IS A LEGAL AGREEMENT BETWEEN YOU AND AMERICAN NUTRITION INC. BY CLICKING ON THE "SUBMIT" BUTTON ON THE WHOLESALE PROGRAM ONLINE APPLICATION FORM YOU ARE AFFIRMATIVELY STATING THAT YOU HAVE READ AND UNDERSTAND THE TERMS SET FORTH HEREIN AND ARE AFFIRMATIVELY INDICATING YOUR ACCEPTANCE OF THIS WHOLESALE PROGRAM TERMS OF SERVICE AGREEMENT AND YOU AGREE TO BE BOUND BY THE TERMS HEREOF.

1. Enrolling in our Wholesale/Distributor Program.

To begin the enrollment process, you will submit a complete a [Wholesale/Program Application](#) via our web site. We will evaluate your application in good faith and will notify you of your acceptance or rejection. We may reject your application if we determine (in our sole discretion) that your site is unsuitable for the a Wholesale Program for any reason, including, but not limited to, if your site incorporates images or content that is in any way unlawful, harmful, threatening, defamatory, obscene, harassing or racially, ethically or otherwise objectionable, such as sites that facilitate illegal activity, depict sexually explicit images; promote violence; promote discrimination based on race, sex, religion, nationality, disability, sexual orientation, or age; promote illegal activities or incorporates any materials which infringe or assist others to infringe on any copyright, trademark or other intellectual property rights (collectively "Content

Restrictions”). All Wholesale Program applicants MUST provide a working phone number on the application as well as a working website URL if their method of marketing is via the internet. If the method of marketing is via a brick and mortar establishment, a valid address and phone number are required.

2. Utilizing Our Information on Your Site.

As a Wholesale Customer, we will make available to you applicable price lists, product data feeds, shipping information, and pricing ([MSRP & MAP](#)), and product images. We have the right in our sole discretion to monitor your site at any time and from time to time to determine if you are in compliance with the terms of this agreement.

3. Order Processing, Refunds, Product Guarantee, Pricing & Cancelling Orders.

The Wholesale Customer/Distributor will be responsible for collecting all information necessary from the end customer and for processing all orders and collecting all currency. American Nutrition will provide products to Wholesale Customers upon said Wholesale Customers placing an order through the American Nutrition Wholesale shopping cart.

- a) Wholesale Customers are responsible for collecting all their own customer information, billing information and currency for any American Nutrition products sold to their customers
- b) Wholesale Customers are responsible for keeping all marketed products in stock by placing wholesale orders via their account as a American Nutrition
- c) Wholesale Customers are responsible for shipping of all product orders placed with them to the customer
- d) Wholesale Customers are responsible for refunding any/all currency for products returned by customer; in addition, all products should be returned to the Wholesale Customer, not American Nutrition.
- e) A minimum order of \$150 must be met per Wholesale order or the order WILL be cancelled and refunded without notice prior to cancellation. Orders can be re-placed if meeting the minimum or placed at regular retail prices if not meeting minimum.
- f) Wholesale Customers can set their own pricing levels to charge customers as long as it follows our [Minimum Advertised Price \(MAP\)](#)
- g) **Returns** -
 - 1. We will accept product returns of unused merchandise in original state for up to 30 days from date of purchase.
 - 2. Refunds will be subject to a 15% restocking fee
 - 3. **Shipping costs are not refundable**
 - 4. Refunds will be made using the same payment method as the original order
- h) Wholesale customers are responsible for notifying American Nutrition of any and all changes or additions to website urls where American Nutrition and products are listed and/or promoted. You can notify us via email at sales1@americannutrition.com.

i) **Cancelling an order** You may cancel your order before your order has been shipped. In most cases your order is shipped the same day, sometimes as little as hours after you've placed the order. Make sure you contact us immediately if you want to cancel your order

4. Sales Methods and Venues. Wholesale Customers may sell American Nutrition products via websites, newsgroups, discussion boards, retail outlets, word of mouth, mail order, Pay Per Click (PPC) advertising, internet special interest groups, and/or as a part of a service offered in a brick and mortar establishment.

