



GENERAL TERMS AND CONDITIONS OF SALES KAVANA HEALTH (“SELLER”)

**Applicability:** All sales by Seller are subject only to the following terms and conditions, notwithstanding anything to the contrary in Buyer’s general terms and conditions of purchase or in any other document issued by Buyer. Conflicting and additional terms and conditions of any such documents shall be deemed deleted and non binding upon the parties, except insofar as expressly agreed in writing by Seller.

**Order Confirmation:** Orders of Buyer shall not bind Seller until confirmed by the Seller in writing or by an electronic means of its choice. Upon acceptance of an order by Seller, Buyer shall have no right to modify or cancel an order unless specifically agreed to in writing by Seller.

**Terms:** This quote is good for 14 days from time issued unless otherwise noted. Deposits are non-refundable.

**Price:** The price indicated on the order confirmation shall be considered to be the price agreed between the Buyer and Seller. In case of multiple or future deliveries, prices are subject to revision by Seller at any time.

**Payment:** Buyer shall pay on the terms stated on the order confirmation, or, failing such indication, prior to release of shipment. Seller reserves the right to suspend further deliveries, or require any satisfactory securities, in the event Buyer fails to pay in full for any one shipment when same becomes due. Any payment not paid when due shall bear interest at the rate of 18% per annum or the maximum rate allowed by law, whichever is less

**Delivery Terms:** Seller shall deliver the goods at the place of delivery in accordance with the terms stated on the order confirmation. Material is FOB Del City, Oklahoma unless otherwise noted. It is the responsibility of the Buyer to provide payment and co-ordinate shipper. Title and risk of loss shall pass from Seller to Buyer as the goods are loaded unto Buyer’s shipper. Seller shall be under no obligation to insure goods while in Seller’s possession

**Delivery Date:** Seller shall endeavor to deliver the goods at the time stated on the order confirmation. Failing such indication, the goods shall be delivered at the time Seller deems appropriate.

**Warranties:** Seller warrants that the goods shall conform to Seller’s standard specifications in effect on the date of shipment, or to the specifications agreed with Buyer, if any. Furthermore, Seller warrants that to its knowledge the goods do not infringe any third party’s patents. ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, WITH RESPECT TO THE GOODS, USED ALONE OR IN COMBINATION WITH OTHER MATERIALS, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY FOR FITNESS OR MERCHANTABILITY FOR ANY PURPOSE, ARE DISCLAIMED.

**Claims:** Buyer shall examine the conformity of the goods with the specifications and/or samples within 10 working days upon receipt. All claims by Buyer, including, without limitation, claims for alleged defects, damage and shortage, must be made in writing and received by Seller within 10 working days after Buyer’s receipt of the goods, understanding that in any event, all claims made after the goods have been resold by Buyer, or have undergone and processing or treatment in any form whatsoever shall be null and void. Claims concerning defects that could not be discovered within the above time limit



despite accurate inspection of the goods must be made in writing and received by Seller within 10 working days for discovery of the defects, and, in any event, not later than 90 days after Buyer's receipt of the goods. Failure of Buyer to give notice of any claim within the applicable time period specified above shall be deemed an absolute and unconditional waiver for such claim. In case of duly proven defective goods, the Seller shall, at its choice, either replace or repair at its own cost such defective goods, or refund Buyer the price paid.

**Liability:** SELLER'S LIABILITY SHALL BE EXPRESSLY LIMITED TO THE PURCHASE PRICE OF THE QUANTITY OF GOODS IN RESPECT OF WHICH ANY CLAIM IS MADE. Furthermore, under no circumstances shall Seller be liable for special, incidental, indirect or consequential damages (including but not limited to loss of profits, revenues, etc.) incurred by Buyer or any third party. Where mandatory provisions of the law so provide, Seller's liability for duly proven damages due to Seller's gross negligence or willful misconduct shall not be limited.

**Information:** Buyer acknowledges that the Seller is in no way responsible for the use of Seller's product by Buyer. Buyer acknowledges that Seller cannot anticipate all conditions under which Seller's products may be used, and therefore Buyer agrees to conduct its own tests to determine the safety and suitability of Seller's products for Buyer's purposes. Any information provided by Seller is without warranties, either expressed or implied, and Buyer agrees to indemnify and save Seller harmless of and from any and all loss, cost (including, without limitation, reasonable attorneys' fees) and claims arising out of, or in connection with, Buyer's product.

