

SICIS[®] NORTH AMERICA, INC.

TERMS AND CONDITIONS OF SALE AND LIMITED WARRANTY

1. **BUYER'S ACCEPTANCE OF TERMS AND CONDITIONS OF SALE.** These Terms and Conditions of Sale ("**Terms and Conditions**") shall apply to every sale by Sicis North America, Inc. ("**Sicis**") of mosaics, including artistic mosaics, mosaic tiles, decors, borders and other decoration, all packaging related to such items, and any other products (collectively, the "**Products**") sold under any of Sicis S.r.l.'s trademarks, including "SICIS[®]" and "COMPAGNIA DELL'ORO[®]," to any person or entity who places an order and/or purchases Products (the "**Buyer**") from Sicis. Depending on the type of Products sold and at Sicis's sole discretion, additional terms and conditions ("**Additional T&C**") may also apply and will supplement the Terms and Conditions. In such case, the Additional T&C will be provided by Sicis to Buyer and become an integral part of these Terms and Conditions. Buyer's signature below shall be deemed acceptance of these Terms and Conditions and all Additional T&C. Moreover, in each instance that Buyer or Buyer's agent receives from Sicis an order confirmation for an order that Buyer or Buyer's agent placed with Sicis, Buyer shall be deemed to have affirmed and ratified such previously signed Terms and Conditions. At any time and at Sicis's sole discretion, Sicis may issue new Terms and Conditions and/or Additional T&C. Any new Terms and Conditions will void and replace any existing Terms and Conditions that Buyer may have previously accepted. Any Additional T&C will supplement any existing or new Terms and Conditions. In either case, such new Terms and Conditions and/or Additional T&C will apply to every sale confirmed after their adoption. Buyer shall accept the new Terms and Conditions and/or Additional T&C which Sicis shall provide, either on a separate document, or printed on, or attached to, a Sicis order confirmation form or on Sicis's catalogues or price lists then existing, as referred to in the order confirmation, as applicable, before Sicis will confirm any new order. Any other additional or different terms or conditions which may at any time be indicated in Buyer's purchase order, forms, correspondence or otherwise (whether oral or written) shall be of no effect, even if not expressly objected to by Sicis. The Terms and Conditions and any Additional T&C may be amended or modified only by written agreement signed by Sicis's president.
2. **PURCHASE ORDERS.** Buyer shall submit purchase orders to Sicis in writing, stating, at a minimum:
 - (a) identification of the Products ordered, including applicable SKUs, in each case with the dimensions subject to estimates, as designated in Sicis's published price list(s) and catalogues;
 - (b) complete architectural drawings for custom designed mosaics, mosaic decors or borders, etc.;
 - (c) quantity of Products, subject to minimum orders and rounding as specified in Sicis's published price list(s);
 - (d) preferred date of delivery of Products; and
 - (e) shipping instructions and shipping address.

NB: Sicis recommends that Buyer purchase 5% to 10% more mosaic tiles than Buyer anticipates needing, for the following reasons: to ensure replacement tiles of the same color batch if any tiles are damaged after installation; to compensate for possible minor defects or inconsistencies in individual mosaic tiles; and, since underestimating the quantity of tiles needed is a common occurrence, to help ensure that Buyer purchases enough mosaic tiles.

Buyer acknowledges that the dimensions and technical specifications of each Product, as published in Sicis's catalogues and price lists, are estimates only. By submitting an order, Buyer confirms notice of such estimates and takes sole responsibility for providing detailed specifications in the purchase order, as necessary and appropriate for Buyer's own requirements. For the avoidance of doubt, Buyer shall be solely responsible for confirming and providing to Sicis in its order correct measurements and/or dimensions for each Product. Buyer acknowledges and agrees that Sicis will cause the Products to be made and delivered to Buyer based on the measurements and/or dimensions, and choice of colors that Buyer provides to Sicis, and as confirmed in Sicis' Order Confirmation (as defined below). **SICIS ASSUMES NO LIABILITY FOR ANY INACCURATE MEASUREMENTS AND/OR DIMENSIONS, OR FOR ANY OF THE COLORS CHOSEN BY BUYER.**