Wholesale Customers:

- a) Must not use American Nutrition Inc.'s trademarked, or any variation of said names, as part of their website name or domain name
- b) Must not use any of our product names, or any variation of said names, as part of their website name or domain name.
- c) Must not Represent themselves, their business, their site or their service as American Nutrition Inc.
- d) Must not use American Nutrition images in promotion of any product that is not found on the American Nutrition website.
- e) May use some of our website content such as FAQ's and Testimonials but cannot create a duplicate looking site or copy our site exactly. American Nutrition needs to be credited on all syndicated copy and any information provided can ONLY be used to promote American Nutrition products and include subtext of courtesy of American Nutrition.com
- f) eBay/Amazon and other auction sites - cannot include the name American Nutrition or any variations of trademarked registered names and product names in store names themselves. Occurrence will result in account suspension. Any violations of above terms will result in immediate suspension of Wholesale Customer account.

5. Policies and Pricing. Customers who buy Product through the Wholesale Program will be deemed to be customers of American Nutrition Inc.. Accordingly, all American Nutrition Inc. rules, policies, and operating procedures concerning customer orders, customer service, and sales will apply to those customers. We may change our policies and operating procedures at any time. For example, we will determine the prices to be charged for Products sold under the a Wholesale Program in accordance with our own pricing policies. Product prices and availability may vary from time to time. As price changes may affect items that you already have listed on your site, you may not want to include price information in your descriptions. We will use commercially reasonable efforts to present accurate information, but we cannot guarantee the availability or price of any particular Product.

6. Non-Exclusive Limited License and Use of American Nutrition Inc., TerraCeutics, LLC., Colorado Nutrition, & NutraceuticalsRx Logos and Trademarks. We grant you a non-exclusive, non-transferable, revocable right to

(i) access our site and link to it; solely in accordance with the terms of this Agreement, and (ii) solely in connection with such links, to use our logos, trade names, trademarks and similar identifying material (collectively " American Nutrition Inc., TerraCeutics, LLC., Colorado Nutrition, & NutraceuticalsRx Marks"), solely for the purpose of selling Product on your site for American Nutrition Inc.. You may not alter, modify or change the American Nutrition Inc., TerraCeutics, LLC., Colorado Nutrition, & NutraceuticalsRx Marks in any way. You are only entitled to use the American Nutrition Inc., TerraCeutics, LLC., Colorado Nutrition, & NutraceuticalsRx Marks to the extent you are a member, in good standing, of the Wholesale Partner Program. You shall not make any specific use of any American Nutrition Inc., TerraCeutics, LLC., Colorado Nutrition, & NutraceuticalsRx Marks for purposes other than selling Product for American Nutrition Inc., without first submitting a sample of such use to us and obtaining our prior written consent. You agree not to use the American Nutrition Inc., TerraCeutics, LLC., Colorado Nutrition, & NutraceuticalsRx Marks in any manner that is disparaging or that otherwise portrays American Nutrition Inc. in a negative light. We reserve all of our rights in the American Nutrition Inc., TerraCeutics, LLC., Colorado Nutrition, & NutraceuticalsRx Marks, and all other intellectual property rights. We may revoke the rights granted to you pursuant to this section at any time by giving you written notice. You shall obtain no rights in and to the American Nutrition Inc., TerraCeutics, LLC., Colorado Nutrition, & NutraceuticalsRx Marks. The rights granted to you pursuant to this section shall terminate upon the effective date of the expiration or termination of this Agreement.

