



# MO SCI, LLC

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GLASS MICROSPHERES  
• • •  
GLASS FIBERS  
• • •  
BIOACTIVE GLASSES  
• • •  
SPECIALTY GLASSES  
• • •  
ENGINEERING SERVICES

## MO SCI TERMS AND CONDITIONS OF SALE

### 1. General

**1.1** The sales agreement consists of, in order of precedence: the MO SCI, LLC (“**MO SCI**”) quotation, offer or order acknowledgement (typed portions control over pre-printed portions) (each, an “**Offer**”), the written specifications for the Goods (the “**Specifications**”), and these Terms and Conditions (collectively, the “**Sales Agreement**”). Any conflicting or additional terms contained in Customer’s purchase order, or other method of acceptance or order, constitutes a proposal to amend the Sales Agreement. The proposal will not govern unless expressly accepted in signed writing by MO SCI. If the Sales Agreement is deemed an acceptance to Customer’s offer, it is conditioned on Customer assent to the Sales Agreement. If Customer utilizes the Online Store MO SCI reserves the right to refuse service for any reason at any time. Customer understands that its content (not including credit card information), may be transferred unencrypted and involve (a) transmissions over various networks; and (b) changes to conform and adapt to technical requirements of connecting networks or devices. Credit card information is always encrypted during transfer over networks.

### 2. Orders, Payment, and Delivery

**2.1 Sale of Goods.** Customer agrees to purchase from MO SCI the goods, products and services described in the Offer (“**Goods**”).

**2.2 Purchase Price, Payment Terms.** Prices for the Goods are as described in the Offer. Payment for the Goods is due and payable within 30 days of invoice unless a different time of payment is described in the Offer. Unless otherwise stated, all prices are in U.S. dollars. Customer will pay MO SCI at the location and manner indicated in the Offer. MO SCI reserves the right to require Customer to prepay for all or part of the Goods. Prices do not include applicable federal, state, and local taxes or any other official or governmental levies, duties, or tolls, of any kind. Customer must pay any such taxes, levies, duties, and tolls, unless Customer provides a valid tax exemption certificate authorized by the applicable taxing authority. If Customer does not pay MO SCI on the applicable due date, MO SCI reserves the right to apply a finance charge to the outstanding balance of 1.5% per month, not to exceed the maximum amount of interest permitted by law. Customer may not set off any amounts due from Customer to MO SCI under the Sales

Agreement against any other amounts which may be due from MO SCI to Customer. Prices for products on the Online Store are subject to change without notice and MO SCI reserves the right at any time to modify or discontinue the Service without notice at any time. Purchases made through the online store are not subject to any flowdown requirements nor is it implied that any Customer supply agreements, specifications, labeling, or packaging will be followed.

**2.3 Refusal of Orders.** MO SCI reserves the right to refuse any orders. MO SCI may, in its sole discretion, limit or cancel quantities purchased per person, per household or per order. These restrictions may include orders placed by or under the same Customer account, the same credit card, and/or orders that use the same billing and/or shipping address. In the event that MO SCI makes a change to or cancels an order, it may attempt to notify Customer by contacting the e-mail and/or billing address/phone number provided at the time the order was made. MO SCI reserves the right to limit or prohibit orders that, in its sole judgment, appear to be placed by dealers, resellers or distributors. Customer agrees to provide current, complete, and accurate purchase and account information for all purchases made at its store. Customer agrees to promptly update Customer’s account and other information, including Customer’s email address and credit card numbers and expiration dates, so that MO SCI can complete the transactions and contact Customer as needed.

**2.4 Shipment and Delivery.** All shipments are made FCA MO SCI’s facility (Incoterms 2020), unless otherwise stated in the Offer. MO SCI will pack and ship the Goods in accordance with its then-current practices, unless MO SCI and Customer agree otherwise in writing. Customer will pay all transportation, shipping, and handling charges for the Goods. Goods will be deemed delivered when they are (a) turned over to the carrier for shipment or (b) put into storage for the Customer’s benefit, whichever occurs first. MO SCI will endeavor to meet all estimated delivery times; availability of Goods and delivery times are estimates, however, and not guaranteed. MO SCI is not and will not be liable for any loss, injury, damage, or other expense that Customer or any other party may suffer if Goods are shipped after the estimated shipment date. Delivery may be subject to issuance of required licensing and approvals by local, state, and federal regulatory bodies.