3. **BINDING ORDERS; NO ASSIGNMENT.** Any order by Buyer may be accepted by Sicis in whole or in part, in each case at Sicis's discretion. An order from the Buyer becomes irrevocably binding on Buyer when Sicis receives Sicis's Order Confirmation ("**OC**") signed by Buyer. Sicis must receive the OC signed by Buyer within 24 hours from its transmission to Buyer, otherwise Sicis may deem the OC revoked. The Buyer acknowledges and agrees that Sicis's acceptance of an order does not create any obligation by Sicis to accept future orders from the Buyer, nor does it create a supply, requirements or distribution relationship between Sicis and the Buyer. Buyer may not assign this contract of sale (the "**Agreement**"), in whole or in part, or assign any of Buyer's rights or delegate any of Buyer's obligations under this Agreement or an OC,

without: (i) Sicis's prior written consent; and (ii) the assignee or delegatee's signature of the then current Terms and Conditions.

4. **PARTIAL SHIPMENTS.** Partial shipments will be invoiced as shipped. Buyer cannot reject any partial shipments unless the Products subject to such partial shipments are shown to be defective under the Sicis Limited Warranty.
5. **SHIPPING INSTRUCTIONS AND DELIVERY DATE.** Buyer shall be responsible for all shipping/freight forwarding and related arrangements directly with the shipper (including shipping instructions, shipping address, delivery ex works (EXW) Sicis's warehouse in the United States (the "**Warehouse**") or ex works (EXW) Sicis's factory in Italy (the "**Factory**") (as Sicis shall specify or as otherwise agreed to in writing in the OC or invoice). Buyer also shall be responsible for all customs brokers, and exporter/importer of record requirements, and payment of all costs, including any duties, penalties and/or official fees relating to the delivery and shipment of the Products EXW the Factory or EXW the Warehouse (unless otherwise agreed to in writing in the OC or invoice). Buyer shall be responsible for and cooperate with any requests directly or indirectly made by any Customs authorities, including U.S. or Italian, irrespective of whether Buyer is the exporter/importer of record. The Products shall be ready for pickup by Buyer or Buyer's authorized agent at the Warehouse or at the Factory, as of the date of the estimated delivery indicated in the OC or as otherwise indicated in writing by Sicis. The delivery date is only an estimated date by which the product will be ready for Buyer's pickup; Sicis does not guaranty delivery on the estimated date. In the event that Buyer takes delivery of the Products at the Warehouse, twenty-four (24) hours prior to such pickup, Buyer must confirm its shipping instructions by calling Tel. 973 344-0226. The pickup address is Gateway Warehouse, Sicis North America Building No. 82, Hackensack Avenue, South Kearny, New Jersey 07032, unless otherwise specified in writing by Sicis. Buyer shall be responsible for all warehousing costs related to the ordered Products as of the date of delivery specified in the Order Confirmation or as subsequently indicated in writing by Sicis.
6. **PRICE AND RISK OF LOSS.** Prices are Ex Works (EXW) Warehouse or Ex Works (EXW) Factory. Risk of loss or damage to the Products shall pass to the Buyer upon Sicis or Sicis's agent placing the Products at Buyer's disposal for pickup. In the event of any shipping arrangements made by Sicis with carriers or forwarding agents, and with customs brokers, for the delivery of the Products, such arrangements are made solely on Buyer's behalf and at Buyer's sole cost and risk of loss and damage. Claims for breakage, damage, loss in transit and delay in delivery must be made to the carrier by the Buyer.
7. **PACKING.** The Products are delivered in cardboard boxes. For non-standard size items, Sicis reserves the right, at its sole discretion, to arrange for alternative packing suitable to the order, including the use of pallets and wood crates. The cost of such special packing will be charged on the invoice to the Buyer as indicated on the OC.
8. **PAYMENT TERMS.** All Products shall be invoiced on the pickup date communicated by Sicis to Buyer and payment shall be due immediately, whether or not the Buyer has taken delivery of the purchased Products, including in the event that Sicis withholds delivery until payment in full has been received and has cleared Sicis's account, or because of a past due balance. All payments must be made in immediately available funds, unless credit terms are extended by Sicis in writing. Sicis will not ship Products until Buyer makes payment in full and such payment clears Sicis's account. Sicis also reserves the right to stop shipments to Buyers that have a past due balance.
9. **SECURITY INTEREST.** Notwithstanding anything to the contrary, Buyer agrees that as security for the performance of Buyer's payment obligations hereunder, title and right of possession of the Products shall remain with Sicis until such Products have been paid for in full. In connection with Buyer's purchase of the Products from Sicis, Buyer hereby grants to Sicis a security interest in: the Products, all other inventory, merchandise, goods or equipment of every kind and description sold or supplied by Sicis to the Buyer together with all attachments and additions thereto, and any and all proceeds and products thereof (including without limitation proceeds of insurance) (collectively, the "**Collateral**"). Such security interest shall continue until Buyer has made payment in full in accordance with the terms of this Agreement and including all deferred payments whether evidenced by promissory notes or otherwise. Buyer agrees to execute any financing statements, and any amendments thereto, required by Sicis to create and preserve such purchase money security interest, and Buyer hereby authorizes and grants power of attorney to Sicis to file any financing statements in any jurisdiction at any time Sicis deems it necessary to protect and maintain its interest, with or without the signature of Buyer, and specifically authorizes Sicis to file such statements without Buyer's signature. Buyer hereby represents and warrants that no entity or individual holds any security interest in any of its assets which might include the Collateral; and for so long as any amounts remain outstanding between Buyer and Sicis, Buyer shall, at its own cost and expense, maintain the Collateral free and clear of all liens, encumbrances, levies, attachments or other judicial process from every cause whatsoever.
10. **LATE FEES AND COST OF COLLECTION.** Sicis shall have the right to assess and collect the greater of either 5% (five percent) or simple interest, at the maximum allowed annual rate then in effect, on all balances over 30 (thirty) days past due. In the event Buyer shall default in its obligations hereunder, Buyer shall be liable for Sicis's costs of