7. Non-Exclusive Limited License and Use of Logos and Trademarks.

You grant us a non-exclusive license to utilize your names, titles, logos, and trademarks (collectively the "Wholesale Partnership Marks"), and to advertise, market, promote and publicize in any manner our rights hereunder. Notwithstanding anything herein to the contrary, we shall not be required to so advertise, market, promote or publicize. You hereby represent and warrant that you are the sole and exclusive owner of the Wholesale Partner Trademarks and have the right and power to grant to us the license to use same in the manner contemplated herein, and such grant does not or will not (i) breach, conflict with or constitute a default under any agreement or other instrument applicable to you or binding upon you, or (ii) infringe upon any trademark, trade name, service mark, copyright, or other proprietary right of any other person or entity. This license shall terminate upon the effective date of the expiration or termination of this Agreement. Additionally, we reserve the right to secure the highest position in pay-per-click and pay-per-position search engines and advertising sites by submitting a bid for URLs, or other search terms considered as trademarks, sales marks, service marks, registered trademarks, or registered URLs (or any variations or abbreviations of same) of AmericanNutrition.com, American Nutrition Inc., TerraCeutics, LLC., Colorado Nutrition, & NutraceuticalsRx. At no time shall you submit bids or use other methods that would cause listings for your site to rank higher than AmericanNutrition.com, American Nutrition Inc.,

TerraCeutics, LLC., Colorado Nutrition, & NutraceuticalsRx rankings for trademarks, sales marks, service marks, registered trademarks or registered URLs (or any variations or abbreviations of same) of American Nutrition Inc..

8. Publicity.

You shall not create, publish, distribute or permit any written material that makes reference to us, without first submitting such material to us and receiving our written consent.

9. Responsibility for Your Site.

You will be solely responsible for the development, operation and maintenance of your site and for all materials that appear on your site. We shall have no responsibility for the development, operation and maintenance of your site and for all materials that appear on your site. You hereby represent and warrant to us that materials posted on your site do not violate or infringe upon the rights of any third party (including, for example, copyrights, trademarks, privacy, or other personal or proprietary rights), and that materials posted on your site are not libelous or otherwise illegal. You must have express permission to use another party's copyrighted or other proprietary material. We will not be responsible if you use another party's copyrighted or other proprietary material in violation of the law.

10. Term of the Agreements.

The term of this Agreement will begin upon our acceptance of your a Wholesale/Distributor Program Application and will end when terminated by either party. Either you or we may terminate this Agreement at any time, with or without cause, by giving the other party notice of termination. Notice by e-mail, to your address on our records, is considered sufficient notice for to terminate this Agreement. Upon such notice, you agree to promptly destroy or return to American Nutrition Inc. all artwork pertaining to American Nutrition Inc. in your possession or control and you shall immediately remove from your site any or all American Nutrition Inc., TerraCeutics, LLC., Colorado Nutrition, & NutraceuticalsRx Marks, links to the AmericanNutrition.com site, and all references to American Nutrition Inc., TerraCeutics, LLC., Colorado Nutrition, & NutraceuticalsRx and the AmericanNutrition.com site.

11. Modification.

We may modify any of the terms and conditions contained in this Agreement, at any time and in our sole discretion. Notice of any change by e-mail, to your address on our records, or the posting on our site of a change notice or a new agreement, is considered sufficient notice for notifying you of a modification to the terms and conditions of this Agreement. Modifications may include, but are not limited to, changes in the scope of available payment procedures, and Wholesale Partner Program rules. All such modifications shall take effect 48 hours after we serve notice as provided above, unless we indicate otherwise. If any modification is unacceptable to you, your only recourse is to terminate this

Agreement. Your continued participation in the a Wholesale Partner Program, following our posting of a change notice or new agreement on our site, will constitute binding acceptance of the change.

12. Relationship of Parties.

You and American Nutrition Inc. are independent contractors, and nothing in this Agreement will create any partnership, joint venture, agency, franchise, sales representative, or employment relationship between the parties. You will have no authority to make or accept any offers or representations on our behalf. You will not make any statement, whether on your site or otherwise, that reasonably would contradict anything in this Section.