**2.5 Acceptance.** Goods will be deemed accepted upon deemed delivery unless Customer rejects the Goods within 2 business days of arrival at Customer’s designated destination. Claims for shortages, damage,

or visible defects in Goods must be made in writing within that time period.

**2.6 Storage; Consignment.** If Customer refuses or otherwise declines to accept delivery of Goods, MO SCI may, as Customer's agent and without liability to MO SCI, store or arrange for storage of such declined Goods at Customer's expense. Such Goods will be deemed delivered at the time they are either put into storage or turned over to the carrier for shipment, whichever occurs first. Any consignment arrangement must be specified in the Offer or in an addendum to the Sales Agreement.

**3. Title.** Title and risk of loss to the Goods will pass to Customer at the time Goods are delivered to Customer. Customer, however, grants to MO SCI a security interest in the Goods until payment in full and performance by Customer under the Sales Agreement. MO SCI may document this security interest in a security agreement and a UCC financing statement.

#### **4. Online Tools.**

**4.1 Availability of Goods.** Certain Goods may be available exclusively online through the website. These Goods may have limited quantities and are subject to return or exchange only according to MO SCI's Return Policy.

**4.2 Description of Goods.** MO SCI has made every effort to display as accurately as possible the colors and images of its Goods that appear at the store. MO SCI cannot guarantee that Customer's computer monitor's display of any color is accurate. All descriptions of Goods and pricing are subject to change at any time without notice, at the sole discretion of MO SCI.

**4.3 Limit of Sales.** MO SCI reserves the right, but is not obligated, to limit the sales of its Goods to any person, geographic region, or jurisdiction. MO SCI may exercise this right on a case-by-case basis. MO SCI reserves the right to limit the quantities of any Goods offered. MO SCI reserves the right to discontinue any Goods at any time. Any offer for any Goods made on the website is void where prohibited. MO SCI shall not be liable to Customer or to any third-party for any modification, price change, suspension, or discontinuance of the Goods.

**4.4** Purchases made through the online store are not subject to any flowdown requirements nor is it implied that any customer supply agreements, specifications, labeling, or packaging will be followed.

**4.5** Customer understands that Customer information (not including credit card information), may be transferred unencrypted and involve (a) transmissions over various networks; and (b) changes

to conform and adapt to technical requirements of connecting networks or devices. Credit card information is always encrypted during transfer over networks,

**4.6** Customer agrees to provide current, complete, and accurate purchase and account information for all Goods purchased on MO SCI's website. Customer agrees to promptly update your account and other information, including email address and credit card numbers and expiration dates.

### **5. Warranty and Indemnity**

**5.1 Limited Warranty.** Subject to the terms of the Sales Agreement and for a period of 90 days after delivery, MO SCI warrants that: (a) the Goods will be manufactured and packaged in accordance with good manufacturing practices; (b) the Goods, when delivered, will conform to their written specifications in all material respects; (c) the Goods will be safe for their intended use from the delivery date to the applicable expiration date; and (d) the Goods will be free from defects in materials, workmanship and packaging. This warranty is only for the benefit of Customers who are medical professional utilizing the Goods in medical procedures and may not be transferred to any other person. Customer must notify MO SCI in writing of any defects within 20 calendar days of the end of the warranty period.

**5.2 Warranty Claims.** As Customer's sole remedy, MO SCI will, at its option, replace or refund the price paid for any Goods that do not conform to the warranty under Section 5.1. MO SCI may require inspection of the defective or non-conforming Goods. Customer may not return any Goods to MO SCI unless such return is first authorized in writing by MO SCI.

