

PROFOUND MEDICAL INC. (“Company”)
PURCHASE ORDER TERMS AND CONDITIONS

1. APPLICABILITY. The purchase order (“Purchase Order”) together with these terms and conditions, which are hyperlinked from the Purchase Order or otherwise provided to seller (as set forth on the Purchase Order, “Seller”), collectively constitute a binding agreement (the “Agreement”) between Company and Seller and shall apply to all purchases of products (“Products”) by Company from Seller, as such Products may be described on the face of the Purchase Order. In the event of any conflict between the Agreement and any other document or instrument submitted by Seller, the Agreement shall govern. **Company expressly limits acceptance of the Agreement to the terms stated herein.** Any additional, different, or inconsistent terms or conditions contained in any form, acknowledgment, acceptance, or confirmation used by Seller in connection with the implementation of the Purchase Order are hereby objected to and rejected by Company; provided, however, that such proposal does not operate as a rejection of the Agreement (unless such variances are in the terms of the description, quantity, price or delivery schedule of the Products), but will be deemed a material alteration thereof, and the Agreement shall be deemed accepted by Seller without any additional, different or inconsistent terms. As an exception to the foregoing, any written agreement between Company and Seller in effect at the time Company submits a Purchase Order that contains terms and conditions that are inconsistent with these terms and conditions will have priority over these terms and conditions.

2. PACKING AND SHIPMENT. All Products must be (a) packed in accordance with good commercial practice, (b) suitably packed or otherwise prepared by Seller for shipment to prevent damage, to obtain the lowest transportation and insurance rates, and to meet the carrier’s requirements, (c) packed in accordance with I.C.C. regulations and (d) shipped in accordance with the instructions on the Purchase Order. Expenses incurred due to failure to comply with these terms are the responsibility of Seller. Seller shall mark all containers with necessary lifting, handling, and shipping information and with Purchase Order numbers, date of shipment and the names of the consignee and consignor, as applicable. An itemized packing list must accompany each shipment. Seller’s name, complete ship to address and Purchase Order number must appear on all bills of lading, packing slips, cartons, and correspondence.

3. OTHER DELIVERY TERMS. Unless otherwise set forth on the face of the Purchase Order, the delivery terms for Products shall be F.O.B. named port of destination (INCOTERMS 2010). Title to Products remains with Supplier until acceptance by Company of conforming Products at the named port of destination, subject to timely later rejection or return of unordered Products as set forth herein. Deliveries are to be made only in the quantities and at the times specified in the Purchase Order. No partial or complete delivery will be made prior to the due date or dates shown unless Company has given prior written consent. It is understood and agreed that time is of the essence for this order because the Products are needed for products of Company that have a very short, carefully timed market life; failure of Seller to deliver on the due date could cause Company’s products to be unmarketable. If delivery is not expected to be made on time, Seller must immediately notify Company and take reasonable steps, at its cost, to expedite delivery. Company may cancel any Purchase Order if delivery is not made on time or if notice is given that a delivery is expected to be late.

4. PRICES AND TAXES. Prices for all Products will be as stated in the Purchase Order, and include all applicable federal, state, provincial, and local taxes; provided, that in no event shall the prices to be charged by Seller under this Agreement be less favorable than the lowest price charged by Seller to other customers purchasing similar or lesser quantities of the Products. Unless otherwise specified, when the price of this Purchase Order is based on the weight of the Products, such price is to cover only the net weight of the Products ordered, and no charges will be allowed for packing, handling, transportation, storage or other packing requirements.

5. INVOICES. Seller will submit invoices in duplicate showing the following information: Purchase Order number, item number, description of item, size of item, quantity of item, unit prices, each applicable tax, extended totals and any other information specified elsewhere herein. A bill of lading or express receipt must accompany each invoice and such bill of lading and/or express receipt must list the carrier, number of cartons and the weight and date of shipment. Payment terms for all Products will be as stated in the Purchase Order. Payment of invoice will not constitute acceptance of the Products and will be subject to adjustment for errors, shortages, defects in the Products or other failure of Seller to meet the requirements of this Purchase Order. Company may at any time set off any amount owed by Company to Seller against any amount owed by Seller or any of its affiliated companies to Company.