13. Limitation of Liability.

We will not be liable for indirect, incidental, special, or consequential punitive or multiple damages, including without limitation any damages resulting from loss of use, loss of business, loss of revenue, loss of profits, or loss of data, arising in connection with this Agreement, the a Wholesale/Distributor Program, or American Nutrition Inc.'s performance of services or of any other obligations relating to the Agreement, even if we have been advised of the possibility of such damages. The foregoing limitation of liability shall apply regardless of the cause of action under which such damages are sought.

14. Disclaimers.

We make no express or implied warranties or representations with respect to the Wholesale Program or any Product or other items sold through the Wholesale Program (including, without limitation, warranties of fitness for a particular purpose, merchantability, non-infringement, or any implied warranties arising out of a course of performance, dealing, or trade usage). In addition, we make no representation that the operation of our site will be uninterrupted or error-free, and we will not be liable for the consequences of any interruptions or errors.

15. Representations and Warranties.

You hereby represent and warrant to us that this Agreement has been duly and validly executed and delivered by you and constitutes your legal, valid and binding obligation, enforceable against you in accordance with its terms; and that the execution, delivery and performance by you of this Agreement are within your legal capacity and power; have been duly authorized by all requisite action on your part; require the approval or consent of no other persons; and neither violate nor constitute a default under the (i) provision of any law, rule, regulation, order, judgment or decree to which you are subject or which is binding upon you, or (ii) the terms of any other agreement, document or instrument applicable to you or binding upon you.

16. Confidentiality.

We may disclose to you certain information as a result of your participation as part of the a Wholesale Program, which information we consider to be

confidential (herein referred to as "Confidential Information"). For purposes of this Agreement, the term "Confidential Information" shall include, but not be limited to, any modifications to the terms and provisions of this a Wholesale Program Agreement made specifically for your site and not generally available to other members of the Wholesale Program, website, business and financial information relating to American Nutrition Inc., customer and vendor lists relating to American Nutrition Inc., and pricing and sales information for American Nutrition Inc. and any members of the Wholesale Program, other than you. Confidential Information shall also include any information that we designate as confidential during the term of this Agreement. You agree not to disclose any Confidential Information and that such Confidential Information shall remain strictly confidential and secret and shall not be utilized, directly or indirectly, by you for your own business purposes or for any other purpose except and solely to the extent that any such information is generally known or available to the public or if same is required by law or legal process. We make no warranty, expressed or implied, with respect to any information delivered hereunder, including implied warranties of merchantability, fitness for a particular purpose or freedom from patent, trademark or copyright infringements, whether arising by law, custom or conduct, or as to the accuracy or completeness of the information and we shall not have any liability to you or to any other person resulting from your or such third person's use of the information.

17. Indemnification.

You hereby agree to indemnify, defend and hold harmless American Nutrition Inc., TerraCeutics, LLC its shareholders, officers, directors, employees, agents, affiliates, successors and assigns, from and against any and all claims, demands, losses, liabilities, damages or expenses (including attorneys' fees and costs) of any nature whatsoever incurred or suffered by us (collectively the "Losses"), in so far as such Losses (or actions in respect thereof) arise out of, are related to, or are based on (i) any claim or threatened claim that our use of the Trademarks infringes on the rights of any third party; (ii) the breach of any representation or warranty made by you herein; or (iii) or any claim related to your site.

18. Independent Investigation.

YOU ACKNOWLEDGE THAT YOU HAVE READ THIS AGREEMENT AND AGREE TO ALL ITS TERMS AND CONDITIONS. YOU UNDERSTAND THAT WE MAY AT ANY TIME (DIRECTLY OR INDIRECTLY) SOLICIT CUSTOMER REFERRALS ON TERMS THAT MAY DIFFER FROM THOSE CONTAINED IN THIS AGREEMENT OR OPERATE WEB SITES THAT ARE SIMILAR TO OR COMPETITIVE WITH YOUR WEB SITE. YOU HAVE INDEPENDENTLY EVALUATED THE DESIRABILITY OF PARTICIPATING IN THE WHOLESALE PROGRAM AND ARE NOT RELYING ON ANY REPRESENTATION, GUARANTEE, OR STATEMENT OTHER THAN AS SET FORTH IN THIS AGREEMENT.