**5.3 Non-Defective Goods.** MO SCI may require Customer to reimburse MO SCI for all reasonable MO SCI charges if MO SCI is required to examine or rework returned Goods that MO SCI determines to comply with the warranty under Section 5.1

**5.4 Misuse of Goods.** Customer may not use Goods for any illegal or unauthorized purpose, nor may Customer violate any laws. MO SCI disclaims liability that may arise: if the Customer or any third party modifies, misuses, improperly installs, or repairs the Goods; if the Goods suffer an accident, neglect, or adverse conditions; if the Goods are used for any illegal or unauthorized purpose; or if the Goods are used contrary to Specifications or instructions of use. The warranty under Section 5.1 will terminate when Customer or a third party incorporates the Goods into Customer's or a third party's products, even if the warranty has not expired, unless the Goods were verified to comply with the Specifications using tests or methods acceptable to MO SCI.

**5.5** MO SCI does not warrant that the quality of any products, services, information, or other material

purchased or obtained by Customer will meet Customer expectations, or that any errors in the Service will be corrected.

**5.6 WARRANTY LIMITATIONS.** THE WARRANTY UNDER SECTION 5.1 IS EXCLUSIVE AND MADE IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. NO MODIFICATION OR ALTERATION OF THE FOREGOING WARRANTY SHALL BE VALID OR ENFORCEABLE UNLESS SET FORTH IN A WRITTEN AGREEMENT SIGNED BY MO SCI AND CUSTOMER.

**5.7 Customer Indemnity.** Customer will indemnify and hold harmless MO SCI, its affiliates and their respective officers, directors, employees and agents from and against any claims, losses, damages, liability and costs arising out of any claim, suit or action alleging (a) a breach by Customer of the Sales Agreement, or (b) personal injury or property damage arising from the use, operation, or failure to operate the Goods, except to the extent caused by the gross negligence of MO SCI, the breach of warranty under Section 5.1, or willful misconduct of MO SCI.

## **6. LIABILITY LIMITATION**

**6.1** IN NO EVENT SHALL MO SCI BE LIABLE FOR ANY INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION, LOSS OF PROFITS, REVENUE, OR USE, INCURRED BY CUSTOMER OR ANY THIRD PARTY, WHETHER IN AN ACTION IN CONTRACT, OR TORT, OR OTHERWISE EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. MO SCI' LIABILITY FOR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE SALES AGREEMENT SHALL IN NO EVENT EXCEED THE PURCHASE PRICE OF THE DEFECTIVE GOODS.

## **7. Termination, Damages and Remedies**

**7.1 Early Termination.** If Customer terminates or cancels the Sales Agreement for any reason other than breach by MO SCI, at MO SCI's option, and in addition to all other remedies available to MO SCI at law or in equity: (a) Customer must accept delivery of and pay the purchase price for all ordered Goods that are either finished or ready for shipping; and (b) Customer must reimburse MO SCI for (1) all actual costs incurred by MO SCI in connection with the uncompleted order as of receipt of notice of cancellation, and (2) all other costs, if any, including general, selling and administrative expenses and a reasonable profit on the terminated portion of the Sales Agreement.

**7.2 Bankruptcy.** If Customer dissolves, is

voluntarily or involuntarily declared bankrupt, insolvent or subject to receivership, trustee, or custodial administration, or assigns its assets for the benefits of its creditors, MO SCI may terminate this Agreement with written notice to Customer.

**7.3 Offset.** MO SCI may offset any claims, refunds, or other damages due to MO SCI under the Sales Agreement against any discounts, refunds, rebates, warranty work or other amounts due to Customer from MO SCI.

## **8. Compliance; Insurance**

**8.1 Compliance with Laws.** With respect to all activities under the Sales Agreement, each of MO SCI and Customer shall comply with all applicable federal, state and local laws, government regulations and orders, including without limitation concerning: (a) delivery, use, or sale of the Goods; (b) occupational safety and health; (c) protection of persons and property from death, injury or damage; (d) labor and employment, including equal employment opportunity; (e) tax; (f) export control; (g) the environment and the use, handling, storage, labeling, and disposal of toxic or hazardous materials; and (h) money laundering, bribery, anti-terrorism, trade embargos, and economic sanctions.