6. DISCOUNTS. Time in connection with any discount offered by Seller will be computed from the latest of (a) the scheduled delivery date, (b) the date of actual

delivery or (c) the date an acceptable invoice is received. For the purpose of earning the discount, payment will be deemed to have been made on the date of mailing of Company’s check.

7. OVER-SHIPMENTS. Company will pay only for the actual quantities of Products ordered, as set forth in the applicable Purchase Order. Company will hold over-shipments at Seller’s risk and expense for a reasonable time awaiting shipping instructions. Return shipping charges for excess quantities will be at Seller’s expense.

8. WARRANTY.

(a) Seller represents and warrants that all Products delivered shall (i) be free from defects in workmanship, material, and manufacture; (ii) comply with the requirements of this Purchase Order, including any drawings, specifications, descriptions, and samples furnished to or supplied by Seller; (iii) where design is Seller’s responsibility, be free from defects in design and (iv) be in compliance with all applicable laws and regulations. Seller further warrants that the Products purchased hereunder do not infringe upon or violate any intellectual property right or other proprietary right of any third party and that such Products will be of merchantable quality and will be fit for the purposes intended by Company (to the extent disclosed to Company). Seller warrants that there are no liabilities for royalties, mechanics liens or other encumbrances on the Products supplied and agrees to indemnify Company against any such liabilities. The foregoing warranties are in addition to all other warranties, whether express or implied, and will survive any delivery, inspection, acceptance or payment by Company. All warranties run to the benefit of Company and its resellers and customers.

(b) If any Products delivered by Seller do not meet the warranties specified herein or otherwise applicable, Seller shall, at Company’s option, (i) repair or replace such non-conforming Products at no cost to Company; or (ii) permit Company to the return such defective or nonconforming Products, at Seller’s expense, and reimburse Company in an amount equal to the purchase price for such Product. For clarity, the foregoing remedies shall be in addition to any other remedies available to Company under applicable law.

(c) Company’s approval of Seller’s materials or design shall not limit in any way any of the foregoing warranties or relieve Seller of its any warranty obligations hereunder.

9. INSPECTION AND ACCEPTANCE. Payment for the Products does not constitute acceptance thereof. Company has the right to inspect all Products and to reject any or all Products that are, in Company’s judgment, defective or non-conforming. Company may request, at its option, repair or replacement of rejected Products or a refund of the purchase price. If, after being requested by Company, Seller fails to promptly repair or replace any rejected Products, then Company may (a) purchase Products from another supplier and be reimbursed by Seller for any additional costs and expenses incurred by Company in purchasing Products from such other supplier, (b) without further notice, cancel this Purchase Order for default, or (c) require a pro rata reduction in price.

10. CHANGE ORDERS.

(a) The Company may at any time, by a written order, suspend performance hereunder, increase or decrease the ordered quantities, change the due date or make changes in any one or more of the following: (i) applicable drawings, designs or specifications; (ii) method of shipment or packing; and/or (iii) place of delivery.

(b) If any change to the Purchase Order causes an increase in the price or a delivery delay, and Seller so notifies Company, then, upon the mutual agreement of the parties, an equitable adjustment will be made in the order price or delivery schedule or both, and the Purchase Order will be modified accordingly in writing. No claim by Seller for such an adjustment will be valid unless asserted within ten (10) business days from the date of receipt by Seller of the notification of change; provided, however, that such period may be extended upon the written approval of Company.

(c) Seller shall immediately notify Company of any significant change to its processes (including design, development or manufacturing processes) pertaining to Products, and Company reserves the right to accept or reject Products based on any such changed process.

(d) Nothing in this Section 9 is intended to excuse Seller from proceeding with this Purchase Order, as changed or amended.