collection, including attorney's fees, disbursements and court costs.

- 11. CANCELLATION BY SICIS.** Sicis may cancel an order without such cancellation constituting a breach of the Agreement and without any liability for Sicis, if Buyer becomes insolvent or suspends any of its operations or if any petition is filed or proceeding commenced by or against Buyer under any state or federal law relating to bankruptcy, reorganization, receivership, or assignment for the benefit of creditors, or if Sicis believes in good faith that Buyer's ability to make payment required by these Terms and Conditions is or may become impaired. Buyer remains liable to pay for any Products already shipped.
- 12. PROPRIETARY RIGHTS AND CONFIDENTIAL INFORMATION.** All rights in or to any patterns, designs, trade names, trademarks or copyrights of Sicis used on or in connection with the Products are proprietary to and shall remain the exclusive property of Sicis, and the Buyer shall have no right or interest therein or with respect thereto. The Buyer shall not reproduce or simulate, or cause or allow anyone else to reproduce or simulate, either directly or indirectly any such pattern, design, trade name, trademark or copyright.
- 13. GOVERNING LAW; ARBITRATION; JURISDICTION; STATUTE OF LIMITATION.** Any controversy or claim arising out of or relating to these Terms and Conditions or any transactions governed by such Terms and Conditions, or any other controversy or claim between the parties to these Terms and Conditions, or the breach of any of the foregoing, (1) shall be construed and decided in accordance with the laws of the State of New York, irrespective of its conflict of law provisions and excluding the CISG (the United Nations Convention on Contracts for the International Sale of Goods), and shall be submitted to binding arbitration in New York, New York, in accordance with the Commercial Rules, Expedited Procedures and Optional Rules for Emergency Measures of Protection then in effect of the American Arbitration Association. The U.S. Federal Arbitration Act shall apply to any proceedings in connection with the arbitration. Judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. Any action or lawsuit for breach of contract or warranty, except for actions or lawsuits by Sicis to collect sums due from Buyer, must be commenced within twelve (12) months following purchase of the Products.
- 14. WAIVER.** No failure or delay by Sicis in exercising its rights under these Terms and Conditions or in exercising its rights accruing from any default of Buyer shall constitute a waiver of any such rights, or shall impair Sicis's rights in case Buyer's default continues or in case of any subsequent default by Buyer.
- 15. NO RETURNS/EXCHANGES.** Sicis accepts no returns or exchanges of any Products, except in the event of defective Products. Any claims for defective Products shall be governed solely by the Sicis Limited Warranty.
- 16. SICIS LIMITED WARRANTY.** Sicis warrants that the Products, shall be free from defects in material and workmanship in accordance with the following terms:

Who is covered by this warranty. This warranty extends to the Buyer and to a purchaser of Products from Sicis or a distributor or retailer authorized by Sicis, and to those persons who, under applicable state law, are entitled to rely hereon as third party beneficiaries (each a "**Subsequent Purchaser**").

HOW LONG THE WARRANTY LASTS. COVERAGE UNDER THIS WARRANTY LASTS FOR TWELVE (12) MONTHS FROM THE DATE OF PURCHASE.

What Sicis will do. Sicis will, at its option, either (i) replace defective Products free of charge, provided that the Buyer or the Subsequent Purchaser pays the shipping, insurance and customs duties, if applicable, for the returned Products and the replacement Products or (ii) pay to the Buyer or the Subsequent Purchaser the replacement value of the defective Products. In no case shall Sicis have to pay an amount greater than the price paid to Sicis for the Products which are found to be defective. In either case, the Buyer and/or the Subsequent Purchaser must comply with the Claims Procedure described below. Sicis will not be responsible for payment of any labor or material expenses to diagnose, adjust, service, remove, install or replace the Products. In the event that Sicis replaces any defective Products with substitute Products, Buyer acknowledges and agrees that such substitute Products may not be identical to the defective Products. In replacing any defective Products, Sicis will use reasonable efforts to ensure that the substitute Products are as similar as possible to such defective Products.

Claims Procedure. The Buyer or Subsequent Purchaser must notify Sicis of defective Products in writing by registered or certified mail, return receipt requested, within thirty (30) days after the discovery thereof, but no later than the warranty period, TIME BEING OF THE ESSENCE. The notice must include proof of purchase, sent to the following address: Sicis®

North America, Inc., 470 Broome Street, New York, NY 10013 (a copy of the notice may also be sent by e-mail to warranty@sicisna.com). Sicis may, at its discretion, require that the Buyer or the Subsequent Purchaser return any and all defective Products. However, no Products shall be returned to Sicis without its prior written authorization.

LIMITATIONS. THIS WARRANTY SHALL NOT APPLY TO DEFECTS OR DAMAGE (LATENT OR OTHERWISE) OF THE PRODUCTS CAUSED BY MISUSE, ABUSE, NEGLIGENCE OR IMPROPER HANDLING OR STORAGE; BY WEATHER OR TEMPERATURE, WATER, CHEMICALS OR ACID RAIN; BY HAIL, IMPACT OF FOREIGN OBJECTS, EARTHQUAKE, HURRICANE, TORNADO, LIGHTNING, FLOOD, OTHER VIOLENT STORM OR CASUALTY, OR ACTS OF GOD; BY SETTLEMENT, MOVEMENT, DISTORTION, FAILURE OR CRACKING OF THE SUPPORT STRUCTURE OR BASE; BY EXPOSURE TO HARMFUL CHEMICALS; OR BY DAMAGE OCCURRING DURING SHIPPING OR HANDLING BY THE INSTALLER OR SUPPLIER; OR BY IMPROPER INSTALLATION.

It is the Buyer and/or Subsequent Purchaser's responsibility to consult a specialist or specialists in the specific type of installation(s) for which the Buyer and/or the Subsequent Purchaser wants to use the Products, and for instructions and recommendations on procedures, tools and materials to be used in the installation of the Products (including, but not limited to, selection and application of adhesives and grouting). Sicis assumes no responsibility for the installation of the Products, and any reference to installation methods, tools or products by Sicis's employees or representatives, or in Sicis's printed materials, including Sicis's catalogues and website, are simply illustrative and do not and should not replace consultation with a specialist in the specific type of installation.