**8.2 Hazardous Goods.** Customer acknowledges that there may be hazards associated with the storage, use and disposal of Goods. Customer agrees that only qualified and trained individuals who have been made aware of these potential hazards will handle the Goods. Customer also assumes all risk and liability resulting from its use or disposal of Goods.

**8.3 Compliance Indemnification.** Customer shall indemnify, defend, and hold harmless MO SCI, its affiliates and their respective officers, directors, employees, and agents from and against any claims, losses, damages, liability, and costs arising out of any claim, suit or action alleging Customer's conduct which is in breach of the covenants under this Section 8.

**8.4 Compliance with Export Regulations.** With respect to laws of the U.S., Customer acknowledge and represents that if it exports or re-exports any U.S. product obtained from MO SCI, this will be done in compliance with applicable U.S. regulations including the Export Administration Regulations, the International Traffic in Arms Regulations, and regulations administered by the U.S. Treasury Department's Office of Foreign Assets Controls. In particular relative to exports, Customer acknowledges and represents with regard to any product it acquires from MO SCI, and which is received directly or indirectly from the U.S. (or is otherwise subject to U.S. export control laws, Customer will not transfer, export or re-export any product to: (i) any country subject to restriction under applicable U.S. regulation; (ii) any party engaged in activity related to the research on, or development, production, use, or maintenance of Weapons of Mass

Destruction including nuclear, missile, or chemical/biological weapons if such action is prohibited by export control laws of the U.S. or any other country involved in the transaction, and it will not use such product in any of the foregoing activities or: (iii) any party who is listed by the government of the United States or any other country as prohibited from receiving the product or from participating in the export transactions involving the product.

## 9. Intellectual Property

**9.1 New Intellectual Property.** In the course of manufacturing Goods, MO SCI may invent, develop or discover methods, techniques, processes, technology, know-how, formulas or software that have application in MO SCI's business generally and are not specific to the Goods ("MO SCI Developments"). MO SCI's Developments are and will be the sole and exclusive property of MO SCI.

**9.2 No Reverse Engineering.** In consideration of receipt of Goods, Customer covenants not to reverse engineer any Goods and not to assist any other party, including any affiliate of Customer, to reverse engineer any Goods. Additionally, Customer covenants not to reproduce, duplicate, copy, sell, resell, or exploit any portion of the Service, use of the Service, or access to the Service or any contact on the website through which the service is provided without express written permission from MO SCI.

## 10. Governing Law, Arbitration and Venue

**10.1 Governing Law.** The Sales Agreement will be construed in accordance with and governed solely by the laws of the State of Missouri, without regard to its conflict of laws rules and without giving effect, and expressly excluding, the United Nations Convention on Contracts for the International Sale of Goods (CISG; the Vienna Convention).

**10.2 Mediation and Venue.** MO SCI and Customer will first endeavor to resolve through good faith negotiations any dispute arising under or relating to the Sales Agreement. If a dispute cannot be resolved through good faith negotiations within a reasonable time, any actions brought under the Sales Agreement will have venue solely in the state of Missouri, and Customer waives any and all objection to venue and jurisdiction of such courts.

**10.3 Arbitration.** MO SCI and Customer may agree to resolve any dispute arising out of this Sales Agreement by binding arbitration administered and resolved by the American Arbitration Association ("AAA"). Any such arbitration must be conducted by a single arbitrator in accordance with the Commercial Arbitration Rules of the AAA, including the Optional Rules for Emergency Measures of Protection, in effect at the time the arbitration is commenced (except as

modified in this Sales Agreement). Any arbitration award must be issued within one year from the date claimant files its notice of intention to arbitrate (i.e. the demand), and the arbitrator must agree to comply with this schedule before accepting appointment. Any evidentiary hearing must be held on consecutive hearing days. Any monetary award in the arbitration must include pre-award interest at the rate of one and a half percent (1.5%) per month from the time of the acts giving rise to the award. Judgment on the award rendered by the arbitrator may be entered in any court having appropriate jurisdiction.