11. CANCELLATION FOR DEFAULT.

(a) Company may, by written notice, cancel this Purchase Order, in whole or in part, if, in Company's good-faith opinion, Seller fails to (i) deliver the Products by the scheduled delivery date, as set forth in the applicable Purchase Order or in any extension thereof by written change order or amendment; (ii) repair or replace rejected Products in accordance with the provisions of Section 7 or Section 8; (iii) otherwise perform any of its other obligations set forth in this Agreement, or (iv) make sufficient progress under this Purchase Order, such that such failure endangers Supplier's ability to perform in accordance with the terms of this Agreement.

(b) If this Purchase Order is cancelled by Company, Company may procure, upon such terms and in such manner as Company may deem appropriate, Products similar or substantially similar to those canceled, and Seller shall reimburse Company for any additional costs and expenses incurred by Company in purchasing such Products from an alternate supplier.

(c) If all or a portion of this Purchase Order is canceled for Seller's default, Company may require Seller to transfer title and to deliver to Company, in the manner and to the extent directed by Company, (i) all completed items not yet delivered and (ii) any partially completed items and materials that Seller has produced or acquired for the performance of the terminated portion. Seller will, upon direction of Company, protect and preserve the property listed in this paragraph that is in the possession of Seller. Payment for completed items delivered to and accepted by Company under this paragraph will be in an amount (not to exceed the contract price) agreed upon by Seller and Company; however, Seller's obligation to carry out Company's direction as to delivery, protection and preservation of the property will not be contingent upon prior agreement as to such amount.

(d) Nothing in this Section 11 is intended to excuse Seller from proceeding with any uncanceled portion of this Purchase Order.

12. TERMINATION FOR CONVENIENCE; EFFECT OF TERMINATION.

Company may terminate this Agreement for any reason, in whole or in part, upon fifteen (15) days' prior written notice to Seller. Upon termination of this Agreement, in whole or in part, by Company for any reason, Seller shall immediately (a) stop all work under this Agreement, (b) cause any of its suppliers or subcontractors to cease their work for this Agreement, and (c) preserve and protect work in progress and materials on hand purchased for or committed to Company pending Company's instructions. Company shall not owe Seller any lost profit or payment for any materials or Products that Seller may consume or sell to others in its ordinary course of business.

13. INDEMNIFICATION. Seller agrees to indemnify Company, its affiliates, officers, employees, agents, customers, successors, and assigns against all losses, damages, claims, fines or judgments, liabilities (including costs and expenses) and other expenses, relating to or arising from (a) Seller's breach of this Agreement, (b) death or injuries to persons or property due to Seller's breach of this Agreement or Buyer's use of the Products, including, without limitation, any product liability claims; (c) the failure of the Products to comply with the requirements of this Agreement, or (d) any actual or alleged infringement of a third party's intellectual property rights by Product (including, without limitation, the packaging, labeling, and documentation for such Products). If any injunction is issued as the result of an infringement claim, Seller shall, at Company's option, either refund to Company the amounts paid to Seller for the Products covered by the injunction or promptly furnish Company with Company-approved and non-infringing Products.

14. CATASTROPHIC DEFECTS; PRODUCT RECALL. Seller shall, within thirty (30) days of Company's demand, reimburse Company or its designated third party service provider for all costs and expenses of parts, labor, administrative costs, shipping costs, replacement product costs and other expenses (including reasonable attorneys' fees and expenses) related to or arising from a Catastrophic Defect, Product recall (initiated by Seller or Company, in good faith), or Product field fix (initiated by Seller or Company, in good faith). "Catastrophic Defect" will be deemed to occur when: (a) the representations and warranties are breached with respect to: (i) 1% or more of the Products shipped within any three-month period; or (ii) 3% or more of the Products shipped within the first six months of this Agreement; (b) a single or single group of defects in a Product (any manufacturing defect that affects the Product cosmetically or functionally) is determined by Company to impact more than 10% of such Products; or (c) the Product should be pulled from the marketplace to comply with applicable law, as determined by

Company in its sole discretion; provided, however, that no Catastrophic Defect will be deemed to occur if the applicable defect results solely from an act or omission of Company.