It is the Buyer and/or the Subsequent Purchaser's responsibility to consult a specialist in the Buyer and/or Subsequent Purchaser's region for any special installation and maintenance instructions or recommendations which may be applicable due to weather conditions, temperatures, and water or chemical conditions present in the Buyer's and/or Subsequent Purchaser's area. Sicis shall have no liability for changes in color, shade or hue of the Products caused by stains or contamination or resulting from outside sources such as, but not limited to, water salinity or acidity, or contaminants, moss, lichens, algae, mildew, fungus or other vegetation.

Buyer acknowledges and agrees that the Products, and in particular mosaics, are unique works of art some of which are handcrafted by mosaic artists. Samples and images of the Products must be considered merely illustrative of the final Products and Sicis does not represent or warrant that the Products will be identical to such samples or images. Furthermore, mosaic tiles may chip during the manufacturing process and natural materials as well as colored stone, or glass or enamel or other composite materials may vary in color, hue or shade; therefore, Sicis does not warrant nor shall Sicis be liable for or be required to replace or otherwise indemnify Buyer and/or Subsequent Purchaser (i) because a sample or image or a design was not reproduced exactly or (ii) because of chipped tiles, or variations in color, hue or shade.

SOLE AND EXCLUSIVE WARRANTY. THIS WARRANTY IS EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, TO THE EXTENT ALLOWED BY LAW, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. UNDER NO CIRCUMSTANCES SHALL SICIS BE RESPONSIBLE FOR INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR SPECIAL DAMAGES, UNDER OR ARISING OUT OF THIS AGREEMENT, OR THE USE OF THE PRODUCTS, WHETHER BASED ON CONTRACT, TORT OR OTHER LEGAL THEORY. SICIS NEITHER ASSUMES NOR AUTHORIZES ANY SICIS'S EMPLOYEE, DISTRIBUTOR OR RETAILER OR ANY OTHER PERSON OR ENTITY TO ASSUME FOR SICIS ANY OTHER OBLIGATION OR LIABILITY BEYOND THAT WHICH IS EXPRESSLY PROVIDED FOR IN THIS LIMITED WARRANTY. ANY STATEMENTS REGARDING THE PRODUCTS THAT MAY HAVE BEEN MADE BY SICIS'S EMPLOYEES OR REPRESENTATIVES SHALL NOT BE RELIED ON BY BUYER OR SUBSEQUENT PURCHASER, AND ARE NOT PART OF ANY AGREEMENT.

How state law applies. Some states do not allow limitations on how long an implied warranty lasts, so the above limitation may not apply to you. Also, some states do not allow the exclusion or limitation of incidental, special or consequential damages, so the above limitation or exclusion may not apply to you. This warranty gives you specific legal rights, and you may have other rights which vary from state to state.

Change in the Mosaics. Sicis reserves the right to discontinue or modify its Products, including the color thereof, without notice to the Buyer and/or to the Subsequent Purchaser, and Sicis shall not be liable to the Buyer and/or the Subsequent Purchaser as a consequence of such discontinuance or modification.

17. INDEMNIFICATION. Sicis's distributors and resellers shall always include the Sicis Limited Warranty in writing or provide such warranty with the Products sold or delivered by them. Failure to comply with this Section 17 for any sale and/or delivery to any person will constitute a breach of these Terms and Conditions and any breaching party shall be liable to Sicis for any damage, loss, liability or expense, including without limitation attorney's fees arising out of any warranty claim by such person relating to the Products.

Indemnification by Buyers who distribute and/or resell the Products. In the event that Buyer is a distributor and/or a reseller of the Products, Buyer shall defend, indemnify and hold harmless Sicis against and in respect of any and all claim, loss, damage, liability, cost and expense, including reasonable attorneys' fees, suffered or incurred by Sicis by reason of or arising out of Buyer's failure to provide the Sicis Limited Warranty in writing to any party in connection with the sale or other delivery of Products to such party.

18. SEVERABILITY. If any provision of these Terms and Conditions of Sale shall, to any extent, be invalid or unenforceable, the remainder of these Terms and Conditions of Sale shall not be affected.