**No Analysis:** Buyer shall not perform, directly or indirectly, either any analysis of the goods (or samples thereof) for chemical composition or structure, or any replication of the goods (or samples thereof) for any purpose. Buyer acknowledges that the trade secrets, know-how, and patents related to Seller and its production are highly confidential and will utilize extreme measures to protect the proprietary and secret nature of this intellectual property.

**Confidentiality:** Any "Confidential Information" of Seller shall be kept strictly secret and confidential and Buyer shall undertake the following obligations with respect thereto: (a) to use the Confidential Information only for the purposes of fulfilling its obligations hereunder; (b) not to disclose the Confidential Information or to make it available to others without the prior written permission of Seller and (c) to limit dissemination of the Confidential Information only to those of the Buyer's employees who have a need to know the Confidential Information in order that the parties may perform their obligations with respect to the goods sold. For purposes hereof, the term "Confidential Information" shall mean and refer to all reports, drawings, documents, trade secrets, technical, scientific and commercial data and any other information marked "confidential" related to negotiations, to the Sale and to the Goods supplied by one party to the other.

**Excuse of Performance:** No liability shall result from delay in performance or non-performance by Seller caused by circumstances beyond its control, including, without limitations, acts of God, fire, flood, explosions, riots, wars, terrorism, perils of the sea, labor troubles, machinery breakages, Government actions or prohibitions, shortages of raw materials or energy at reasonable cost, and/or traffic stoppages. Seller shall not be responsible for loss of material during conversion of processing.

**Compliance with Laws:** Buyer agrees that it shall be Buyer's responsibility to comply with all applicable laws and regulations relating to the products it orders from Seller.



Miscellaneous: Failure by Seller or Buyer to enforce any right which it may have in any instance shall not be deemed to be a waiver of any right it may have in any other instances.

Whenever possible, each provision of these General Conditions of Sale shall be interpreted in such a manner as to be effective and valid under applicable law. The determination by any court of competent jurisdiction that one or more of the sections or provisions of these General Conditions of Sale are unenforceable shall not invalidate the General Conditions of Sale, and the decision of such court shall be given effect so as to limit the extent possible the sections or provision which are deemed unenforceable.

Assignment: Buyer shall not assign its rights or delegate its performance hereunder without the prior written consent of Seller.

Intellectual Property: There will be no transfer of intellectual property ownership between parties. Any modifications to Seller's intellectual property related to this engagement other than expressly owned trademarks and materials of Buyer will be owned by Seller.

Reseller Permission: Buyer may not, without prior written consent, sublicense, produce, alter or resell Seller products.

Attorney Fees: Upon the occurrence of any breach of these terms and conditions by Buyer, or if an invoice is not paid by Buyer when due, or when it is necessary to enforce or defend these Terms and Conditions, Buyer agrees to pay all costs of the collection, replevin, enforcement or defense, including without limitation attorney's fees, whether incurred in or out of court, in one or more actions or proceedings, on appeal, in arbitration, in Bankruptcy Court, or in any insolvency proceedings or otherwise.

Headings: The headings in these terms and conditions are included for convenience of reference only and shall not in any way limit or otherwise affect the meaning or interpretation of the provisions herein.

Applicable Law: These General Terms and Conditions of Sale, and all purchases by Buyer from Seller, shall be governed by and construed in accordance with the law of the State of Oklahoma, excluding the application of the UN Convention on Contracts for the International Sale of Goods.

Jurisdiction: Buyer hereby irrevocably consents to the non-exclusive personal jurisdiction of, to the service of process in connection with, and to the propriety of venue in, any action in the United States District Court for the District of Oklahoma or in any Oklahoma state court with jurisdiction filed by Seller to enforce its rights against Buyer. **BUYER AND SELLER HEREBY WAIVE THE RIGHT TO TRIAL BY JURY IN ANY ACTION ARISING FROM OR RELATED TO THIS AGREEMENT, THE GOODS, OR ANY DEALINGS BETWEEN THE PARTIES, ARISING FROM OR RELATED TO ANY OF THE FOREGOING.**