15. LIMITATION OF LIABILITY. In no event shall Company's aggregate liability for any loss or damage arising out of or in connection with or resulting from the Agreement exceed the amounts paid by Company to Seller under the Purchase Order. No lawsuit may be brought against Company on account of any breach by Company unless the suit is instituted within two years of the date of the breach.

16. CONFIDENTIALITY AND PROPRIETARY RIGHTS. Any specifications, drawings, sketches, models, samples, technical information, methods, processes, techniques, shop practices, plans, know-how, trade secrets, or data, written, oral or otherwise (collectively, the "Company Property") furnished to Seller by Company under, or in contemplation of, this Agreement shall remain the Company's property. All copies of such Company Property, in written, graphic or other tangible form, must be immediately returned to Company upon its request. The Company Property shall be kept confidential by Seller, as applicable, and shall be used only in its fulfillment of Purchase Orders, or in performing Seller's obligations under this Agreement, and may be disclosed or used for other purposes only upon such terms as may be agreed upon by Company and Seller in writing. Seller will not quote for sale to others, without Company's written authorization, any Products purchased that use or otherwise incorporate any Company Property. All Company Property held by Seller will be fully insured by Seller against any loss and will not be used directly or indirectly in any way detrimental to Company's business. Seller, as part consideration for this Purchase Order and without further cost to Company, hereby grants to Company (and, to the extent requested by Company, to the government) an irrevocable, transferable, non-exclusive, royalty-free license to use, sell, offer for sale, import, distribute, advertise, market, and promote products (including, without limitation, the packaging, repackaging, labeling, bundling and documentation) that incorporate, in whole or in part, the patent, copyright, trademark, trade dress or other intellectual property rights of Seller. Seller, as part consideration for this Purchase Order and without further cost to Company, also grants to Company (and, to the extent requested by Company, to the government) an irrevocable, transferable, non-exclusive, royalty-free license to manufacture and have manufactured products embodying any inventions and discoveries made, conceived or actually reduced to practice in connection with the Products delivered hereunder.

17. TOOLING. To the extent applicable, all rights, title and interest in and to the tooling required for manufacture shall be mutually agreed upon by the parties. Regardless, to the extent that any tooling existed with Company prior to the effective date of this Agreement, all right, title and interest in and to such pre-existing tooling shall remain solely with Company.

18. COMPLIANCE WITH LAW, REGULATION AND COMPANY RULES.

(a) Seller must strictly comply with all applicable statutes, laws, and regulations, including, without limitation, all applicable environmental, health and safety, trade, import/export statutes, and/or any anti-bribery or anti-corruption laws and regulations. Seller must comply with all Company policies applicable to Seller.

(b) **Conflicts Minerals Compliance.** The Dodd-Frank Wall Street Reform and Consumer Protection Act, Section 1502 and related Securities and Exchange Commission (SEC) rules (Conflict Mineral Law) requires that Company publicly disclose via annual SEC filings the country of origin of "Conflict Minerals" contained in products Company manufactures or contracts to manufacture. "Conflict Minerals" include tin, tantalum, tungsten, gold and relevant ores and derivatives (3TG). Seller is required to perform those activities reasonably requested by Company in its efforts to implement its Conflict Minerals Policy, which, at a minimum, means performing the following activities:

- (i) Maintain a written Conflict Minerals policy that meets the requisite requirements under applicable law (which shall include appropriate provisions requiring sub-suppliers to comply with Seller's Conflict Minerals policy) and develop appropriate internal procedures regarding compliance with Dodd-Frank and Supplier's Conflict Minerals policy;
- (ii) Complete Company's Conflict Minerals survey, identifying products, components and materials containing 3TG minerals (3TG Product) it sells to Company and the smelter that provided the original 3TG mineral. Company's direct suppliers may have to require successive upstream suppliers to complete Company's Conflict Minerals survey until the smelter is identified;

- (iii) On an annual basis, provide a report to support Company's SEC reporting requirements; and
- (iv) Ultimately, supply "Conflict Free" 3TG Product. Once the supply chain is identified, commit to purchasing from smelters which are certified as conflict free by a recognized program such as the Conflict Free Smelter ("CFS") program.