## 11. Force Majeure.

**11.1** If MO SCI's, or any of its sub-contractors' or supplier's ability to perform its obligations under the Sales Agreement is limited, delayed or prevented in whole or in part by any reason whatsoever not reasonably within the control of MO SCI, its sub-contractors, or its suppliers, including, but not limited to, act of God, epidemic, disease, or outbreak, war, invasion, act of foreign enemy, hostilities, civil war, rebellion, civil strife, strikes or industrial dispute, MO SCI's production plants or facilities that are essential for providing the Goods are not in operation (e.g. annual physical inventory, unscheduled plant maintenance, production changeover, legal holidays, governmental inspection), insolvency or bankruptcy of a supplier, or by any law, rule, regulation, order or other action by any public authority, supply chain or transportation delays or the refusal of any necessary license, then MO SCI will be excused, discharged, and released from performance to the extent such performance is so limited, delayed or prevented, without liability of any kind. An event of force majeure will also be deemed to exist if MO SCI can prove (a) that MO SCI production plants that are essential for production of the Goods become partly or fully inoperative due to reasons that could not be foreseen by MO SCI; (b) that production plants are permanently or temporarily inoperable due to the incorrect specifications supplied by Customer; and/or (c) that there is a shortage of raw materials, precious metals, equipment, fuel, or other components necessary to manufacture the Goods or such materials are otherwise not commercially available in quantities or at such times as are necessary to produce the Goods.

## 12. Notices

**12.1** Unless otherwise noted, all notices or correspondence pursuant to the Sales Agreement must be sent (or faxed with a follow up copy sent) to the address or number and to the contact on the Offer or to such other address as may be designated by MO SCI.

MO SCI:  
MO SCI, LLC  
4040 HyPoint North  
Rolla, MO, 65401

### 13. Severability

**13.1** If any provision of the Sales Agreement is prohibited by law or held by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the remaining provisions will remain in full force and effect.

### 14. Waiver

**14.1** No failure by MO SCI or Customer to enforce or take advantage of any provision under this Sales Agreement will constitute a waiver of the right subsequently to enforce or take advantage of such provision.

### 15. Miscellaneous

**15.1 Headings.** The headings contained in the Sales Agreement are for reference only and are not to be construed to affect construction or interpretation of the Sales Agreement.

**15.2 Entire Agreement.** The Sales Agreement, and the documents referenced in the Sales Agreement, including any specifications, constitute the entire understanding and agreement between MO SCI and Customer, and supersede all prior oral or written negotiations and agreements with respect to the subject matter of the Sales Agreement. Conflicts in terms will be resolved in the following order of precedence: (a) customized terms of the Offer; (b) the Sales Agreement; and (c) any written agreement signed by authorized representatives of MO SCI and Customer expressly amending the Sales Agreement. No modification, change or amendment of the Sales Agreement will be valid unless made in writing and signed on behalf of MO SCI and Customer by its duly authorized officer or representative.

**15.3 No Third-Party Beneficiaries; Assignment.** The Sales Agreement is entered into solely for the benefit of MO SCI and Customer, and no other person will acquire the right to enforce any provision of the Sales Agreement against either party. Neither MO SCI nor Customer may assign the Sales Agreement to a third party without the prior written consent of the other party except, with prior notice: (a) to an affiliate; or (b) to a third party who will acquire, by sale of assets, merger or otherwise, all, or substantially all of the assets of such party. The assigning party will remain obligated to perform under the Sales Agreement notwithstanding such assignment.

**15.4 Survival.** All provisions that are continuing in nature, including but not limited to those involving indemnity, will survive termination of the Sales Agreement.

**15.5 Remedies.** MO SCI's rights and remedies are cumulative and in addition to any other rights and

remedies provided by law or equity (or provided under the Uniform Commercial Code except to the extent modified herein).

**15.6 No Partnership.** Nothing in this Sales Agreement may be construed to create a partnership, joint venture or agency relationship between MO SCI and Customer.

Left Blank Intentionally