19. **Miscellaneous.**

This Agreement will be governed by the laws of the United States and the State of Colorado, without reference to rules governing choice of laws. Any action relating to this Agreement must be brought in the federal or state courts located in Denver, Colorado and you irrevocably consent to the jurisdiction of such courts. You may not assign this Agreement, by operation of law or otherwise, without our prior written consent. Subject to that restriction, this Agreement will be binding on, inure to the benefit of, and enforceable against the parties and their respective successors and assigns. Our failure to enforce your strict performance of any provision of this Agreement will not constitute a waiver of our right to subsequently enforce such provision or any other provision of this Agreement.

20. **Spyware and other Parasites:**

Any Wholesale Customer suspected of a relationship, formal or informal, with any provider of spyware or parasitic software (as judged by any interference with the operation by design of American Nutrition Inc. and/or its partner sites TerraCeutics.com, ColoradoNutrition.com, NutraceuticalsRx.com, MegaMune.com, BrainVigor.com, Brain-Supplements.com, & NaturalProductsCentral.com) is subject to punitive actions by American Nutrition Inc., without notice, including but not limited to: suspension of your Wholesale account; termination of Wholesale account; and public notification of Wholesale Customer suspected malfeasance. American Nutrition Inc. encourages Wholesale Customers to report suspicions of such relationships.

21. **PPC (Pay Per Click) Bidding Rules**

While we do not mind our reseller partners bidding on keywords to sell our products, we do have conditions which must be met in order to bid on our trademarked company or product names!

Bidding on our **product names** is not permitted except under the following conditions:

1. You must advertise the specific product on which you are bidding on your website
2. All Pay Per Click clicks/traffic must take the end user to your website or page and not redirect to our website.
3. You may not use any product name in the ad title or description.
4. You may not advertise pricing lower than ours.
5. You must follow all [MAP pricing policies](#).
6. You may not bid on any keywords for positions 1 through 3.
7. You cannot claim to be the "Official Site" or similar designation.

Bidding on our **company names** is not permitted except under the following conditions:

1. You may not bid on the terms "American Nutrition, American Nutrition Inc., or AmericanNutrition.com" at all.

2. All Pay Per Click clicks/traffic must take the end user to your website or page and not redirect to our website.
 3. You may not use our company names name in the ad title or description with the exception of "American Nutrition Products Available", etc., but nothing which specifically promotes savings. You cannot say "American Nutrition Official Outlet" or any like terms within your ad.
 4. You may not advertise pricing lower than ours.
 5. You must follow all [MAP pricing policies](#).
 6. You may not bid on any keywords for positions 1 through 3.
 7. You may not use any marketing or promotional language, such as "On Sale Now", "Save X%", "free shipping" or anything that puts the ad in direct competition with us.
 8. You cannot claim to be the "Official Site" or similar designation.
- All reseller partners must abide by these conditions in order to promote our products via PPC campaigns.

THIS IS A LEGAL AGREEMENT BETWEEN YOU AND AMERICAN NUTRITION INC.. BY CLICKING THE "SUBMIT" BUTTON ON THE WHOLESALE PROGRAM APPLICATION FORM YOU ARE AFFIRMATIVELY STATING THAT YOU HAVE READ AND UNDERSTAND THE TERMS SET FORTH HEREIN AND ARE AFFIRMATIVELY INDICATING YOUR ACCEPTANCE OF THIS WHOLESALE PROGRAM TERMS OF SERVICE AGREEMENT AND YOU AGREE TO BE BOUND BY THE TERMS HEREOF.

X _____
Signature Date

Print Name

Title

Company Name