Company shall evaluate its supplier relationships on an ongoing basis to ensure continued compliance. Company reserves the right to request additional documentation from its suppliers regarding the source of any conflict minerals included in its 3TG Products. Company expects all suppliers to perform these activities in "good faith" and work towards eventual conflict-free status. Company shall establish reasonable remediation steps and action plans where necessary.

19. GOVERNMENT CONTRACTS. If the Purchase Order is issued for any purpose that is either directly or indirectly connected with the performance of a prime contract with the government or a subcontract thereunder, the terms that the Armed Services Procurement Regulation or other appropriate regulations require to be inserted in contracts or subcontracts will be deemed to apply to this Agreement.

20. INTERPRETATION. Unless a duly authorized officer of Company shall have otherwise agreed in a writing expressly referring to these terms, this Agreement, when accepted by Seller, is the complete and exclusive statement of the terms and conditions of the agreement between Company and Seller relating to the Products specified on the face of the Purchase Order. It supersedes all prior agreements, written or oral. No course of prior dealings between the parties and no usage of the trade will be relevant to supplement or explain any term used in this contract.

21. WAIVER The failure of Company to enforce at any time any of the provisions of this Purchase Order, to exercise any election or option provided herein or to require at any time the performance by Seller of any of the provisions herein will not in any way be construed to be a waiver of such provisions.

22. REMEDIES The remedies stated herein are in addition to all other remedies at law or in equity.

23. ASSIGNMENTS No right or obligation under this Purchase Order (including the right to receive monies due) may be assigned by Seller without the prior written consent of Company and any purported assignment without such consent will be void. Company may assign this Purchase Order at any time if such assignment is considered necessary by Company in connection with a sale of Company's assets or a transfer of its obligations.

24. APPLICABLE LAW. This Agreement is governed by the laws of Canada, without giving effect to its conflict of laws rules. The application of the United Nations Convention on Contracts for the International Sale of Goods does not apply. Each party's rights under the Agreement are in addition to any other legal or equitable remedies it may have against the other party. Any dispute arising out of or relating to this Agreement (a) shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce (the "ICC Rules") by one or more arbitrators appointed in accordance with the ICC Rules and (b) shall take place in Canada. The language of the arbitration shall be English only. The arbitrator(s) may award to the prevailing party, if any, as determined by the arbitrator(s), its costs and expenses, including attorneys' fees. Judgment upon any award rendered by the arbitrator(s) may be entered in any court of competent jurisdiction. Notwithstanding other provisions of this Agreement which may be interpreted to the contrary, the arbitrator(s) shall not have the authority to grant damages to any party hereto that are disclaimed or limited under this Agreement. Each party hereto retains the right to seek interim measures from a judicial authority, and any such request shall not be deemed incompatible with the agreement to arbitrate or a waiver of the right to arbitrate. No information concerning an arbitration, beyond the names of the parties and the relief requested, may be unilaterally disclosed to a third party by any party unless required by law. Any documentary or other evidence given by a party or witness in the arbitration shall be treated as confidential by any party whose access to such evidence arises exclusively as a result of its participation in the arbitration, and shall not be disclosed to any third party (other than a witness or expert), except as may be required by law.

25. GENERAL. This Agreement may be amended or modified only by a written instrument separately signed by Company or Seller. Seller shall be solely responsible for the engagement and management of any subcontractors in the

performance of Seller's obligations and Seller guarantees the performance of any subcontractors used in the performance of this Agreement. The provisions which by their nature should survive the termination of this Agreement shall survive the termination of this Agreement.